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93-14 PROPOSED EXTENSION AND EXPANSION OF THE
NATIONAL HISTORIC PRESERVATION PROGRAM

GOVERNMENT

Storage

DOCUMENTS

JUN 25 1973

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HEARING

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. 5743 and H.R. 7127

TO AMEND THE ACT OF OCTOBER 15, 1966 (80 STAT. 915),
AS AMENDED, ESTABLISHING A PROGRAM FOR THE
PRESERVATION OF ADDITIONAL HISTORIC PROPERTIES
THROUGHOUT THE NATION, AND FOR OTHER PURPOSES

HEARING HELD IN WASHINGTON, D.C.

MAY 3, 1973

Serial No. 93-14

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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.

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PROPOSED EXTENSION AND EXPANSION OF THE NATIONAL HISTORIC PRESERVATION PROGRAM

THURSDAY, MAY 3, 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, the Honorable Roy A. Taylor (chairman of the subcommittee) presiding.

Mr. TAYLOR. The Subcommittee on National Parks and Recreation will be in order. We meet today to consider legislation to extend the national historic preservation program. As the members of the subcommittee know, this program was initiated in 1966 and has been extended once since that time.

The program got off to a very slow start, but we can be pleased with the progress which has been made in the last 3 years. While the budget requests have never matched the authorizations approved by the Congress, a more reasonable investment has been made in this program since it was last extended. In fact, the 1974 budget request for this program is about the only encouraging feature of the national park budget for fiscal year 1974.

We have before the subcommittee two bills. One is the administration's proposal—H.R. 5743—which was introduced by two of our colleagues on the committee, Mr. Saylor and Mr. Dellenback. The other, H.R. 7127, was cosponsored by Representative Johnson and myself. Both bills have the same objective—to continue the national historic preservation program and U.S. participation in the international center for the study of the preservation and restoration of cultural property.

I am sure that all of us recognize the value of historic preservation. We all want this legislation to contribute to a viable and meaningful program. None of us have any particular pride of authorship with respect to these bills. We introduced them in order to bring the issues before the subcommittee.

Unlike the unlimited proposal, which the administration is recommending, the measure which Representative Johnson and I introduced provides for a 3-year extension of the program. It would authorize the appropriation of \$15.6 million in fiscal year 1974, \$20 million in fiscal year 1975, and \$24.4 million in fiscal year 1976 for the matching grants program. It should be noted that this represents a significant increase—from \$32 to \$60 million—for the 3-year program. In addition, it authorizes up to \$100,000 for each of the 3 years participation in the international center.

Personally, I feel that an authorization in annual installments has considerable merit. It gives the administrator of the program incentive to seek the appropriation of the funds, because he recognizes that the authorization will lapse if the funds are not budgeted and appropriated. Also it gives limits which appeal to many Members of the Congress.

This concludes my remarks. I will be glad to recognize any member of the committee who wants to make a statement.

In the absence of objection a copy of H.R. 5743 by Congressmen Saylor and Dellenback and a copy of H.R. 7127 which Congressman Johnson and I introduced will be made a part of the record at this point.

Hearing no objection, so ordered.

[The above referred to bills follow:]

[H.R. 5743, 93d Cong., 1st sess.]

A BILL To amend the Act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of October 15, 1966 (80 Stat. 915; 16 U.S.C. 470), as amended, is further amended as follows:

(a) Section 108 is amended by deleting the first sentence and inserting in lieu thereof the following: "There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this title."

(b) Subsection (c) of section 206 is amended to read: "There is authorized to be appropriated such sums as may be necessary for the purposes of this section."

[H.R. 7127, 93d Cong., 1st sess.]

A BILL To amend the Act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. 470) is further amended in the following respects:

(a) Section 108 is amended by deleting the first sentence and inserting in lieu thereof the following: "To carry out the provisions of this title, there are authorized to be appropriated not more than \$15,600,000 in fiscal year 1974, \$20,000,000 in fiscal year 1975, and \$24,400,000 in fiscal year 1976."

(b) Section 206 is amended by deleting all of subsection (c) and inserting in lieu thereof the following:

"(c) For the purposes of this section there are authorized to be appropriated not more than \$100,000 annually in fiscal years 1974, 1975, and 1976: *Provided*, That no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization."

Mr. TAYLOR. In the absence of objection, a copy of the executive communication to Congress on the subject dated February 28, 1973, and a copy of the report of the Department of Interior on H.R. 7127, dated May 2, 1973, will be made a part of the record at this point.

[The above referred to documents follow:]

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 28, 1973.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is a draft of a bill "To amend the Act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes."

We recommend that the bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The Act of October 15, 1966 (80 Stat. 915; 16 U.S.C. 470), popularly referred to as the "National Historic Preservation Act", authorized a program of matching Federal grants to States and the National Trust for Historic Preservation for purposes of preserving properties significant in American history, architecture, archeology, and culture. The Act also established an Advisory Council on Historic Preservation to advise the President and Congress on matters relating to historic preservation.

The 1966 Act authorized a total of \$32 million for grants to States and the National Trust, ending after fiscal year 1970. The Act of May 9, 1970 (84 Stat. 204), amended the 1966 Act to extend the appropriation authorization for grants from fiscal years 1971 through 1973, at an additional total authorization of \$32 million.

The Act of May 9, 1970, also added three *ex officio* members to the Advisory Council on Historic Preservation, and it provided for United States participation in the International Centre for the Study of the Preservation and the Restoration of Cultural Property (Rome Centre), authorizing the appropriation of not more than \$100,000 annually for fiscal years 1971, 1972, and 1973 for that purpose.

The enclosed draft bill would further amend the National Historic Preservation Act of 1966 by (1) extending indefinitely the funding authorization for matching grants and by (2) extending indefinitely the funding authorization for participation in the Rome Centre.

Extension of funding for matching grants.—Existing funding authority for matching grants to States and the National Trust will expire on June 30, 1973. It is essential, therefore, that the funding authority be extended before that date to permit proper programing. We propose a permanent appropriation authorization, instead of the current 3-year authorization.

Extension of funding for Rome Centre.—Existing funding authority for United States participation in the activities of the Rome Centre will also expire on June 30, 1973. The enclosed draft bill will extend the current appropriation indefinitely. The Rome Centre is an independent, intergovernmental body of 52 member nations, established under the auspices of UNESCO in 1958. It is the continuing, intergovernmental organization of professional conservators and restorationists. Participation by the United States, as authorized in the 1970 amendments to the National Historic Preservation Act of 1966, is an international expression of this Nation's interest in world-wide historic preservation.

United States membership, which became effective January 20, 1971, is guided by the Advisory Council on Historic Preservation and its Rome Centre Committee, a body consisting of representatives of 25 national institutions and Federal agencies whose programs and interests parallel those of the Rome Centre. Member institutions and agencies of the Rome Centre Committee are (1) the National Park Service, (2) the Smithsonian Institution, (3) the National Trust for Historic Preservation, (4) the Library of Congress, (5) the International Council of Museums (United States National Committee), (6) the Henry Francis du Pont Winterthur Museum, (7) the Cooperstown Graduate Programs, (8) the International Institute for Conservation of Historic and Artistic Works (American Group), (9) the Conservation Center, Institute of Fine Arts, New York University, (10) the Intermuseum Conservation Association, (11) the American Society of Civil Engineers, (12) the Association for Preservation Technology, (13) the Society of Architectural Historians, (14) the School of Architecture, Columbia University, (15) the American Association of Museums, (16) the Society for American Archeology, (17) the American Association for State and Local History, (18) the International Council on Monuments and Sites (U.S.

National Committee), (19) Colonial Williamsburg, (20) the National Gallery of Art, (21) The American Institute of Architects, (22) the United States National Commission for UNESCO, (23) the Department of State, (24) the National Endowment for the Arts, and (25) the National Endowment for the Humanities.

Although the period of membership in the Rome Centre has been brief, substantial benefits have accrued. Initiated by the Rome Centre Committee, a traveling summer school for the training of architects in restoration work was established, beginning in July 1972. More than half of the 22 participants in 1972 were Americans. The Rome Centre will also sponsor a conference on the preservation and restoration of cultural property in the United States. Held in Williamsburg and Philadelphia, the conference will enable conservators and architect-restorers from the United States and selected western hemisphere countries to consider mutual problems and consider ways in which their disciplines and programs might be integrated. Specifically, the conference will enable National Park Service personnel to benefit from the expertise of foreign participants in the concepts and techniques of historic preservation as they may be applied to the restoration and preservation of historic properties in the National Park System. Beginning in January 1972, an American on special assignment became one of the three program directors for the Rome Centre. Six American students were selected to attend regular Rome Centre training courses on the restoration of ancient monuments and the conservation of mural paintings during fiscal year 1972.

The National Historic Preservation Act of 1966 has already done much to stimulate State, local, and private activity in the preservation of the Nation's historic and cultural heritage. We believe a vigorous extension of the program, in accordance with the authorities proposed herein, is necessary to assure the fulfillment of national aspirations in the preservation of that heritage.

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

Sincerely yours,

NATHANIEL REED,
Assistant Secretary of the Interior.

Enclosure.

A BILL To amend the Act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of October 15, 1966 (80 Stat. 915; 16 U.S.C. 470), as amended, is further amended as follows:

(a) Section 108 is amended by deleting the first sentence and inserting in lieu thereof the following: "There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this title."

(b) Subsection (c) of section 206 is amended to read: "There is authorized to be appropriated such sums as may be necessary for the purposes of this section."

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 2, 1973.

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

DEAR MR. CHAIRMAN: This responds to the request of your Committee for the views of this Department on H.R. 7127, a bill "To amend the Act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historical properties throughout the Nation, and for other purposes."

We recommend enactment of H.R. 5743, the bill submitted by the Administration to the Congress by letter dated February 28, 1973, in lieu of H.R. 7127.

Both H.R. 7127 and H.R. 5743 amend the National Historic Preservation Act (80 Stat. 915), as amended, to extend the act's funding authority for matching grants to the States and the National Trust for Historic Preservation, for purposes of preserving properties significant in American history, archeology, architecture, and culture. This authority will expire June 30, 1973. Both bills also

extend funding authority for United States participation in the activities of the International Centre for the Study of the Preservation and Restoration of Cultural Property, formerly known as the Rome Centre; that authority also expires on June 30 of this year.

H.R. 5743, the Administration proposal, would provide for an indefinite appropriation authorization for the grant-in-aid program, instead of the current 3-year authorization. H.R. 7127 provides an authorization for only a 3-year period, and specifies the amount authorized in each of those 3 years. To permit orderly long-range planning by the States and to provide the flexibility in funding that historic preservation needs, we prefer the open-ended authorization in H.R. 5743.

H.R. 5743 extends indefinitely the current appropriation authorization for United States participation in the International Centre. H.R. 7127 extends the authorization for only 3 years, and limits the amount to \$100,000 per year, but no more than 25 percent of the total annual assessment of the organization. We agree that the United States contribution should be limited to 25 percent of the total annual assessment, but we prefer the open-ended authorization in H.R. 5743, first, because the United States assessment may exceed \$100,000 as more nations join the Centre, even though the United States contribution is limited to 25 percent of the total.

The National Historic Preservation Act has already done much to stimulate activity by State and local governments and by private persons, to preserve the Nation's historical and cultural heritage. We recommend enactment of legislation permitting continuation and extension of the program, and we favor the open-ended authorizations contained in H.R. 5743 to accomplish this purpose.

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,

NATHANIEL REED,
Assistant Secretary of the Interior.

In the absence of objection a corrected copy of the report of the State Department will be made a part of the record at this point. Parenthetically, I understand that the report which was submitted contains an error which the Department wishes to correct.

[The corrected report follows:]

DEPARTMENT OF STATE,
Washington, D.C., May 1, 1973.

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

DEAR MR. CHAIRMAN: I am replying to your letter of April 20, 1973, requesting a report on H.R. 7127, which would further amend the Act of October 15, 1966 (80 Stat. 915) to grant, inter alia, an extension for fiscal years 1974, 1975 and 1976 of the current \$100,000 maximum appropriation for the International Centre for the Study of the Preservation and the Restoration of Cultural Property (Rome Centre), provided that this does not exceed 25% of the total annual assessment of the Centre.

We believe that United States interests are well served by our participation in the Rome Centre and recommend that the funding authority be extended indefinitely to provide for our continued participation in its work. We would further recommend that no limitation be placed on the amounts that may be appropriated. Accordingly, we recommend enactment of H.R. 5743, a bill proposed by the Department of the Interior to provide for the preservation of additional historic properties throughout the nation and for the continued funding of the Rome Centre, in lieu of H.R. 7127.

In this connection, we would note that the overall level of assessments is already limited by the Centre's Statutes, which provide that assessments shall be an amount equal to one percent of the members' UNESCO assessments.

At the recent meeting of the General Assembly of the Rome Centre it was decided that, as of January 1, 1974, no member's assessment will exceed 25% of the Centre's total annual assessments. However, since the previous ceiling of

30% will be in effect through 1973, the provision in H.R. 7127 relating to the application of the 25% limitation to fiscal year 1974, from which our calendar year 1973 contribution will be paid, would make it impossible for the United States to pay its full assessment.

It is the Department of State's belief that the Rome Centre is an appropriate international expression of this Nation's interest in world-wide historic preservation. Moreover, the United States has itself received substantial direct benefits from its membership in the Centre. Americans have participated in the Centre's varied training courses, its travelling summer school, and the North American International Regional Conference held last year in Williamsburg and Philadelphia. We have also benefited from a special mission, conducted by the Centre at the request of the Architect of the Capitol, and expect to be able to profit similarly from the mission currently being organized to investigate and advise upon the deterioration of four ancient Franciscan Missions in San Antonio, Texas. In addition, membership in the Centre gives American experts access to invaluable international information relative to the preservation and restoration of cultural property (objects, buildings, monuments and the like) through publications, meetings, training courses and technical assistance on specific problems.

United States influence on the activities of the Centre is substantial: the United States is represented on the 17-member Council which administers the Centre's program between the biennial Assembly meetings, and a United States civil servant, on loan to the Centre, is one of the Centre's three program directors.

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

Sincerely,

W. MARSHALL WRIGHT,

Acting Assistant Secretary for Congressional Relations.

Mr. TAYLOR. Our first witness this morning is Mr. Ronald H. Walker, Director of the National Park Service.

Mr. WALKER, we welcome you again before our subcommittee.

Mr. WALKER. Mr. Chairman, with your permission, I would like to ask Dr. Ernest Connally, Associate Director for Professional Services, to join me.

STATEMENT OF RONALD H. WALKER, DIRECTOR, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY DR. ERNEST A. CONNALLY, ASSOCIATE DIRECTOR, PROFESSIONAL SERVICES, NATIONAL PARK SERVICE

Mr. TAYLOR. Go ahead, Mr. Director.

Mr. WALKER. Thank you, Mr. Chairman.

I am pleased to have the opportunity to present the views of the Department on H.R. 5743 and H.R. 7127. Draft legislation embodied in H.R. 5743 was submitted by the administration on February 28 of this year, and we appreciate the early consideration given this measure by your committee. We recommend the enactment of H.R. 5743 in lieu of H.R. 7127.

Mr. Chairman, the daily lives of the American people are enriched and given continuity by the preservation of tangible expressions of our past. Yet we all know the past is often no match for the bulldozer and wrecking ball. We are now faced, therefore, with an urgent challenge—to save what can and should be saved before it is too late. Under the National Historic Preservation Act of 1966, we have made impressive beginnings.

The matching grants-in-aid program authorized by this act is rapidly promoting the protection of the outstanding expressions of our Nation's past. Urban historic districts are being developed. Historic sites in their natural setting are being saved for public benefit.

Individual historic properties, such as the 18th century Hans Herr House in Lancaster, Pa., and the three-masted schooner Wawona at Seattle, Wash., are being restored for contemporary use.

Other projects now underway include restoration at the Cupola House, an architecturally significant colonial structure in Edenton, N.C., research on the Robert Gamble Mansion in Manatee County, Fla., restoration of Fort Churchill, Nev., and restoration of the Goodnow House Barn, Manhattan, Kans.

Since the program began in fiscal year 1968, the States and the National Trust for Historic Preservation have matched almost \$21 million in Federal funds and received some 500 separate grants for historic preservation planning and development.

The historic preservation planning now underway in 49 States, the District of Columbia, and Guam, provides necessary information for the later development of historic resources.

The actual purchase and preservation of historic districts, sites, and structures is now in progress in 45 States and the District of Columbia.

Under the provisions of the act, States may transfer Federal matching funds to private organizations or individuals. This makes private involvement in historic preservation possible, tapping a potent source of funds and enthusiasm. The public benefits by being able to visit the restored properties and from their increase in taxable value.

On June 30, 1973, the authorization for appropriations for the matching grants program will expire. The 1966 act authorized the appropriation of \$32 million for fiscal years 1967 through 1970. It was amended in 1970 to authorize an additional \$32 million for fiscal 1971 through 1973.

H.R. 5743 would allow the continuation beyond fiscal 1973 of a thoroughly proven program. In this bill we propose an indefinite appropriation authorization, rather than an extension limited to another 3 years as provided in H.R. 7127. To permit orderly long-range planning by the States and to provide flexibility in funding historic preservation needs, we prefer the open-ended authorization in H.R. 5743.

In his fiscal 1974 budget, the President is requesting \$15.505 million for historic preservation grants.

H.R. 5743 would also extend indefinitely the current appropriation authorization for U.S. participation in the International Centre for the Study of the Preservation and Restoration of Cultural Property, formerly known as the Rome Centre. Existing funding authority expires June 30, 1973.

H.R. 7127 extends the authorization for only 3 years, and limits the amount to \$100,000 per year, but no more than 25 percent of the total annual assessment. For planning purposes, and because the U.S. contribution—which we agree should be limited to 25 percent after fiscal 1974—may exceed \$100,000 as more nations join the Centre, we prefer the open-ended authorization in H.R. 5743.

The International Centre is a worldwide preservation organization with a membership of 55 nations. U.S. participation in the Centre was authorized by the 1970 amendments to the Historic Preservation Act and began in 1971. It has been guided by the Advisory Council on Historic Preservation through its International Centre Committee.

During our brief membership, 32 Americans have received preservation training with the Centre's financial or technical assistance. The International Centre has also, at the request of the Architect of the Capitol, studied masonry consolidation methods for the preservation of the west front of the U.S. Capitol.

The Centre arranged a mission to discover methods to treat deterioration at four Franciscan Missions in San Antonio, Tex. Under its auspices, a North American International Regional Conference was held in Williamsburg and Philadelphia, September 10 through 16, 1972. The Conference brought together for the first time international experts in both historic building restoration and museum conservation.

In summation, Mr. Chairman, these two programs, one for historic preservation grants, the other for U.S. participation in the International Centre, have proved highly successful. Reauthorization will mean further advances in the protection, preservation, and use of our Nation's finest historic resources.

Mr. Chairman, with your permission I would like to ask Dr. Connally to show you very briefly six of the projects that have benefited from this program.

Mr. TAYLOR. You may proceed, Dr. Connally.

Dr. CONNALLY. Mr. Chairman, these are representative examples of the kinds of properties that are assisted under this matching grant-in-aid program. This example, the Hans Herr House, is in Lancaster, Pa. It is an early 18th century Germanic building for which a grant for \$37,000 has been made for architectural research and for restoration work.

The matched funds were provided by the Mennonite Church. This will be a Mennonite museum. It is one of the oldest buildings in that county and an important monument associated with the history of Mennonites in this country.

This is the kind of property that is assisted, Mr. Chairman, and the kind of local response that we find.

Private money matched the Federal money in this instance.

This, the Goodnow Barn, is a barn in Kansas, Mr. Chairman. It is part of the Goodnow property at Manhattan. The house and the barn will be restored. The homestead complex was built about 1857. It was occupied by Isaac T. Goodnow, who was one of the outstanding leaders in public education in Kansas. He is known as the father of the Kansas Public School System.

The grant made here is \$10,000. This property will be used as a museum. The Kansas State Historical Society provided the match for the Federal contribution. In this case it was private donation of the property that was used as the match for the Federal contribution. Federal contributions that match donations in kind have to be used for the restoration of the property donated. This is a good example of that aspect of the program, Mr. Chairman.

Mr. SKUBITZ. Dr. Connally, did the Rome Centre make a study of this?

Dr. CONNALLY. No sir. The Kansas State Historical Society did and the request for the Federal assistance came through the regular mechanism, through the State historical preservation officer appointed by the Governor of Kansas.

Mr. SKUBITZ. I asked about the Rome Centre because it was asked by the Capitol Architect to make a study of the Capitol Building to determine what should be done with the building, I presume. I thought perhaps the advice of the Rome Centre might have been called upon as to how we might or should preserve this barn.

Dr. CONNALLY. Mr. Chairman, the United States is a member of the International Centre, so we have access now to the latest scientific study of detailed problems of stabilization and restoration of historic monuments and structures as well as museum objects.

For the Capitol, that request was made by the Architect of the Capitol for, as I understand it, a scientific study of methods of stabilizing the stone.

We have a variety of properties, Mr. Chairman. This is the schooner, *Wawona*, which is berthed at Seattle, Wash. A grant of \$25,000 was made for the restoration of this vessel. The matching funds came from private sources.

The vessel will be restored and maintained as a maritime museum. The owners are a nonprofit organization known as Northwest Seaports, Inc. More money will be requested in the future.

This is an important vessel, a three-masted schooner, one of the last sailing vessels on the west coast, built in 1897. She was later fitted out for other purposes, demasted during World War II, used as a barge, and then used in the fishing trade. As an important survivor of sailing vessels on the west coast this will be a museum.

This is Fort Churchill on the Overland Mail Route in Nevada. This was an important fort protecting the intercontinental telegraph line in the 1860's. The buildings there have deteriorated. There was some restoration work a generation ago.

A small grant has been made for the stabilization of these adobe walls, a grant of \$4,200, and there will be another similar grant made in the future as we expect the State to request it.

This one happens to be in North Carolina, Mr. Chairman. This is the Cupola House at Edenton, an early 18th century example, architecturally important because it shows a transition from the medieval character of the 17th century to the Georgian of the 18th.

The grant here was a small one initially to repair the roof and some water damage. It is expected that the State will make an additional request.

Mr. TAYLOR. Dr. Connally, these are all projects being carried out by the States?

Dr. CONNALLY. The grants are all made to the States, Mr. Chairman, and what I am attempting to show here is the variety of ownership, the variety of properties, and the variety of matching sources that are used in this program, but it all comes through the States.

This, Robert Gamble House, is an important ante bellum mansion, used as a museum, owned by the State of Florida, located in Manatee County on the southwest coast. The source for the matched funds is the State of Florida. This is a very small grant, only \$1,200, to assist in planning for the restoration. It is our understanding that the State of Florida will go ahead on its own and complete the restoration.

Mr. Chairman, these examples are meant simply to give you some idea of the variety of properties that this program assists throughout

the country. All the States will be participating in fiscal year 1974, and these are the kinds of resources all across the country that the program is meant for.

Thank you, Mr. Chairman.

Mr. WALKER. Thank you, sir.

Mr. TAYLOR. That ends your statement?

Mr. WALKER. It does, sir. Thank you.

Mr. TAYLOR. Thank you, Mr. Director.

I have a few questions. By what formula do you establish the amounts to be allocated to the States versus the National Trust?

Mr. WALKER. Would you like a breakdown of the formula, sir?

Mr. TAYLOR. Yes. In other words, how do you determine the amounts that go to each?

Mr. WALKER. Sir, it is broken down percentagewise, 30 percent of the appropriation is divided equally among the States; 45 percent is apportioned among States with approved historic preservation plans on the basis of need revealed in annual plan supplements; 17½ percent goes to the National Trust for Historic Preservation, not to exceed \$1.75 million.

Mr. TAYLOR. Per year?

Mr. WALKER. That is correct. And then 7½ is for emergencies and for administrative expenses.

Mr. TAYLOR. You mean 7½ percent?

Mr. WALKER. That is correct.

Mr. TAYLOR. Now, there is nothing in the law at present which determines this allocation?

Mr. WALKER. That is correct, sir. The formula was developed in cooperation with the Conference of State Historic Preservation Officers.

Mr. TAYLOR. Now, can you advise the committee as to the amount that has been allocated to the States and to the National Trust for Historic Preservation since the program began? Also, provide us with information showing how the National Trust share has been used.

Mr. WALKER. Yes, sir; we can.

Mr. TAYLOR. Do you have a breakdown by State?

Mr. WALKER. Yes, sir; we do. We can provide that for the record.

Mr. TAYLOR. In the absence of objection that information will be placed in the record at this point.

[The material supplied follows:]

CHART 1.—GRANTS ISSUED TO THE STATES AND THE NATIONAL TRUST (AS OF MAR. 26, 1973)

State	Survey and planning		Acquisition and development		Total	
	Number	Amount	Number	Amount	Number	Amount
Alabama.....	4	\$203,424	8	\$88,111	12	\$291,535
Alaska.....	4	84,145	2	62,776	6	146,921
Arizona.....	3	40,136	6	48,132	9	88,268
Arkansas.....	3	395,929	7	77,259	10	473,188
California.....	3	144,521	4	95,771	7	240,292
Colorado.....	2	40,798	7	19,000	9	59,798
Connecticut.....	4	55,560	2	39,410	6	94,970
Delaware.....	4	71,900	5	51,136	9	123,036
Florida.....	2	179,018	8	125,823	10	304,841
Georgia.....	3	100,629	12	46,005	15	146,634
Hawaii.....	1	85,000			1	85,000
Idaho.....	3	59,400	1	1,176	4	60,576
Illinois.....	2	253,998	3	76,606	5	330,604
Indiana.....						

CHART 1.—GRANTS ISSUED TO THE STATES AND THE NATIONAL TRUST (AS OF MAR. 26, 1973)—Continued

State	Survey and planning		Acquisition and development		Total	
	Number	Amount	Number	Amount	Number	Amount
Iowa.....	2	\$51,501	2	\$71,855	2	\$51,501
Kansas.....	3	97,962	5	114,992	8	169,817
Kentucky.....	2	69,000	2	43,764	4	183,992
Louisiana.....	1	16,036	3	61,860	4	59,800
Maine.....	4	41,113	8	73,453	12	102,973
Maryland.....	4	166,607	12	89,970	16	240,060
Massachusetts.....	4	134,398	11	95,713	15	224,368
Michigan.....	4	223,372	16	177,298	20	319,085
Minnesota.....	5	326,608	9	61,801	14	503,906
Mississippi.....	4	150,784	2	77,364	6	212,585
Missouri.....	4	129,857	14	52,280	18	207,221
Montana.....	2	3,977	5	52,738	7	56,257
Nebraska.....	3	39,353	6	18,834	9	92,091
Nevada.....	2	18,902	3		5	37,736
New Hampshire.....	1	21,000			1	21,000
New Jersey.....	2	100,455	3	78,000	5	178,455
New Mexico.....	2	53,497	9	99,405	11	152,902
New York.....	4	216,369	14	393,808	18	610,177
North Carolina.....	4	234,645	24	211,428	28	446,073
North Dakota.....						
Ohio.....	3	47,500	7	89,809	10	137,309
Oklahoma.....	4	38,189	4	33,920	8	72,109
Oregon.....	2	53,500	3	32,953	5	86,453
Pennsylvania.....	3	184,487	6	131,322	9	315,809
Rhode Island.....	3	103,262	21	157,178	24	260,440
South Carolina.....	4	631,678	9	176,630	13	808,308
South Dakota.....	1	29,900	1	15,250	2	45,150
Tennessee.....	5	77,964	5	87,344	10	165,308
Texas.....	3	77,892	10	142,264	13	220,156
Utah.....	5	111,496	2	56,800	7	168,296
Vermont.....	4	49,597	6	120,124	10	169,721
Virginia.....	5	239,095	11	76,592	16	315,687
Washington.....	4	80,487	7	121,468	11	201,955
West Virginia.....	4	61,472	2	167,055	6	228,527
Wisconsin.....	4	56,634	4	84,312	8	140,946
Wyoming.....	4	103,277	26	144,435	30	247,712
District of Columbia.....	2	66,000	1	25,601	3	91,601
Guam.....						
Puerto Rico.....	2	10,144			2	10,144
American Samoa.....						
Subtotal.....	157	5,832,468	336	4,168,825	493	10,001,293
National Trust.....	12	3,272,239	25	742,682	37	4,014,921
Total.....	169	9,104,707	361	4,911,507	530	14,016,214

¹ An additional \$6,817,786 is available to the States but has not been assigned to specific projects. Also \$1,053,609 has been spent for administration of the program.

GRANTS-IN-AID FUNDS, NATIONAL TRUST FOR HISTORIC PRESERVATION

Program component	Fiscal year—					
	1968	1969	1970	1971	1972	1973
Acquisition and development:						
Cliveden.....					\$75,000	\$97,775
Chesterwood.....				\$8,587		4,485
Shadows-on-the-Teche.....				1,501		7,000
Woodrow Wilson House.....	\$197.50			26,625		14,795
Decatur House.....				19,575		1,650
Belle Grove.....	699.30			18,750		5,000
Woodlawn.....	25,830.80			25,500		6,750
Pope-Leighey House.....				10,850		4,500
Cooper-Molera Adobes.....						
Casa Amesti.....						
Lyndhurst.....	19,256.25			272,114		68,500
Oatlands.....	4,016.15			11,725		12,000
Subtotal.....	50,000.00			395,227	75,000	222,455
Maintenance and administration of trust holdings.....	135,000.00	\$8,750	\$150,000	411,291	546,212	606,849
Technical and educational assistance.....	115,000.00	8,750	150,000	235,505	420,811	484,071
Total.....	300,000.00	17,500	300,000	1,042,023	1,042,023	1,313,375

Mr. TAYLOR. What direct benefits does the United States receive by its membership in the International Centre? I hope you will be specific.

Mr. WALKER. Yes, sir; I will attempt to. I would like to make a brief statement and then Dr. Connally, who has just returned from the biennial meeting, might add something.

I think that there is a great deal to be accomplished from it. We have already received a great deal of benefit from the standpoint of training our people in America, from the standpoint of historic preservation and museum conservation.

As I mentioned in my statement, in regard to assisting the Architect of the Capitol, we had a very famous scientist come from France and one from England who worked with the Architect.

We have also had the opportunity to use the Centre's experience in Texas with the four Franciscan Missions. That has been successful.

Maybe Dr. Connally can add to that.

Dr. CONNALLY. In the matter of training, the International Centre conducts several courses, and there have been a number of Americans who have attended those courses. Fifteen Americans have participated in the courses offered by the International Centre.

Last summer a very important traveling summer school was put on especially for architect restorers in this country. They were taken to places in Belgium and France and the Netherlands and Great Britain where work in similar materials and of a similar scale to the restoration problems we face in this country was being undertaken so they could meet with the professionals working on those restorations.

France and the Low Countries have a very high reputation in this kind of work and the summer school was very successful. So 17 young Americans, mostly architects, will be going into a specialty in the restoration of historic structures with the experience of having participated in that program. That has been one of the most important things, Mr. Chairman.

In Williamsburg and in Philadelphia, in September 1972, we held an international conference. Now, that wasn't just the usual sort of conference, Mr. Chairman, where everyone talks in generalities. This brought together for the first time on a large scale, the scientific specialists and museum conservators on the one hand and architect restorers on the other.

There were about 160 specialists in attendance. I was there at those meetings, Mr. Chairman. I have worked for about 20 years now in the restoration of historic structures and I can say that I have never been in a more fruitful meeting. The architect restorers and the scientific specialists came together to exchange views of a technical and scientific nature; for example, exactly what happens on the face of stone when certain chemical changes begin to take place, from pollutants in the air; what happens when you use certain kinds of materials to clean stone; what happens to wood, or any kind of structure for that matter, when you have biological damage such as by rodents or termites or roots. The meeting discussed technical and scientific methods to preserve structures that are subject to physical damage, to abrasion, shock, to cracks of all kinds.

The proceedings will be published and anyone who is professionally interested in the preservation of structures and in the conservation of museum objects would profit by the results of that conference, Mr. Chairman.

Mr. TAYLOR. Now, in Europe they have buildings 500 years of age, buildings maybe 1,000 years of age. Are they ahead of us in knowledge on the methods of preserving historic buildings?

Dr. CONNALLY. Generally I think that is true, Mr. Chairman. It varies from country to country. In Western Europe in particular there has been a concentrated historic preservation movement since the 1830's, beginning in France. The French standard has been adopted by quite a number of countries, by the major countries involved in historic preservation.

What the International Centre does is try to bring the best expertise, wherever it is, to bear on problems of worldwide interest.

If I may, Mr. Chairman, in response to your question about the benefits to us, the broad one, the long-range one is access to new knowledge, and the advancement of knowledge of a scientific and technical nature in these very difficult problems. For example, there has been a great deal of study now on the deterioration of stone and even on the pathology of stone, and we are beginning to have problems of that kind in this country. We administer in the National Park Service a number of monuments of stone and we are beginning to see some of the effects of pollution. As a result of our access to this knowledge we have on our own staff a competent expert in the problems of stone in the modern environment.

I showed you a mud-brick structure in Nevada just awhile ago. An International Centre research team has developed techniques for stabilizing adobe or mud-brick structures with new methods and materials. That experiment was carried out in Iraq where the weather conditions are somewhat similar to the Southwest's—very dry, but when it does rain, it really comes down and tends to dissolve mud-brick structures.

The methods and materials used there have proven successful here so far. The structures have been stabilized and have come through the first season of torrential rains.

This information is available to us now. It is this kind of thing, Mr. Chairman, on the broad front and in the long range, that we think is so important.

Mr. TAYLOR. Now, as you know, it was anticipated that two members of this subcommittee would attend the meeting of the Centre in Rome in April. It developed that due to the pressure of House floor business that we couldn't be away. To what extent do you think it would be beneficial to Congress for members of this subcommittee to participate in these meetings?

Mr. WALKER. Sir, I think it would be extremely beneficial to the U.S. delegation to have the expertise of the members of this committee. U.S. participation in the Centre is authorized by the Historic Preservation Act, which comes under the legislative oversight of your subcommittee. The U.S. delegation should benefit from your advice and counsel and you, in turn, should benefit from the experience.

Mr. TAYLOR. It should enable us to evaluate the programs covered by this legislation better.

Mr. WALKER. Yes, sir, of course, and we were disappointed that you were not able to make the trip.

Mr. TAYLOR. The gentleman from Texas.

Mr. KAZEN. Thank you, Mr. Chairman.

Mr. Director, when grants are made which result in preservation of objects in private ownership, are there any assurances that these places will be available to the public?

Mr. WALKER. Sir, under the grants-in-aid program, we make the matching grant and then it is in turn the State's responsibility through agreements with the owner, to make sure that the assisted property is administered and maintained for the public benefit.

Mr. KAZEN. What can be done to insure this?

Mr. WALKER. Well, there has to be a public benefit, sir, from the standpoint that the site is something that we should be protecting for future generations, and that is the reason they have been identified by the individual State representatives and—

Mr. KAZEN. Well, I understand this but if we are going to have Federal money involved in the restoration, that in itself would show that there is a public interest.

Mr. WALKER. Yes, sir.

Mr. KAZEN. And certainly if we are going to invest in the preservation, and we really should preserve these places, they should be made available for the enjoyment of the public.

Mr. WALKER. Right, Dr. Connally?

Dr. CONNALLY. Mr. Kazen, in some instances money has gone into private properties, as permitted by the act. The requirement of public benefit is that these properties have to be available on some kind of reasonable schedule for visitation, respecting both the security of the occupants and the public interest. This is worked out with the States and the owners to the satisfaction of our staff which supervises the administration of these grants.

If the money is used just on the exterior of a building, part of a historic scene, the fact that it is there and part of that historic scene is a public benefit. When you continue on the inside of a building there has to be an arrangement for public access on some reasonable basis.

Mr. KAZEN. Well, I would hope that more and more of these places as we go in further with our program would be made available to the public.

Dr. CONNALLY. The great majority of them are open. They are of the museum type, Mr. Kazen. That is true of every example that I showed here this morning.

Mr. WALKER. We do have certain places that people are living in. On various occasions, certain groups of people are allowed to go through in agreement with the individual owner.

Mr. KAZEN. I can understand that type of situation.

Now, the contribution of the United States would be limited as far as the International Centre is concerned to 25 percent after fiscal 1974.

Mr. WALKER. Right, sir.

Mr. KAZEN. What is our contribution now, what percentage?

Mr. WALKER. It is a little under \$70,000.

Mr. KAZEN. I am talking about percentage of the whole.

Dr. CONNALLY. The percentage has been 30 percent, Mr. Kazen. By an act of Congress in 1972 consistent with a resolution adopted by the United Nations, which placed a limitation on the contribution of any member state at a maximum of 25 percent of the total membership assessment, the U.S. fee for membership in the International Centre

will be no more than 25 percent of the total assessment beginning in fiscal year 1975. The law goes into effect in the calendar year hence, so in fiscal 1974 the fee will be about \$90,000, which is slightly less than 30 percent of the total assessment.

Mr. KAZEN. Well, you are asking for the right to exceed \$100,000 and your explanation for that is that more and more nations are joining this Centre. It would seem to me that our dollar input would be less as more nations go in because of the contributions coming in.

Dr. CONNALLY. The budget of the Rome Centre expands as these tremendous problems all over the world are studied and as other nations join and make their contributions which have been based not on their needs, but on the contributions of each to UNESCO. It is expected that Canada and Australia will join the International Centre in the near future. So there is the possibility that the budget of the Centre will expand to such a degree that the \$100,000 limitation might prove awkward.

Mr. TAYLOR. Will the gentleman yield?

Mr. KAZEN. Would you, Mr. Director, give us your idea of why this committee should authorize an open ended authorization instead of having you come in at every session and reporting to this committee?

Mr. WALKER. Yes, sir. The program, as the chairman has pointed out, got off to a very slow start. Only in the last 3 years have nearly all 50 States and the territories been able to participate in this program. Private enterprise as well as the State legislatures have begun to move. The National Register, which we have made available to you, sir, has grown in the last 4 years to almost 5,000 entries.

The States are just now in a position where they are really able to launch into a program.

Mr. KAZEN. Yes, but you would have leadtime in order to determine how much these grants are going to be.

Mr. WALKER. Yes, sir. the leadtime is not necessarily for our benefit as much as it is for the States; the States need the leadtime, sir.

Mr. KAZEN. That is correct.

Mr. WALKER. A 3-year limitation, they tell us, would pose a great disadvantage.

Mr. KAZEN. I am talking about the leadtime that you would have in order to come before this committee periodically and seek authorization, because I will tell you now, Mr. Director, as far as this subcommittee is concerned, in the past they have been very hesitant to give these open ended authorizations and I doubt very seriously that that provision would go through this year unless you have some very, very compelling reasons for asking for it.

Mr. WALKER. Well, the reasons that I have given, sir, are in conjunction with what the National Park Service and Department of the Interior are doing with the State representatives and the National Trust.

Mr. KAZEN. All right. Now, I am naturally interested in the work that was done at the missions in San Antonio. What is the status of that research work?

Dr. CONNALLY. What has happened there, Mr. Kazen, is the same sort of thing that is happening in a lot of places almost spontaneously, it seems, and that is sudden deterioration of the stone in the four

missions at Mission Nuestra Senora de la Purísima Concepción, Mission San Juan Capistrano, Mission San Francisco de la Espada, and Mission San Juan y San Miguel de Aguayo. They are built with local limestone with vaults of tuba and there has been almost suddenly a noticeable deterioration of the stone.

The principal specialist from the staff of the Rome Centre—the International Centre we call it now—will come to visit the missions. Meanwhile, he has prescribed certain tests for humidity and that sort of thing that are to be taken to gather data before his inspection so it will be more meaningful when he comes. I believe he intends to be there this summer or early autumn in connection with another trip, so there will be sufficient time to have reliable data to make a determination of what the actual problem is, what it is that causes the deterioration. It will probably require more study.

Mr. KAZEN. I am being facetious now when I say if we had the technology that they had at the time they built those missions I think we would be in very good shape because those old buildings all over the world have withstood the test of time and weather and conditions a lot more than some modern buildings will.

Mr. WALKER. I think you are absolutely correct, sir.

Mr. KAZEN. And they must have had something at that time that was durable.

Thank you very much.

Mr. TAYLOR. The gentleman from Kansas.

Mr. SKUBITZ. Thank you, Mr. Chairman.

Mr. Walker, since the enactment of the Historic Preservation Act, how much money has been authorized for this program?

Mr. WALKER. It has been \$64 million, sir.

Mr. SKUBITZ. And how much money has the President requested in his budgets over that period of time?

Mr. WALKER. It has been a little over \$20 million, sir.

Mr. SKUBITZ. I was under the impression that about \$20 million was appropriated; the request was for about \$37 million and about \$20 million was appropriated. What I am getting at is that actually the appropriations have been much less than the authorization and the actual expenditures have been still less. I believe our spending level has been about \$10 million, is that correct?

Mr. WALKER. The administration has up to this last year—

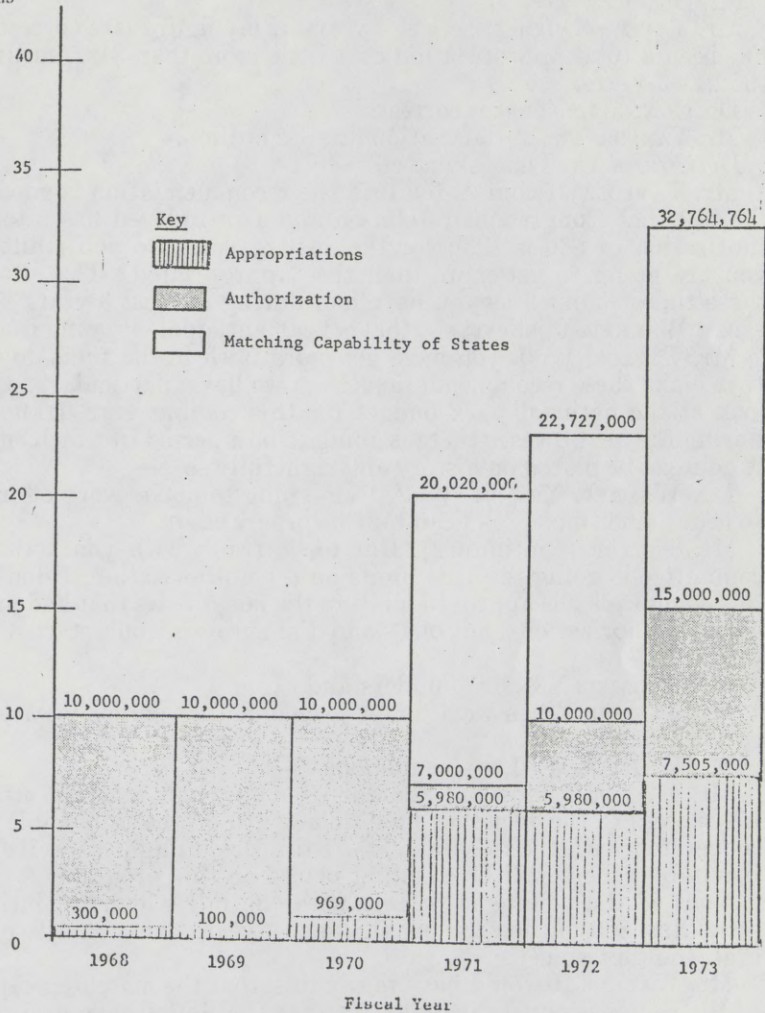
Mr. SKUBITZ. I mean over the total period of time.

Mr. WALKER. Since passage of the Historic Preservation Act through fiscal 1974, budget requests have totaled \$37.3 million. Appropriations over that period, assuming the 1974 request of \$15.5 million is appropriated, will total over \$36 million. States have assigned to specific grants virtually all moneys allocated through 1971. They are proceeding well with assigning 1972 and 1973 funds. As to expenditures, the States receive payment on a grant-by-grant basis as they accomplish approved work.

Dr. CONNALLY. Here is a funding chart, Mr. Chairman, that shows the matching capabilities of the States and the National Trust in blue, the appropriations in yellow, and the authorization in pink. I will supply a copy of the chart for the record.

[The chart follows:]

GRANTS-IN-AID FOR HISTORIC PRESERVATION

Dollars in
Millions

Mr. SKUBITZ. What does the blue represent?

Mr. WALKER. Matching capabilities of the States.

Dr. CONNALLY. The blue is money available in the States and the National Trust for matching. Those are not pie-in-the-sky figures, Mr. Skubitz. Those are firm figures of the capabilities to meet Federal dollars.

The point I believe Mr. Walker was trying to make is that in the last 3 years, under the current authorization, that is, the record has been much better than during the first 3 years when the program was, as the chairman pointed out in his opening remarks, struggling to get

started. In the last 3 years the record is very much better. The administration has requested over \$18 million under the current authorization.

Mr. TAYLOR. Will the gentleman yield?

Mr. SKUBITZ. Yes.

Mr. TAYLOR. During the last 3 years, if my figures are correct, there has been a total appropriation of a little more than \$19.5 million for the last 3 years.

Dr. CONNALLY. That is correct.

Mr. TAYLOR. The authorization was \$32 million.

Dr. CONNALLY. That is correct.

Mr. TAYLOR. Of course, for 1974 the recommendation is good. Now, the bill that Congressman Johnson and I introduced has a total authorization of \$60 million for the next 3 years. Do you really think you are going to get more than that appropriated? That would be three times as much as you have had during the last 3 years.

Mr. WALKER. I believe, sir, that we can anticipate it going that high.

Mr. TAYLOR. Well, you have got more faith in the folks downtown that make these recommendations than we have, particularly after we look at the national park budget for this coming year. I know that during the next 3 years there is going to be a period in which emphasis is going to be placed on history and rightfully so—

Mr. WALKER. Yes, sir. Well, I am going to make every effort I can to get as much money as I can for this program, sir.

Mr. TAYLOR [continuing]. But to be frank with you I think the committee is going to place limits on the authorization. I don't think this committee has approved a bill in the last 5 years that had an open-ended authorization—not one—and I'm sure we won't start with this one.

Mr. WALKER. Yes, sir; I understand.

Mr. TAYLOR. When we attempt to change that policy, we are trying to do the impossible.

Mr. WALKER. Well, we would hope—

Mr. TAYLOR. I know one Senator from our State one time attributed his success to the fact that he didn't try to do the impossible and he cooperated with the inevitable. So I think you might as well face the inevitable: there will be a ceiling placed on this program.

Now, if the ceiling is in line with the bill which we introduced providing \$60 million during the next 3 years, you could live within that, couldn't you?

Mr. WALKER. I would have to say this, that the matching capability of the States is our determinant factor. The States have projected for fiscal 1974 about \$41.4 million in matching ability. In 1975 their projection is somewhere in the vicinity of \$45 million. If that pattern of matching capability growth continues, then it may very well be that we can exceed that \$60 million, sir, in 3 years.

Mr. TAYLOR. Will the gentleman yield for one more question? I hate to take his time. You could supply us with information showing how the funding has been used, could you not?

[The information follows:]

HISTORIC PRESERVATION GRANTS-IN-AID

ALLOCATION OF FUNDS TO THE STATES AND THE NATIONAL TRUST FOR
HISTORIC PRESERVATION*Fiscal year 1967*

1. Funds requested from States	-----	-----
2. Funds requested from National Trust	-----	-----
3. Total funds requested (sum of 1 and 2)	-----	-----
4. Authorization	-----	\$2,000,000
5. Appropriation	-----	-----

Fiscal year 1968

1. Funds requested from States	-----	-----
2. Funds requested from National Trust	-----	\$914,485
3. Total funds requested (sum of 1 and 2)	-----	914,485
4. Authorization	-----	10,000,000
5. Appropriation	-----	300,000
6. Apportioned to States for grants	-----	-----
7. Apportioned to National Trust for grants	-----	300,000
8. Total apportioned for grants (sum of 6 and 7)	-----	300,000
9. Held for contingency grants	-----	-----
10. Administrative expenses	-----	-----

Fiscal year 1969

1. Funds requested from 26 States	-----	\$261,568
2. Funds requested from the National Trust	-----	300,000
3. Total funds requested (sum of 1 and 2)	-----	561,568
4. Authorization	-----	10,000,000
5. Appropriation	-----	100,000
6. Apportioned to 26 States for grants	-----	82,500
7. Apportioned to the National Trust for grants	-----	17,500
8. Total apportioned for grants (sum of 6 and 7)	-----	100,000
9. Held for contingency grants	-----	-----
10. Administrative expenses	-----	-----

BREAKDOWN BY STATES

State	Amount requested	Amount apportioned
Alabama	\$12,000.00	\$3,784.87
Alaska	20,000.00	6,308.13
Connecticut	4,097.50	1,292.37
Kansas	22,335.00	7,044.59
Maine	2,500.00	788.51
Maryland	14,500.00	4,573.39
Massachusetts	9,000.00	2,838.65
Michigan	14,500.00	4,573.39
Minnesota	6,000.00	1,892.43
Mississippi	3,958.00	1,248.37
Missouri	37,238.00	11,745.09
Nebraska	9,832.50	3,101.23
New York	3,600.00	1,135.46
North Carolina	13,255.00	4,180.70
Ohio	2,500.00	788.51
Oklahoma	3,180.00	1,002.99
Tennessee	3,000.00	946.22
Texas	7,633.35	2,407.60
Utah	6,000.00	1,892.43
Vermont	3,457.50	1,090.51
Virginia	19,545.00	6,164.61
Washington	4,000.00	1,261.62
West Virginia	19,000.00	5,992.71
Wisconsin	6,000.00	1,892.43
Wyoming	8,436.00	2,660.76
Puerto Rico	6,000.00	1,892.43
State total	261,567.85	82,500.00 1 (788.51)

1 Returned and carried over to fiscal year 1970.

HISTORIC PRESERVATION GRANTS-IN-AID

ALLOCATION OF FUNDS TO THE STATES AND THE NATIONAL TRUST FOR
HISTORIC PRESERVATION*Fiscal year 1970*

1. Funds requested from 36 States.....	\$1, 135, 059
2. Funds requested from the National Trust.....	926, 977
3. Totl funds requested (sum of 1 and 2).....	2, 062, 036
4. Authorization.....	10, 000, 000
5. Appropriation.....	969, 000
6. Apportioned to 36 States for grants.....	669, 000
7. Apportioned to the National Trust for grants.....	300, 000
8. Total apportioned for grants (sum of 6 and 7).....	969, 000
9. Held for contingency grants.....	
10. Administrative expenses.....	

BREAKDOWN BY STATES

State	Amount requested	Amount apportioned
Alabama.....	\$33, 000. 00	\$19, 434. 21
Alaska.....	13, 700. 00	9, 156. 96
Arizona.....	13, 400. 00	8, 997. 21
Arkansas.....	28, 586. 00	17, 083. 85
California.....	72, 686. 00	40, 567. 00
Connecticut.....	20, 075. 00	12, 551. 65
Georgia.....	50, 000. 00	28, 486. 71
Illinois.....	45, 515. 00	26, 098. 44
Kansas.....	22, 500. 00	13, 842. 96
Maine.....	5, 000. 00	4, 524. 21
Maryland.....	41, 366. 00	23, 889. 10
Massachusetts.....	33, 000. 00	19, 434. 21
Michigan.....	75, 000. 00	41, 799. 21
Minnesota.....	12, 000. 00	8, 251. 71
Mississippi.....	23, 800. 00	14, 535. 21
Missouri.....	44, 013. 00	25, 298. 63
Montana.....	2, 500. 00	2, 500. 00
Nebraska.....	12, 000. 00	8, 251. 71
New Jersey.....	87, 500. 00	48, 455. 46
New Mexico.....	21, 850. 00	13, 496. 83
New York.....	53, 750. 00	30, 483. 59
North Carolina.....	50, 275. 00	28, 633. 15
Ohio.....	2, 500. 00	2, 500. 00
Oklahoma.....	10, 000. 00	7, 186. 71
Oregon.....	16, 000. 00	10, 381. 71
Pennsylvania.....	50, 000. 00	28, 486. 71
South Carolina.....	66, 697. 00	37, 377. 86
Tennessee.....	12, 500. 00	8, 517. 96
Utah.....	22, 050. 00	13, 603. 34
Vermont.....	5, 890. 00	4, 998. 14
Virginia.....	89, 034. 00	49, 272. 31
Washington.....	19, 000. 00	11, 979. 21
West Virginia.....	19, 500. 00	12, 245. 46
Wisconsin.....	15, 500. 00	9, 849. 21
Wyomine.....	32, 872. 23	19, 366. 18
Puerto Rico.....	12, 000. 00	8, 251. 70
State total.....	1, 135, 059. 23	1 669, 788. 51

1 Includes \$788.51 carryover from fiscal year 1969.

HISTORIC PRESERVATION GRANTS-IN-AID

ALLOCATION OF FUNDS TO THE STATES AND THE NATIONAL TRUST FOR
HISTORIC PRESERVATION*Fiscal year 1971*

1. Funds requested from 46 States.....	\$16,910,002
2. Funds requested from the National Trust.....	2,095,000
3. Total funds requested (sum of 1 and 2).....	19,005,002
4. Authorization.....	7,000,000
5. Appropriation.....	5,980,000
6. Apportioned to 46 States for grants.....	4,509,394
7. Apportioned to the National Trust for grants.....	1,042,023
8. Total apportioned for grants (sum of 6 and 7).....	5,551,417
9. Held for contingency grants.....	186,861
10. Administrative expenses.....	241,722

BREAKDOWN BY STATES

State	Amount requested	Amount apportioned
Alabama.....	\$169,000	\$74,749
Alaska.....	52,000	49,163
Arizona.....	93,000	44,116
Arkansas.....	200,000	284,977
California.....	160,000	129,190
Colorado.....	87,450	34,442
Connecticut.....	102,000	52,114
Delaware.....	180,000	16,150
Florida.....	653,000	174,837
Georgia.....	76,132	32,105
Hawaii.....	734,000	85,000
Idaho.....	35,000	10,000
Illinois.....	350,000	227,900
Kansas.....	51,000	119,029
Kentucky.....	155,300	49,000
Louisiana.....	67,150	15,638
Maine.....	337,000	22,979
Maryland.....	617,000	101,475
Massachusetts.....	74,000	69,622
Michigan.....	389,985	111,459
Minnesota.....	407,000	116,961
Mississippi.....	26,000	107,226
Missouri.....	549,000	107,378
Nebraska.....	223,000	55,237
Nevada.....	67,050	33,463
New Hampshire.....	111,260	58,502
New Jersey.....	593,000	50,923
New Mexico.....	307,000	82,065
New York.....	3,675,000	264,458
North Carolina.....	549,000	206,608
Ohio.....	315,000	54,439
Oklahoma.....	80,000	30,223
Oregon.....	97,600	43,118
Pennsylvania.....	1,039,000	176,541
Rhode Island.....	533,000	104,168
South Carolina.....	1,300,000	299,000
Tennessee.....	120,000	42,802
Texas.....	355,000	131,462
Utah.....	275,000	79,125
Vermont.....	148,000	33,765
Virginia.....	351,000	144,120
Washington.....	333,000	149,142
West Virginia.....	371,000	187,055
Wisconsin.....	255,000	89,725
Wyoming.....	186,000	112,342
District of Columbia.....	61,075	45,601
States total.....	16,910,002	4,509,394

HISTORIC PRESERVATION GRANTS-IN-AID

ALLOCATION OF FUNDS TO THE STATES AND THE NATIONAL TRUST FOR
HISTORIC PRESERVATION*Fiscal year 1972*

1. Funds requested from 46 States.....	\$20,268,448
2. Funds requested from the National Trust.....	2,458,552
3. Total funds requested (sum of 1 and 2).....	22,727,000
4. Authorization.....	10,000,000
5. Appropriation.....	5,980,000
6. Apportioned to 46 States for grants.....	3,995,827
7. Apportioned to the National Trust for grants.....	1,042,023
8. Total apportioned for grants (sum of 6 and 7).....	5,037,850
9. Held for contingency grants.....	568,000
10. Administrative expenses.....	374,150

BREAKDOWN BY STATES

State	Amount requested	Amount apportioned
Alabama.....	\$580,655	\$193,567
Alaska.....	231,095	85,488
Arizona.....	46,605	29,900
Arkansas.....	505,809	171,127
California.....	363,854	70,535
Colorado.....	281,231	29,900
Connecticut.....	86,265	29,900
Delaware.....	432,000	69,136
Florida.....	437,500	135,004
Georgia.....	52,135	29,900
Idaho.....	38,700	30,676
Illinois.....	498,396	62,756
Kansas.....	72,400	29,900
Kentucky.....	924,500	134,992
Louisiana.....	41,000	29,900
Maine.....	209,225	50,219
Maryland.....	305,850	110,124
Massachusetts.....	412,771	108,295
Michigan.....	498,000	156,005
Minnesota.....	981,446	266,409
Mississippi.....	545,655	89,574
Missouri.....	628,329	91,617
Montana.....	47,450	29,900
Nebraska.....	237,306	33,941
Nevada.....	118,000	29,900
New Jersey.....	394,500	80,061
New Mexico.....	163,940	29,900
New York.....	1,143,125	279,159
North Carolina.....	878,393	209,652
Ohio.....	399,000	80,370
Oklahoma.....	204,000	33,697
Oregon.....	166,300	29,900
Pennsylvania.....	972,200	137,312
Rhode Island.....	479,000	83,030
South Carolina.....	3,466,320	299,000
South Dakota.....	94,900	29,900
Tennessee.....	651,500	75,247
Texas.....	565,854	86,286
Utah.....	296,400	56,800
Vermont.....	311,940	35,535
Virginia.....	390,625	86,757
Washington.....	177,246	45,550
West Virginia.....	336,669	39,372
Wisconsin.....	104,892	39,480
Wyoming.....	155,467	56,518
District of Columbia.....	340,000	83,636
States total.....	20,268,448	3,995,827

HISTORIC PRESERVATION GRANTS-IN-AID

ALLOCATION OF FUNDS TO THE STATES AND THE NATIONAL TRUST FOR
HISTORIC PRESERVATION*Fiscal year 1973*

1. Funds requested from 49 States.....	\$31, 014, 764
2. Funds requested from the National Trust.....	1, 750, 000
3. Total funds requested (sum of 1 and 2.).....	32, 764, 764
4. Authorization.....	15, 000, 000
5. Appropriation.....	7, 505, 000
6. Apportioned to States for grants.....	5, 383, 134
7. Apportioned to the National Trust for grants.....	1, 313, 375
8. Total apportioned for grants (sum of 6 and 7).....	6, 696, 509
9. Held for contingency grants.....	370, 754
10. Administrative expenses.....	437, 737

BREAKDOWN BY STATES

State	Amount requested	Amount apportioned
Alabama.....	\$2, 567, 230	\$323, 978
Alaska.....	45, 145	49, 348
Arizona.....	80, 149	53, 167
Arkansas.....	232, 058	69, 701
California.....	1, 127, 414	167, 197
Colorado.....	264, 825	73, 270
Connecticut.....	30, 416	47, 747
Delaware.....	887, 000	141, 018
Florida.....	1, 233, 739	182, 250
Georgia.....	107, 500	56, 142
Idaho.....	50, 500	49, 932
Illinois.....	367, 274	84, 425
Iowa.....	743, 312	125, 372
Kansas.....	52, 645	50, 182
Kentucky.....	652, 500	115, 482
Louisiana.....	342, 000	81, 672
Maine.....	15, 000	46, 067
Maryland.....	903, 885	142, 857
Massachusetts.....	483, 701	97, 102
Michigan.....	533, 000	102, 472
Minnesota.....	827, 760	134, 567
Mississippi.....	299, 000	76, 990
Missouri.....	471, 551	95, 780
Montana.....	57, 500	50, 692
Nebraska.....	320, 500	79, 332
Nevada.....	405, 500	88, 582
New Hampshire.....	203, 000	66, 537
New Jersey.....	232, 000	69, 697
New Mexico.....	407, 500	88, 807
New York.....	2, 260, 675	290, 597
North Carolina.....	1, 767, 327	236, 876
Ohio.....	247, 516	71, 382
Oklahoma.....	345, 644	82, 082
Oregon.....	148, 770	60, 632
Pennsylvania.....	822, 200	133, 962
Rhode Island.....	794, 190	130, 912
South Carolina.....	4, 643, 499	375, 250
South Dakota.....	42, 000	49, 007
Tennessee.....	570, 375	106, 542
Texas.....	814, 313	133, 102
Utah.....	267, 250	73, 532
Vermont.....	221, 739	68, 582
Virginia.....	1, 379, 172	194, 612
Washington.....	821, 691	133, 907
West Virginia.....	489, 200	97, 702
Wisconsin.....	517, 700	100, 807
Wyoming.....	170, 599	63, 007
District of Columbia.....	717, 500	122, 562
American Samoa.....	29, 800	47, 714
States total.....	31, 014, 764	5, 383, 134

Mr. SKUBITZ. Yes.

Mr. TAYLOR. How does this matching capability of the States during the last 3 years compare with the amounts of Federal money available? Can you provide a table showing the matching capability of the States since the program began?

[The table follows.]

PAST MATCHING CAPABILITY OF STATES AND THE NATIONAL TRUST BY FISCAL YEAR

States	Fiscal year—						Total
	1968	1969	1970	1971	1972	1973	
Alabama.....	0	\$12,000	\$33,000	\$169,000	\$580,655	\$2,567,230	\$3,361,885
Alaska.....	0	20,000	13,700	52,000	231,095	45,145	361,940
Arizona.....	0	13,400	13,400	93,000	46,665	80,149	233,154
Arkansas.....	0	28,586	200,000	505,809	232,058		966,453
California.....	0	72,686	160,000	363,854	1,127,414		1,723,954
Colorado.....	0		87,450	281,231	264,825		633,506
Connecticut.....	0	4,097	20,075	102,000	86,265	30,416	242,853
Delaware.....	0		180,000	432,000	887,000		1,499,000
Florida.....	0		653,000	437,500	1,233,739		2,324,239
Georgia.....	0		50,000	76,132	52,135	107,500	285,767
Hawaii.....	0			734,000			734,000
Idaho.....	0			35,000	37,800	55,000	124,200
Illinois.....	0		45,515	350,000	498,396	367,274	1,261,185
Indiana.....						743,312	743,312
Iowa.....	0	22,335	22,500	51,000	72,400	52,645	220,880
Kansas.....	0			155,300	924,500	652,500	1,732,300
Kentucky.....	0			67,150	41,000	342,000	450,150
Louisiana.....	0	2,500	5,000	337,000	209,225	15,000	568,725
Maryland.....	0	14,500	41,366	617,000	305,850	903,885	1,882,601
Massachusetts.....	0	9,000	33,000	74,000	412,771	483,701	1,012,472
Michigan.....	0	14,500	75,000	389,985	498,000	533,000	1,510,485
Minnesota.....	0	6,000	12,000	467,000	981,446	827,760	2,234,206
Mississippi.....	0	3,958	23,800	26,000	545,655	299,000	898,413
Missouri.....	0	37,238	44,013	549,000	628,329	471,551	1,730,131
Montana.....	0		2,500		47,450	57,500	107,450
Nebraska.....	0	9,833	12,000	223,000	237,306	320,500	802,639
Nevada.....	0			67,050	118,000	405,500	590,550
New Hampshire.....	0			111,260		203,000	314,260
New Jersey.....	0		87,500	593,000	394,500	232,000	1,307,000
New Mexico.....	0		21,850	307,000	163,940	407,500	900,290
New York.....	0	3,600	53,750	3,675,000	1,143,125	2,260,675	7,136,150
North Carolina.....	0	13,255	50,275	549,000	878,393	1,767,327	3,258,250
North Dakota.....	0						
Ohio.....	0	2,500	2,500	315,000	399,000	247,516	966,516
Oklahoma.....	0	3,180	10,000	80,000	204,000	345,644	642,824
Oregon.....	0		16,000	97,600	166,300	148,770	428,670
Pennsylvania.....	0		50,000	1,039,000	972,200	822,200	2,883,400
Rhode Island.....	0			533,000	479,000	794,190	1,806,190
South Carolina.....	0		66,697	1,300,000	3,466,320	4,643,499	9,476,516
South Dakota.....	0				94,900	42,000	136,900
Tennessee.....	0	3,000	12,500	120,000	651,500	570,375	1,357,375
Texas.....	0	7,633		355,000	565,854	814,313	1,742,800
Utah.....	0	6,000	22,050	275,000	296,400	267,250	866,700
Vermont.....	0	3,458	5,890	148,000	311,940	221,739	691,027
Virginia.....	0	19,545	89,034	351,000	390,625	1,379,172	2,229,376
Washington.....	0	4,000	19,000	333,000	177,246	821,691	1,354,937
West Virginia.....	0	19,000	19,500	371,000	336,669	489,200	1,235,369
Wisconsin.....	0	6,000	15,500	255,000	104,892	517,700	899,092
Wyoming.....	0	8,436	32,872	186,000	155,467	170,599	553,374
District of Columbia.....	0			61,075	340,000	717,500	1,118,575
Puerto Rico.....	0	6,000	12,000				18,000
Guam.....							
Virgin Islands.....							
Samoa.....						29,800	29,800
Subtotal.....	0	261,568	1,135,059	16,910,002	20,268,448	31,014,764	69,589,841
National Trust.....	914,485	300,000	926,977	2,095,000	2,458,552	1,750,000	8,445,414
Grand total.....	914,485	561,568	2,062,036	19,005,002	22,727,000	32,764,764	78,034,855

Note: Estimated fiscal year 1974 matching capability derived from fiscal year 1973 State program: \$41,405,691.

Mr. WALKER. During the last 3 years? As Dr. Connally just stated—

Dr. CONNALLY. Mr. Chairman, here it is. The matching capability of the States has gone up from \$19 million in fiscal year 1971, to \$23 million in 1972, over \$32 million in fiscal year 1973. Comparable Federal funding for those years totaled \$6 million in 1971, \$6 million in 1972, and \$7.5 million in 1973.

Mr. TAYLOR. Will the gentleman proceed.

Mr. SKUBITZ. Mr. Walker, we have allowed \$100,000 each year for 3 years to the Rome Centre. And the total accomplishment as I understand is that 32 people have been trained to do this kind of work during the 3 years?

Mr. WALKER. Thirty-two have received instruction of some kind by the International Centre.

Mr. SKUBITZ. Are they given scholarships of some nature? Are their expenses paid?

Mr. WALKER. They are aided by the International Centre and from other sources.

Mr. SKUBITZ. Aided by the Centre? Do we provide additional funds in the form of a scholarship to them?

Mr. WALKER. Sir, it is not Federal money.

Mr. SKUBITZ. It isn't Federal money?

Mr. WALKER. No, sir.

Mr. SKUBITZ. Of course, I am very sympathetic and have always supported the Historic Preservation Act. I was opposed to the Rome Centre proviso originally. One reason I was interested in going to Rome was to determine what was actually going on. We had difficulty before. The only witnesses we ever had here were those from the executive department. I, for one, believe that every authorizing committee has a responsibility, once money is authorized and appropriated, to see how this money is being spent.

Mr. WALKER. I couldn't agree with you more, sir.

Mr. SKUBITZ. At this moment I am in the dark. I wonder how you can come to the committee and justify our participation by explaining that the Centre trained 32 people and made some advice available on how to fix the Capitol Building and that all this is worth \$300,000. It may be a good program, but we really need more facts.

Mr. WALKER. Mr. Skubitz, I think it is also important to remember, sir, that we have had courses in our country last year, in both Williamsburg and Philadelphia, which are two very historic cities in their own right, where somewhere in the vicinity of 156 people participated in a seminar or training session, and as I understand it, it was very successful. I, too, am at a disadvantage, never having been there.

Mr. SKUBITZ. Frankly, I don't think the Members of Congress do their duty when they simply sit on a committee and authorize money and the Appropriations Committee appropriates the money and then we hear from the department again that the job is being done. The department then asks for more money and we ask a few questions and we authorize more money and the Congress appropriates more. I think we have a responsibility as legislators to act as an oversight committee when we authorize a program.

I have opposed bills brought before us in the committee. Thereafter I had made trips with the Reclamation Subcommittee and with this subcommittee. When I got into the area and saw what was being done

and what was proposed and its benefits I frequently supported the proposals.

I am sorry that the legislative situation were such that Mr. Taylor and myself were not able to go to Rome. I want to assure you that the statements made on the floor did not deter us one whit.

Thank you, Mr. Chairman.

Mr. TAYLOR. The gentleman from Ohio.

Mr. SEIBERLING. Thank you, Mr. Chairman.

Mr. Walker, just following through on this question about the long term authorizations, if each year this committee should take up authorization bill for the third fiscal year ahead, so we are always 3 years ahead, wouldn't this be sufficient for long range planning purposes?

Mr. WALKER. Sir, that is a possibility.

Mr. SEIBERLING. I am just thinking that that might be a compromise between the administration bill and Mr. Taylor's bill.

Mr. WALKER. Yes, sir. That is a possibility. As long as we don't find ourselves in a position of discouraging the States from doing what they are doing now so well.

Mr. SEIBERLING. Just as a matter of information, Mr. Chairman, wouldn't it be feasible for this committee to periodically take up the authorization bill for the third fiscal year ahead and also review the standing of the authorizations for the first and second year ahead of us? In other words, we would keep 3 years ahead by reviewing this each year and that might solve their long range planning problem without a blanket open-end authorization.

Mr. TAYLOR. Well, as crowded as our schedule is, it would be pretty difficult, I think, to get Congress to act on an authorization that wouldn't be effective until 2 or 3 years in the future. Of course, even if you give a long-term authorization, the States cannot make firm plans, because you cannot depend on the Office of Management and Budget to budget the moneys to implement those plans. So that is a weak argument.

Mr. SEIBERLING. But this is what we are doing.

Mr. TAYLOR. That is a thought, however.

Mr. SEIBERLING. Well, I just thought I would put that in as one possibility that we might want to consider.

Mr. Walker, up until recently, of course, most historic preservation has been up to the States and to private organizations and individuals. In my own area, some of the major historic features have already been preserved through the efforts of historical societies like the Western Reserve Historical Society and the Summit County Historical Society, and private individuals. My own family has given property, including buildings and art objects, which was recently appraised at \$25 million. It is great to have that kind of private initiative, but I have the feeling that it has been done up to now on a kind of catch as catch can basis. In other words, it depends on whether someone was interested in the local community and whether there happened to be a historical society and the like.

What program is there to survey historic places and buildings and set priorities from an overall national viewpoint and then encourage their preservation by whatever means the Federal Government has?

Mr. WALKER. You are talking about on a State and local level, sir, or national level?

Mr. SEIBERLING. Across the country. From a national perspective, is there any program to survey the entire country for purposes of historic preservation and set some priorities as to places that ought to be preserved and encourage their preservation? Or are we just still relying on local initiative to come in and put things in the Historic Register and that sort of thing?

Dr. CONNALLY. Mr. Chairman, with your permission I would like to respond to Mr. Seiberling.

We have now for the first time, Mr. Seiberling, a nationwide historic preservation plan. All of the States now are engaged in the planning process. The National Historic Preservation Act requires as eligibility for restoration grants, acquisition and development grants, an approved statewide plan which, according to the statute, must be consistent with other statewide planning. These together make for the first time in this country what amounts to a nationwide historic preservation plan.

We do not attempt to run this program as a national competition for money but to help implement those State plans, which reveal the need and the ability of the State to provide for the historical resources of that State, according to the priorities that the State sets. There are general guidelines, of course, for the individual projects, so that some precedence is given to historic properties that have been recognized as nationally significant by the designation of national historic landmark.

Mr. SEIBERLING. Well, in this plan you are not, then, just relying on the fact that some individual happens to be aware that this building is important. You are really making an effort to go out and survey the field?

Mr. WALKER. Yes, sir.

Mr. SEIBERLING. With the cooperation of the States?

Mr. WALKER. Absolutely, sir.

Mr. SEIBERLING. I think that is terribly important.

Now, what can we do to strengthen the law making difficult the destruction of historic places and their environs? You know at the present time, as I understand it, buildings in the National Register cannot be destroyed by federally funded projects unless there is some kind of a review by the Department of the Interior and a determination that there is no reasonable alternative or something to that effect. Is that the only control that the Federal Government has at the moment?

Mr. WALKER. Yes, sir; it is. The review is made by the Advisory Council on Historic Preservation.

Mr. SEIBERLING. Well, has any consideration been given to the possibility of otherwise strengthening this, because hardly a day passes that you don't read about some important historic building or place going under the bulldozers of a developer, and without any Federal funds being involved. Just going by the board. And there goes another part of America's heritage.

Mr. WALKER. Sir, as I understand it, the law is fairly specific and anything that appears on the National Register has been put there with very strong and definite justification by the individual States. As a result of that, I believe there is a serious deterrent if anybody moves in with a wrecking ball or crane to tear down one of these historic buildings.

Mr. SEIBERLING. The Federal law doesn't really prevent it, does it?

Mr. WALKER. It does—

Mr. SEIBERLING. Unless Federal funds are involved.

Mr. WALKER [continuing]. If it is on the National Register and Federal funds are involved.

Dr. CONNALLY. May I go into a little more detail about the procedures.

The National Register is our official list, our official designation of what is historic. It is a protective inventory. It is true that the properties that are registered are protected against Federal undertakings, that is, Federal licenses or federally funded projects.

The review procedures require the agency undertaking the project that would have an effect on the registered property to give the Advisory Council on Historic Preservation the opportunity to make comments, and it is true that that Council does not have powers of injunction. Its authority is to advise and make recommendations to the head of the agency whose undertaking would affect those properties. So the law prohibits Federal projects from damaging registered properties without required review.

Mr. SEIBERLING. I understand that.

Dr. CONNALLY. There is no provision in the law to prevent a private owner of a registered property, using private funds within the scope of local zoning laws and the rest, from destroying his own property.

Mr. SEIBERLING. Well, is there any effort made to try to work with the States to develop a model State law that would be broader than the Federal protection can give?

Mr. WALKER. Yes sir; the Advisory Council has been working on this and I happen to have sat in on one session where it was being discussed. There is concern about it on behalf of the States and genuine concern by the National Park Service.

Dr. CONNALLY. Several States have established their own State registers after the Federal model.

[NOTE.—The committee was advised that Alaska, Arizona, California, District of Columbia, Hawaii, Michigan, Minnesota, Nebraska, Nevada, New Jersey, New Mexico, New York, North Dakota, South Dakota, Tennessee, Utah, Vermont, Virginia, and Washington have established State registers after the national model.]

Mr. SEIBERLING. Could we do anything legislatively to provide incentives to States to do that through planning grants or the like?

Mr. WALKER. I am not prepared to answer that right now, sir. I would think that we could always use stronger legislation in an area such as this.

Mr. SEIBERLING. I think it would be helpful if your staff could consider that aspect sometime.

Dr. CONNALLY. In connection with the National Symposium on State Environmental Legislation, a working session was held by the Advisory Council on Historic Preservation in March 1972, Mr. Seiberling, which recommended guidelines for State legislation. These guidelines were adopted by the Legislative Committee of the Council of State Governments. There may be material in the report that would be of interest to this subcommittee and to the staff. We will be glad to supply a copy.

[The material submitted follows:]

GUIDELINES
FOR
STATE HISTORIC PRESERVATION LEGISLATION

HISTORIC PRESERVATION WORKSHOP
NATIONAL SYMPOSIUM ON STATE ENVIRONMENTAL LEGISLATION
MARCH 15-18, 1972

ADVISORY COUNCIL ON HISTORIC PRESERVATION
WASHINGTON, D.C.

FOREWORD

Since the enactment of the National Historic Preservation Act of 1966, the fundamental role of government in the field of historic preservation has become well established. On the State level, the development of programs of governmental participation in preservation, through regulation, coordination and assistance, has proceeded at greatly varying rates. Recognizing the need for State action in this field, the Advisory Council on Historic Preservation prepared guidelines for State legislation to promote a higher and more uniform standard of performance within the nationwide historic preservation movement. These guidelines were then submitted as a working draft to the Historic Preservation Workshop of the National Symposium on State Environmental Legislation, held on March 15-18, 1972, in Washington, D. C. The resulting document represents the combined efforts of participants from the States, the Federal establishment and the private preservation movement.

On May 18, 1972, the Suggested State Legislation Committee of the Council of State Governments voted to adopt the Guidelines for State Historic Preservation Legislation. The legislative provisions were then published by the Council of State Governments in their annual compendium Suggested State Legislation. This publication was distributed to State legislators throughout the country in the fall of 1972.

These guidelines propose a comprehensive legislative program for State and local governmental involvement in preservation. On the State level, the fundamental responsibility for preservation activities is assigned to a State Historic Preservation Agency, though it is recognized that the administrative structure of certain States may require the assignment of these functions to one or more related agencies. Assuming the role of coordinating governmental activities that affect historic properties is the State Advisory Council, patterned after the Federal Advisory Council. Finally, to stimulate and coordinate historic preservation activity within the private sector, a State Historical Trust, similar to the National Trust for Historic Preservation, is proposed.

At the local level, the guidelines set forth suggested enabling provisions to authorize local governments to undertake a comprehensive preservation program. Other sections provide suggested legislation to protect and regulate the development of archeological resources and underwater historic properties. The final section, incorporating the substance of Executive Order 11593, proposes procedures to guide

State agencies in the conduct of their activities so that the objectives of historic preservation are best served. An annex is included setting forth suggestions for tax incentives for private preservation activities. Throughout these guidelines, footnotes indicate references to existing statutory provisions closely related to those proposed.

It is important that these guidelines be evaluated in the context of the needs of each State, recognizing State constitutional restrictions, common law requirements, existing legislation dealing with preservation and related areas, present governmental structure and relationships, and the particular preservation problems of each State. Special consideration should be given to including historic preservation within a comprehensive State environmental program, thereby establishing the protection and enhancement of the cultural environment as a fundamental goal of that program. Recognizing the differing requirements of the individual States, it is hoped that these guidelines can assist the continuing development of appropriate State legislative programs for historic preservation.

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PART I. STATE HISTORIC PRESERVATION AGENCY

The central element in any State preservation program is the State agency or commission that is entrusted with the direction, implementation and coordination of historic preservation activities. This Article sets forth guidelines for the creation of an effective structure for that purpose.

A. Declaration of legislative intent.

Within any statute enacted to engage the State or its subdivisions in preservation activity there should be a specific declaration of legislative findings that historic preservation is in the public interest of the State and an integral part of its broad environmental policies, programs and regulations. Often, when ruling upon the constitutionality of subsequent provisions contained in the statute, a court will examine the legislative intent behind the law. Since few States prepare formal records of the legislative history, a court must find the necessary intent within the statute itself. A provision declaring that the legislature has determined that historic preservation is in the public interest is recommended. While the courts in an increasing number of States have recognized the substance of this provision, failure to declare the public nature of preservation activity could open the door to constitutional attacks on subsequent exercises of eminent domain and the police power for preservation purposes. The substance and form of this declaration of public purpose and legislative intent should be considered with regard to individual State constitutional requirements and legislative drafting style. These observations are general in nature and should be applied in appropriate form to legislation concerning aspects of historic preservation. The following section is a sample form for use with a general preservation act.

Section 101. Whereas the Legislature of this State has determined that the historical, archeological, architectural and cultural heritage of the State is among the most important environmental assets of the State and furthermore that the rapid social and economic development of contemporary society threatens to destroy the remaining vestiges of this heritage, it is hereby declared to be the public policy and in the public interest of this State to engage in a comprehensive program of historic preservation, undertaken at all levels of the government of this State and its political subdivisions, to promote the use and conservation of such property for the education, inspiration, pleasure and enrichment of the citizens of this State.

B. Definitions.

Carefully conceived definitions are necessary for the effective implementation of preservation laws. Throughout these guidelines, suggested definitions will be set forth in the appropriate sections. For the present Article, the scope of the term "historic property" is of particular importance as it determines the subject matter under the jurisdiction of the various preservation agencies recommended in this part and Part VI.

Section 102. Definitions: As used in this Article,

- a. *"Historic property" shall mean any building, structure, object, district, area or site that is significant in the history, architecture, archeology or culture of this State, its communities or the Nation.*
- b. *"Historic Preservation" shall mean the research, protection, restoration and rehabilitation of buildings, structures, objects, districts, areas, and sites significant in the history, architecture, archeology or culture of this State, its communities or the Nation.*

C. Establishment of the State Historic Preservation Agency.

Ideally, an effective State preservation program calls for a permanent, professionally-staffed agency functioning within the State government. "Agency" is used here and subsequently in these guidelines as a generic term for any commissions, departments, units or bureaus of the State government duly authorized to deal with historic preservation, as may be preferred within a State's administrative structure. Regardless of such an Agency's precise designation, the keywords are permanent and professional. To provide continuing supervision of preservation activities and coordination of the government's historic preservation program with other State undertakings, it is advisable to have a Preservation Agency that operates daily on an equal footing with other State agencies. However, it is recognized that conditions of State government reorganizations, the involvement of existing government agencies in preservation activities or the present role of historical commissions¹ and societies² may present a variety of situations where the creation of a State Historic Preservation Agency conforming to the model herein would not be in the interest of efficient government or effective preservation. Consequently, alternate structures for a preservation agency may include the incorporation of such a body into one of the following: an existing Department of Archives and History;³ a more comprehensive Department of Cultural Affairs; or a related agency or department already operating in the area of environmental affairs, land-use planning or the like.⁴ The important consideration is that

there be legislative recognition of an agency possessing the preservation powers enumerated in these guidelines, wherever it may happen to be situated within the State governmental structure. While State historical commissions or societies that are entrusted with quasi-governmental authority over State preservation activities may function quite effectively in States where they have become well-established, these guidelines recommend that the model of an official government agency be preferred. The conclusion is reached from examining the important role that a State Preservation Agency should have in overall government planning and determining budgetary priorities. A permanent government agency can be more effective in this respect. However, in some States, because of existing agency relationships, it may be advisable to subdivide the program among several agencies. In such instances the legislature should provide that all aspects of the program are made the statutory responsibility of an agency, that overlap is avoided and that effective communication and coordination among the agencies involved is not only facilitated but required.

Section 103. There is hereby established or designated a State Historic Preservation Agency, hereinafter referred to as "the Agency."

D. Administrative provisions.

Legislation creating or designating a State Preservation Agency must address itself to administrative concerns. While most of these would be typical of any governmental agency, two aspects warrant specific comment here.

First, the statute should provide guidance for the selection of the Director of the State Historic Preservation Agency and expressly designate the Director as State Liaison Officer for the purposes of intergovernmental relations. The term "Director" refers to the head of the preservation agency within the State, conforming to the administrative structure of the State. The purpose of this recommendation is to ensure that the key figure in the State historic preservation program is a competent professional with the necessary experience in preservation and administration. The importance of appointing a qualified professional, to direct the daily functions of the Preservation Agency should be stressed. Experience indicates that these same qualifications, combined with the authority inherent in the office of the Director, will provide an effective State Liaison Officer to deal with the various agencies of the Federal Government in matters of historic preservation.

Section 104. The Director of the Agency shall be appointed by the Governor. The Director shall be selected on the basis of his professional competence

and experience in the field of historic preservation. The Governor shall designate the Director as State Liaison Officer and he shall act in that capacity for the conduct of relations with the representatives of the Federal Government and the respective States with regard to matters of historic preservation.

Secondly, the Agency should be authorized to employ the necessary professionals for the effective execution of its duties. The exact needs may vary with the relation of the Agency to other State agencies. For example, if the Preservation Agency is part of the Department of Archives and History, it may have sufficient access to professional historians so that the Agency need not hire one. Generally, the staff of the Preservation Agency should exhibit expertise in architecture, architectural history, history, archeology, land-use planning, law and administration. It is not essential that one individual represent each of these disciplines.

Section 105. The Agency is authorized to establish a professional staff for the purpose of carrying out the duties entrusted to the Agency under this Article.

E. Establishment of a State Review Board.

This adjunct of the State Historic Preservation Agency is required to comply with Federal procedures for listing properties on the National Register and receiving grants-in-aid. The Review Board's power with regard to the Agency is generally limited to an advisory capacity, including review of the State survey of historic properties and the content of the State preservation plan. However, under the Federal procedures, the Review Board is required to approve nominations of properties to the National Register. To implement this and to further embody the policy of an independent, objective and professional judgment on nominations, the State Review Board should be authorized by the statute to approve nominations to both the State and National Registers and to pass on recommendations for the deregistration of such properties. To ensure the proper representation of preservation interests and to meet relevant Federal requirements, State preservation legislation should specify the composition of the Review Board and the criteria for the selection of its members. Such membership should include an architect, an historian, an archeologist, a representative of the Governor, and a representative of private historical organizations such as the State Trust or State Historical Society. Other members should be interested or experienced in the fields of architectural history, urban planning, law, or real estate. General administrative considerations, such as term of office, expenses and so on, should also be included in accordance with the accepted practice of the State.

Section 106. There is hereby established a State Review Board. The Board shall consist of nine members, constituted as follows:

- a. The Governor, or his designee.*
- b. The Chairman of the State Historical Trust, ex officio.
(Alternative: President of the State Historical Society
or a similar private preservation organization).*
- c. Seven private citizen members appointed by the Governor,
at least three of whom shall be qualified in the fields
of architecture, history and archeology.*

Section 107. The Board shall have the power and duty to:

- a. Approve nominations to the State and National Registers of
Historic Places.*
- b. Review the State survey of historic properties undertaken in
accordance with the provisions of this Article.*
- c. Review the content of the State preservation plan developed
in accordance with the provisions of this Article.*
- d. Approve the removal of properties from the State Register.*
- e. Recommend the removal of properties from the National Register.*
- f. Otherwise act in an advisory capacity to the State Historic
Preservation Agency.*
- g. Elect a Chairman and Vice Chairman and establish such rules
of procedure as it deems necessary.*

F. Powers and duties of the State Historic Preservation Agency.

- 1. Undertake a statewide survey to identify and document historic properties under both public and private ownership.**

A complete survey is a prerequisite for an effective and comprehensive State-level preservation program. It establishes the authenticity and historical context of properties and provides a basis for preservation action. Of great importance is the use of such a survey for participation in the Federal preservation program. This includes nominations to the National Register and receiving Federal grants-in aid. The primary responsibility for the survey should be entrusted to the State

Historic Preservation Agency; however, the Agency should carefully coordinate its survey efforts with similar undertakings by local Historic Preservation Commissions to mobilize local expertise and prevent wasteful duplication. Similarly, the Agency should conduct its survey in a coordinated manner with the survey undertaken by the State Archeologist and any surveys undertaken by Federal agencies. Provision should also be made for the periodic updating of the statewide survey. Specific reference is made here to both publicly and privately owned properties to make certain that the State will carefully assess those properties within the jurisdiction of its departments and instrumentalities.

2. Prepare and maintain an official State Register of historic places, including all those on the National Register.

This provision would create a State-level record of significant historic properties. Its primary function would be the listing of historic places within the State that are afforded protection by the State Advisory Council as described later in these guidelines. For this reason all National Register properties within the State should be automatically included on the State Register. A further use of the State Register could be to determine eligible recipients of State-funded grants. To avoid conflict with the National Register program, the statute should specify that the Agency adopt certain requirements to be met by historic properties for State Register listing.

First, the Agency should be directed to establish the National Register criteria as the criteria for inclusion on the State Register. This recommendation is intended to alleviate one of the practical problems that has arisen with the creation of a State Register. If the standards for such a register differ from those of the National Register, the result can be, and has been, considerable confusion on the local level. To prevent this, a single standard is desirable. Standards for the designation of National Register properties are, in fact, sufficiently broad to include historic properties of State and even local significance. However, experience indicates that States occasionally overstress the requirement of national significance when making nominations to the National Register, thereby passing over many properties that are actually worthy of such nominations. Consequently, liberal rather than restrictive application of these standards should be stressed to make certain that the State Register is a comprehensive listing of historic properties within the State. A by-product of this uniform, liberally construed system of criteria may well be an increased flow of nominations to the National Register, fulfilling the goals of the 1966 Act.

Secondly, the Agency should be directed to adopt standards for the continued listing of a property on the State Register, including standards of preservation and care. These standards, which provide a method for evaluating the continued value of a property for Register purposes, should be consistent with Federal standards for grants and continued National Register listing. Preservation and maintenance requirements should also coincide with similar criteria applied to National Register properties that are restored or preserved with Federal funds. Should a property be found no longer suitable for listing, it should, with the approval of the State Review Board, be removed from the State Register. Such action should be reported to the Keeper of the National Register if the property is also listed there. Threat of deregistration, the termination of State grants-in-aid or loss of possible tax incentives are the only sanctions for enforcement. It should be noted, though, that enforcement by deregistration defeats the purposes of the Register and withdraws the protections of Section 106 of the 1966 Act. To monitor compliance with these standards, a procedure for an annual or semi-annual inspection of State Register properties should be considered. On-site inspections would require the consent of the owner and should extend to properties owned by all levels of government as well as private individuals and organizations.

3. Prepare and periodically review the statewide preservation plan.

A statewide preservation plan is a prerequisite for participation in the Federal grants-in-aid program administered under the National Historic Preservation Act of 1966. In addition to being the basis of receiving Federal funds, this plan will provide a framework for State preservation activity and should also be coordinated with State policies regarding overall land-use planning. As the repository of preservation expertise in the State government, the Agency should prepare the plan and submit it to the Review Board for approval. Periodically, at five or ten year intervals, the Agency should review and revise the plan in accordance with its achievements and inadequacies.

4. Acquire, preserve, restore, maintain, operate, lease, sell or transfer historic properties.

These powers are elaborated on in Section G of this part.

5. Establish standards and criteria for the acquisition of historic properties and for the preservation, restoration, maintenance and operation of properties under the jurisdiction of the State Historic Preservation Agency.

The standards established under this provision should be consistent with those in Section 2 although they may be more extensive since they apply to property directly controlled or owned by the Agency. Standards for the preservation and care of historic properties under the control of other departments of the State government and its political subdivisions are dealt with in Part VII of these guidelines.

6. Qualify for State participation in sources of Federal aid.

This provision directs the State Historic Preservation Agency to determine those sources of Federal assistance available for preservation purposes and to undertake the necessary procedures to qualify the State to receive such aid. This Federal aid includes surplus property as well as grants for surveys, plans, acquisition, restoration and relocation. The necessary enabling legislation is included in these guidelines.

7. Provide relevant information on historic properties located within the State to Federal, State and local instrumentalities and, as appropriate, to private individuals and organizations.

Since the State Historic Preservation Agency will, through its daily operations, become the repository of substantial information and data on historic properties within the State, it should be directed to make its resources available to any governmental agency that is contemplating action that might affect historic properties. The diligent and conscientious execution of this function will enhance the Agency's professional reputation in both government and preservation circles and help establish the objectives of historic preservation as factors to be considered in the determination of government policies.

8. Cooperate with Federal, State and local government agencies in specific projects and overall land-use planning.

The thrust of this recommendation is to establish the role of the Preservation Agency as an advocate of preservation goals in the planning and execution of government programs and projects. It recognizes that a historic preservation input at the planning level can be one of the most important contributions to a successful State preservation program. Tapping the informational resources of the Agency and considering its policy goals in the planning stage can avoid later and often costly conflicts, as well as furthering the objectives of historic preservation. Special reference is made to land-use planning, including urban renewal and plans developed under the proposed A. L. I. Model Land Development Code and National Land-Use Policy Act. It is in

this area that the State Preservation Agency can best achieve its long-term objectives. To implement this arrangement, States may consider including the Director of the Historic Preservation Agency on the various State planning and review boards. Legislation may also be considered that requires any State or local agency, in the course of urban renewal or general land-use planning to include the Preservation Agency in the planning process.⁵ At this point, the function of the Agency should be distinguished from that of the State Advisory Council. The Agency provides an informational input at the early stages of planning, attempting to shape plans and policies in a way that will advance the cause of preservation. The Advisory Council exists to render an objective judgment on those cases that cannot be or simply are not reconciled at the initial planning stage. In this manner the Agency and the Advisory Council have separate and distinct roles in the accommodation of preservation objectives with other valid goals of government action.

9. Participate in international conferences and preservation programs and cooperate with Federal officials and agencies in the conduct of such activities.

This recommendation recognizes the growing level of international activity regarding historic preservation and the need for involvement of State preservation officials and experts. Such activities include the International Centre for the Study of the Preservation and Restoration of Cultural Property (Rome Centre), the UNESCO-sponsored World Council on the Human Environment and the proposed World Heritage Trust. To permit the participation of State preservationists in these undertakings, there should be specific legislative authorization. Such activities could be advantageous not only on the international level but could provide training opportunities and an interchange of ideas directly beneficial to the preservation goals of the individual States.

10. Coordinate the activities of local Historic Preservation Commissions in accordance with the statewide program of preservation activities.

To ensure that the objectives and policies of the State preservation plan are adhered to, the State Historic Preservation Agency should assume a coordinating role over programs administered locally. This function is not envisioned as formal supervision or a usurpation of local powers. Rather it recognizes that the State Agency can provide useful guidance for local undertakings and a forum for the resolution of problems that may transcend local boundaries. Likewise, a feedback of local achievements and difficulties, through a working dialogue and possibly the submission of annual reports to the Agency, can be of

great benefit to the revision and modification of State level preservation activities.

11. Assist local Historic Preservation Commissions and private parties involved in preservation activities by furnishing technical assistance and administering programs of direct financial assistance.

The State Preservation Agency should assist local government agencies, preservation organizations and individuals with its technical expertise and financial resources. The Agency should recommend the allocation of State funds on the basis of the goals of the State preservation plan. The concept of direct financial aid to qualified private recipients should be stressed to stimulate private preservation activity and avoid over-investment in State-owned properties, thereby fulfilling the objectives of the Federal preservation grants program. Methods of directing funds to private parties include financial assistance for individuals or groups to purchase and preserve historic properties and the leaseback or resale of such properties by the State to acceptable parties below market value.

12. Stimulate public interest in historic preservation.

Along with the State Trust, the Agency should promote public interest and participation in preservation of the State's heritage. Its functions should be closely coordinated with the Trust, with the Agency assigned certain areas such as interpretive programs for State Register properties and management of the highway marker program. Revenues from the highway department might be considered to fund this latter program.⁶

13. Develop a continuing program of research, development and publication regarding the historical, architectural, archeological and cultural heritage of the State.

As guardian of the remaining physical evidence of the State's heritage, the Preservation Agency would be in an excellent position to take the lead in the investigation and evaluation of historic properties and their relation to the development of the State's history, architecture, prehistory and culture. Such activities should be closely coordinated with similar programs carried out under the auspices of the museums and educational institutions within the State.

Section 108. The State Historic Preservation Agency shall have the following powers and duties:

- a. *Undertake a statewide survey to identify and document historic properties, including all those owned by the State, its instrumentalities and political subdivisions.*

- b. *Prepare and maintain a State Register of Historic Places, including all those listed on the National Register of Historic Places. The Agency shall adopt the standards of the National Register as the standards for the listing of a historic property on the State Register and shall further establish standards for the continued listing of a property on the State Register, consistent with the relevant Federal standards of preservation and care.*
- c. *Prepare the State's preservation plan and review that plan annually and revise it accordingly.*
- d. *Acquire historic properties by gift, purchase, condemnation, devise or bequest; preserve, restore and administer such properties; transfer such properties; and charge reasonable admissions to such properties.*
- e. *Establish standards and criteria for the acquisition of historic properties and for the preservation, restoration, maintenance and operation of properties under the jurisdiction of the State Historic Preservation Agency.*
- f. *Undertake the procedures necessary to qualify the State for participation in sources of Federal aid for historic preservation purposes.*
- g. *Provide information on historic properties within the State to the agencies and instrumentalities of the Federal, State and local governments and, where appropriate, to private individuals and organizations.*
- h. *Cooperate with Federal, State and local government agencies in the planning and conduct of specific undertakings affecting historic properties and preservation objectives and in overall land-use planning.*
- i. *Participate in international conferences and programs concerning historic preservation and cooperate with Federal officials and agencies in the conduct of such activities.*
- j. *Coordinate the activities of local Historic Preservation Commissions in accordance with the State plan and programs for historic preservation.*
- k. *Provide technical and financial assistance to local Historic Preservation Commissions and private parties involved in historic preservation activities.*

- l. *Stimulate public interest in historic preservation including the development and implementation of interpretive programs for historic properties listed on the State Register of Historic Places and through the management of the State's historical marker program.*
 - m. *Develop an on-going program of historical, architectural, and archeological research and development to include continuing surveys, excavation, scientific recording, interpretation, and publication of the State's historical, architectural, archeological, and cultural resources. A reasonable charge may be made for publications.*
- G. Specific powers to be granted the State Historic Preservation Agency.

The following are powers that are important for the Agency to possess. This listing is compiled for emphasis and does not intend to imply that non-enumerated powers normally incident to a State agency should be withheld. Careful draftsmanship with consideration of individual State practice should include these powers with those usually granted to a State agency to avoid the possibility of exclusion by implication of non-enumerated powers.

1. Acquire fee and lesser interests in historic properties, including adjacent and associated properties, by outright purchase, donation or condemnation.

This should be one of the key provisions of any State preservation legislation. Although current preservation philosophy stresses retaining historic properties in adaptive uses, thereby keeping such properties under private ownership, on the tax rolls and functioning in contemporary uses, reality often will not permit this ideal to be fulfilled. In too many instances the only alternative to the loss of a historic property is outright acquisition by some instrumentality of the government. State preservation legislation should recognize this reality and make express provision for acquisition in a variety of ways, including the power to institute condemnation proceedings on behalf of the State (Sections 109 and 110). State constitutional requirements should also be reviewed to discern any impediments to the exercise of these acquisition provisions. State legislation should direct the State Historic Preservation Agency to acquire the most limited interest in the property that will still enable the Agency to achieve its particular preservation objective. This may range from a facade easement to preserve all or part of a significant exterior to acquisition of the entire fee where the nature of the property so demands (Section 111). The Agency should be authorized to acquire

interest in adjacent and associated properties in order to preserve the historic setting or environment or to provide supporting services for the historic property itself. Acquisitions involving the expenditure of State funds should receive prior approval by the legislature. An exception for emergency purchases out of the general fund or a special contingency fund should be considered to allow the Agency to respond to situations where legislative approval would come too late (Section 112). Note that an option may be sufficient to protect the public interest under such circumstances. The possible use of tax incentives to encourage donation of properties and less than fee interests is noted in the annex on tax proposals.

2. Preserve, restore, maintain and operate historic properties.

This provision would authorize the State Preservation Agency to expend funds for the preservation and operating costs of the properties it has acquired. With regard to this provision the State should consider alternate means of achieving preservation goals, since it is important that the limited resources available for historic preservation be effectively allocated. This may include the active use of powers granted the Agency under the next recommendation. Another alternative would be the utilization of the suggested State Historical Trust for the ownership and management of acquired properties (See Part V). The advantage of this latter method would be to relieve the State of future financial and administrative responsibilities. Also included under this section is the specific protection of acquired historic properties from takings by other government agencies for public purposes (Section 113).

Section 109. For the purpose of protecting or preserving any historic property, the State Historic Preservation Agency may acquire, preserve, restore, hold, maintain, operate or dispose of such properties, together with such adjacent or associated lands as may be necessary for their protection, preservation, maintenance or operation. Such property may be real or personal in nature, and in the case of real property, the acquisition may include the fee or any lesser interest therein. Property may be acquired by gift, grant, bequest, devise, lease, purchase, condemnation or otherwise. Property may be acquired by the Agency, using such funds as may be appropriated for the purpose or moneys available to it from any other source.

Section 110. In the event that a property which has been found by the Agency to be important for public ownership or assistance is in danger of being sold, used or neglected to such an extent that its historical, architectural, archeological or cultural importance will be destroyed or seriously impaired, or that the property is otherwise

*in danger of destruction or serious impairment, the Agency may acquire the historic property or any interest therein by condemnation under the provisions of the laws of this State. All condemnation proceedings shall be instituted and prosecuted in the name of the State.*⁸

*Section 111. In the case of real property, the interest acquired shall be limited to that estate, agency, interest or term deemed by the Agency to be reasonably necessary for the continued protection or preservation of the property. The Agency may acquire the fee simple title, but where it finds that a lesser interest, including any development right, negative or affirmative easement in gross or appurtenant covenant, lease or other contractual right of or to any real property to be the most practical and economical method of protecting and preserving historical property, the lesser interest may be acquired.*⁹

*Section 112. If funds for the acquisition of needed property are not available, the Governor may, upon the recommendation of the Agency, allocate from the Contingency Fund an amount sufficient to acquire an option on the property or for the immediate acquisition, preservation, restoration or operation of the property.*¹⁰

*Section 113. Any historic property acquired, whether in fee or otherwise, may be used, maintained, improved, restored or operated by the Agency for any public purpose within its powers and not inconsistent with the purpose of the continued preservation of the property. The property shall not be subject to condemnation by the State or any of its agencies or political subdivisions at any time, unless such method of acquisition is first approved by the Governor.*¹¹

3. Lease, sell and otherwise transfer properties, with appropriate preservation restrictions for continued public use or benefit where suitable.

This authorization to transfer properties is designed to ease the financial burden of preservation on the public treasury and to promote adaptive uses of historic properties. The State Preservation Agency should consider reconveying those properties that can be adapted to contemporary uses without impairment of their historical value. To achieve this objective, the Agency should be further authorized to establish deed restrictions and covenants prior to transfer. Such restrictions, in the form of easements and covenants on maintenance, alteration and appearance, should be carefully drawn to conform with

the law of property in each State and to best accommodate the public interest involved with the purchaser's right to the use of his property. Leasing back or selling properties pursuant to this section should also be considered as a means for extending financial assistance to private preservationists by offering such properties to qualified parties on attractive terms. Under this section and those preceeding, a State would also be empowered to establish a revolving fund to purchase threatened properties and resell them to other parties under such conditions as are necessary to preserve them. Finally the scope of this section should extend to those areas adjacent to or associated with a historic place that enhances the setting of the historic place.

Section 114. In appropriate cases, the Agency may acquire or dispose of the fee or lesser interest to any historic property, including adjacent and associated lands, for the specific purpose of conveying or leasing the property back to its original owner or to any such other person, firm, association, corporation or other organization under such covenants, deed restrictions, lease or other contractual arrangements as will limit the future use of the property in such a way as to insure its preservation. In all cases where property is conveyed, it shall be subjected by covenant or otherwise to such rights of access, public visitation and other conditions or restrictions of operation, maintenance, restoration and repair as the Agency may prescribe, or to such conditions as may be agreed upon between the Agency and the grantee or lessee to accomplish the purposes of this section.¹²

4. Contract with the Federal Government and other parties, both public and private.

One of the most important items to be included in State preservation legislation is the express authority for the State Historic Preservation Agency to enter into binding agreements with the necessary parties for the implementation of its preservation program. Such authority is necessary to qualify for certain sources of Federal assistance for preservation purposes. The Agency should also be empowered to contract with local governments and organizations to carry out its projects.

Section 115. The Agency may enter into and carry out contracts with the Federal Government or any agency thereof under which said government or agency grants financial or other assistance to the Agency to further the purposes of this Article. The Agency may agree to and comply with any reasonable conditions not inconsistent with State law which are imposed on such grants. Such grant funds or other assistance may be accepted from a Federal Government or agency and expended whether or not pursuant to a contract. The Agency may further enter into and carry

out contracts with local governments or their agencies and with any private party to further the purpose of this Article.¹³

5. Enter upon private lands to make surveys and examinations.

Specific authorization is required under the laws of many States for a government agency to undertake this action. The inherent limitations on this power are the prior consent of the property owner and the reasonableness of the time, scope and general conduct of the survey or examination. This authority is necessary for the Preservation Agency to undertake the survey of historic properties previously mentioned. However, it should not be implied that failure to obtain permission for an onsite survey precludes listing of a property on the State or National Register.

*Section 116. The Agency is authorized to enter solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Agency may enter any private building or structure without the express consent of the owner or occupant thereof.*¹⁴

H. Injunctive relief to enforce State preservation laws.

Under the laws of many States, specific authorization is desirable to prescribe the rights, duties and functions of the Attorney General, agencies and political subdivisions of the State and private parties with regard to obtaining equitable or declaratory relief against violations of State preservation laws. Effective provision of judicial relief to prevent irreparable harm to historic properties can assist the effective administration and implementation of the provisions of these guidelines. The demonstrative language of Section 117 should be carefully considered with regard to the law of standing within the individual States to ensure that the intent of this section, to provide citizen access to the courts for the enforcement of legislative prescriptions, is not frustrated. This generally means that normal rules regarding case and controversy, parties in interest, capacity to sue and so on should not apply to actions brought under this section.¹⁵

Section 117. The Attorney General, any political subdivision of the State, agency of the State or of a political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity may maintain an action in the trial court having jurisdiction where the alleged violation occurred or is likely to occur for declaratory or equitable relief against the State, any political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity for the protection of an historic property and the public trust therein from unauthorized or improper demolition, alteration or transfer thereof.

PART II. CONSERVATION OF ARCHEOLOGICAL RESOURCES

The conservation of archeological resources, while properly within the scope of a historic preservation program, presents problems quite distinct from those encountered in other areas of preservation. Unlike historic buildings or areas which can convey much of their historical significance merely by being preserved, this cannot be accomplished with respect to archeological resources. Since the value of archeological specimens and sites to contemporary society lies primarily in the scientific information they can provide, only the continued activity of an archeological development program can enable a State to discover, investigate and evaluate its archeological resources. Also, the means of protecting archeological sites may often differ from those of protecting historic buildings and areas. In those cases, public knowledge, which is fundamental to protecting structures, may actually contribute to the destruction of an archeological site. While it may undoubtedly prove desirable to place certain archeological sites on the State Register prior to investigation, in many instances it will better serve the public interest to delay registration until a site has been investigated or even acquired by the State. Because of these significant differences, a State may find it desirable to establish or specifically recognize an archeological protection and development program separate from, though closely coordinated with, the general historic preservation program of the State. Any legislation concerning a State's archeological resources, regardless of where the authority for its execution lies, should include the following points. First, all significant archeological sites, not just those on the State Register, should be afforded some degree of protection from adverse effects caused by State undertakings (Section 210). Second, a continuing program of archeological research, development and publication should be specifically recognized and funded by the legislature as part of the State Historic Preservation Agency, a State university, the State historical society or other appropriate agency, including one devoted exclusively to the archeological program. This Part presents the components of a separate archeological program for the reasons stated previously. The choice between an independent program or one integrated into the general State historic preservation program under the authority of a single agency can best be determined by each State in accordance with its particular circumstances.

A. Declaration of legislative intent.

Section 201. The Legislature hereby declares that the public has an interest in the preservation and protection of the State's archeological resources; that the public has a right to the knowledge to be derived and gained from a scientific study of these resources; and that therefore it is the purpose of this Article to provide that activities for the preservation, excavation, study and exhibition of the State's archeological resources be undertaken in a coordinated and organized manner for the general welfare of the public as a whole.

B. Definitions.

Due to the vast amount of subject matter encompassed within the field of archeology, careful attention should be directed to the formulation of terms used in the law. Specific definitions should be included for such words as "sites," "specimens," and "field investigations." Consideration should be given to special archeological resources of the State such as Indian antiquities or artifacts of the Colonial Period.

Section 202. Definitions: As used in this Article,

- a. "Specimens" shall mean all relics, artifacts, remains, objects or any other evidence of a historical, prehistorical, archeological, or anthropological nature, which may be found on or below the surface of the earth, and which have scientific or historical value as objects of antiquity, as aboriginal relics or as archeological samples.
- b. "Site" shall mean any aboriginal mound, fort, earthwork, village location, burial ground, historic or prehistoric ruin, mine, cave, or other location which is or may be the source of important archeological data.
- c. "Field Investigations" shall mean the study of the traces of human culture at any land or water site by means of surveying, digging, sampling, excavating, or removing surface or subsurface objects, or going on a site with that intent.¹⁷

C. Designation of a State Archeologist.

There should be a qualified professional archeologist, possibly drawn from the State museum or university, appointed to the official position of State Archeologist. His primary function would be to administer the program of archeological research and development, and ensure that the provisions of the State laws are complied with. The State Archeologist may represent the field of archeology on the State Review Board (Section 106). The State Archeologist should be authorized a professional staff. Administrative details such as term of office, salary and so on should be drafted in accordance with accepted State practice.

Section 203. The Director of the State Historic Preservation Agency or other agency responsible for the archeology program shall appoint a State Archeologist. The State Archeologist shall administer the preservation and protection of the State's archeological resources as hereinafter directed by this Article. The State Archeologist may employ such qualified persons as may be needed to assist him in the performance of his duties.

D. Declaration of State title to archeological resources on State lands.

This provision should set forth a specific legislative finding and declaration that the title to all archeological resources on State-owned lands resides in the State. It should further specify that rights to develop such resources, through field investigations and excavation, are reserved exclusively by the State.

Section 204. The State reserves to itself the exclusive right and privilege of field investigation on sites owned or controlled by the State, its agencies, departments, institutions, or political subdivisions in order to protect and preserve archeological and scientific information, matter and objects. All such information and objects deriving from State lands shall remain the property of the State and be utilized for scientific or public educational purposes.¹⁸

E. State archeological survey.

In the course of the statewide survey of historic properties undertaken by the State Historic Preservation Agency, the State Archeologist should undertake a survey to locate and identify archeological sites. The results of this survey would produce a comprehensive listing of the State's known archeological resources for use by other State and local agencies to aid in planning projects as well as by the State Archeologist to designate State Archeological Landmarks and to generally guide the preservation program. This survey should be conducted within the statewide historical survey and under the name of the Preservation Agency so that the State Archeologist will have the benefit of those powers granted the Preservation Agency for the purpose of the survey and also be able to coordinate his information-gathering with that of the Agency. The survey should also be closely coordinated with any State-sponsored program of developing archeological resources.

Section 205. The State Archeologist, on behalf of the State Historic Preservation Agency, shall conduct, as part of that Agency's statewide survey of historic properties, a survey of sites of archeological and anthropological objects and specimens located within the State. The State Archeologist shall make available the results of such survey to all agencies of the State government and its political subdivisions that, in the opinion of the State Archeologist, may conduct activities which may affect such archeological or anthropological sites.

F. Permit system for exploration and fields investigations
on State lands.

A permit system is a recognized part of established archeological conservation programs. However, to be effective, such a system requires adequate personnel and funding to carry out its provisions.

1. Eligible applicants for permits.

To ensure proper development of State archeological resources, permits should only be issued to qualified parties that will act consistently with the public interest. These will be limited to museums, educational institutions and other scientific and historical research organizations of established reputation. The State Archeologist should carefully examine the credentials and professional reputation of an applicant before issuing a permit.

2. Procedures for conducting archeological activities.

The State Archeologist should be authorized by the statute to promulgate procedures for regulating exploration and excavation to ensure that such activities will be conducted with proper recognition of the State's interests. Foremost among these procedures should be strict rules for the reporting of finds on State lands.

3. Provision for the collection and disposition of archeological specimens.

Since the State has declared the public nature of archeological resources by claiming title to those on its lands, the statute should provide for the collection and disposition of such specimens in accordance with the public interest. The objectives of procedures and regulations established pursuant to this section should be to promote the permanent preservation of records and specimens; to produce the maximum amount of scientific knowledge and encourage its dissemination; and to ensure continued public availability of records and specimens. In some States where control of certain State lands is granted to specific State agencies by the State constitution, historic preservation legislation may not abrogate or alter those responsibilities. In such instances consultation and cooperation with State agencies administering the historic preservation program should be mandatory, perhaps by requiring that the State Archeologist be consulted before any archeological permits are issued by other agencies, and by requiring that the agency assist the archeological program to investigate and conserve the archeological resources on the State property under the agency's control. Copies of all field notes, photographs, and other records resulting from all work done under permit or with State funds by whatever group, individual, or agency should be deposited with the State Archeologist.

Section 206. The State Archeologist may issue permits for exploration and field investigations to be undertaken on State lands or within the boundaries of designated State Archeological Landmarks to institutions which the State Archeologist may deem to be properly qualified to conduct such activity, subject to such rules and regulations as the State Archeologist may prescribe; provided that such activity is undertaken by reputable museums, universities, colleges or other historical, scientific or educational institutions or societies approved by the State Archeologist, with a view toward disseminating the knowledge gained through their activities; and, provided that a summary report of such undertakings, containing relevant maps, documents, drawings and photographs be submitted to the State Archeologist; and, provided further, that all specimens so collected under permit shall be the permanent property of the State and that the State Archeologist shall make prior arrangements for the disposition of specimens derived from such activities in an appropriate institution of the State or for the loan of such specimens to qualified institutions in or out of the State.¹⁹

G. Designation of significant archeological sites as State Archeological Landmarks.

With the express written consent of the State agency having jurisdiction over the land or of the owner if privately owned, the State Archeologist should be authorized to designate significant archeological sites as State Archeological Landmarks. After such designation the permit procedure and penalties recommended above would be applicable to excavation and exploration on the designated land. This procedure would enable the State, with the consent of the owner, to extend protections to privately-owned archeological sites. Additional protections for significant archeological sites can be implemented by including the site on the State Register pursuant to Section 108(b) and designating it by local ordinance under Sections 615 through 618 of these guidelines.

Section 207. The State Archeologist may publicly designate an archeological site of significance to the scientific study or public representation of the State's historical, prehistorical or aboriginal past as a "State Archeological Landmark"; provided that no site shall be so designated without the express written consent of the State agency having jurisdiction over the land in question or, if it is on privately owned land, of the owner thereof. Upon designation of an archeological site, the owners and occupants of each designated State Archeological Landmark shall be given written notification of such designation by the State Archeologist. Once so designated, no person may conduct field investigation activities without first securing a permit from the State Archeologist and complying with the provisions of Section 206.²⁰

H. Use restrictions on lands transferred by the State.

Under such a provision, the State would be able to incorporate restrictions against unregulated exploration and excavation of archeological resources on lands it transfers. In the appropriate situation, it may restrict any development that may harm valuable sources of archeological specimens. Use of such authority would necessarily have to be exercised with great care to avoid rendering the transferred parcel incapable of productive use and therefore worthless.

Section 208. When transferring real property under its jurisdiction that contains significant archeological, aboriginal or other anthropological resources, the State, its agencies, departments and institutions, may, upon the recommendation of the State Archeologist condition the transfer upon such covenants, deed restrictions or other contractual arrangements as will limit the future use of the property in such a way as will protect those resources.

I. Directive to State and Local Agencies to Cooperate in the Protection of Archeological Resources.

It is impossible to make a complete inventory of a State's archeological resources. The vast number of sites in each State will require the concentrated effort of the State Archeologist over many years and even then many sites will be so covered by vegetation or silting that they will be discovered only during clearing, construction, or other activities. Furthermore, the real scientific importance and public value of archeological sites can only be known after they have been scientifically investigated. Often the possibility of this is precluded unless the State archeological authority is provided, under the law, an opportunity to evaluate and, where necessary, to investigate all such sites, not just those which are already well known or have been investigated sufficiently to warrant placing them on the Register. Agencies of the State and its subdivisions, including contractors, should therefore be directed to report the discovery of any artifacts, specimens or sites to the State Archeologist and cooperate with the State Archeologist for the protection and removal of such resources, including authorization to expend funds for these purposes.

Section 209. Upon written notice to the Commissioner of State Lands [or similar agency] given by the State Archeologist, the Commissioner of State Lands shall reserve from sale any State Lands, including lands forfeited to the State for non-payment of taxes, on which sites or artifacts are located or may be found, as designated by the State Archeologist, provided, however, that the reservation of such lands from sale may be confined to the actual location of the site or artifacts. When such sites or artifacts have been explored, excavated or otherwise examined to the extent desired by the State Archeologist, said State

Archeologist shall then file with the Commissioner a statement releasing such lands and permitting the sale of same.

Section 210. All State agencies, departments, institutions and commissions, as well as all counties and municipalities, shall cooperate fully with the State Archeologist in the preservation, protection, excavation, and evaluation of specimens and sites; and to that end:

- a. When any State, county, or municipal agency finds or is made aware by an appropriate historical or archeological authority that its operation in connection with any State, State assisted, State licensed, or contracted project, activity, or program adversely affects or may adversely affect scientific, historical, or archeological data, such agency shall notify the State Historic Preservation Agency or State Archeologist as appropriate and shall provide the agency with appropriate information concerning the project, program, or activity. The provisions of this Article shall be made known to contractors by the State agencies doing the contracting.
- b. The State Historic Preservation Agency, upon notification or determination that scientific, historical, or archeological data including relics and specimens, is or may be adversely affected, shall, after reasonable notice to the responsible agency, conduct or cause to be conducted a survey and other investigations to recover and preserve or otherwise protect such data, including analysis and publication, which in its opinion should be recovered in the public interest.
- c. The State Historic Preservation Agency shall initiate actions within 60 days of notification under subsection (a) and within such time as agreed upon in other cases. The responsible agency is authorized and directed to expend agency funds for the purpose of recovering said data, including analysis and publications, and such costs shall be included as part of the contractor's costs if the adverse effect is caused by work being done under contract to a State agency.²¹

J. Discouragement of field investigations on private lands.

Actual regulation of private archeological resources is limited to those sites designated State Archeological Landmarks. However, the legislature should declare that excavation of archeological sites on private lands is contrary to the public policy of the State except when the procedures established under this statute are followed. The law should also encourage the reporting of private sites to the State Archeologist.

Section 211. It is the declared intention of the Legislature that field investigations on privately owned lands should be discouraged except in accordance with both the provisions and spirit of the Article; and persons having knowledge of the location of archeological sites are encouraged to communicate such information to the State Archeologist.²²

K. Criminal penalties for certain acts harmful to the conservation of archeological resources.

State laws currently provide criminal sanctions against certain practices of a fraudulent or destructive nature with regard to archeological specimens and sites. These are a necessary adjunct to any archeological conservation and development program. Such provisions include penalties for unauthorized excavation and vandalism (Section 212), fraudulent reproduction of artifacts (Section 213) and removal of artifacts from private lands without the consent of the owner (Section 214).

Section 212. Any person who shall conduct field investigation activities on any land owned or controlled by the State, its agencies, departments and institutions, or within the boundaries of any designated State Archeological Landmark, without first obtaining a permit therefor from the State Archeologist or any person who shall appropriate, deface, destroy, or otherwise alter any archeological site or specimen located upon State lands or within the boundaries of a designated State Archeological Landmark, except in the course of activities pursued under the authority of a permit granted by the State Archeologist, shall be guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars or by imprisonment in the county jail for a period not to exceed six months or both, and in addition, shall forfeit to the State all specimens, objects, and materials collected or excavated, together with all photographs and records relating to such material.²³

Section 213. Any person who shall reproduce, retouch, rework, or forge any archeological, paleontological, or historical object, deriving its principal value from its antiquity, or make any object, whether copies or not, or falsely label, describe, identify, or offer for sale or exchange any object, with intent to represent the same to be an original and genuine archeological, paleontological, or historical specimen, or any person who shall offer for sale or exchange any object with knowledge that it has previously been collected or excavated in violation of any of the terms of this Article shall be guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars or by imprisonment in the county jail for a period not to exceed six months or both.

Section 214. It shall be deemed an act of trespass for any person, natural or corporate, to remove artifacts and antiquities of the kind described herein from the private land of any owner thereof without his permission being first obtained, and any person so doing shall be guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars or by imprisonment in the county jail for a period not to exceed six months or both.

PART III. PROTECTION AND RECOVERY OF UNDERWATER
HISTORIC PROPERTIES AND SITES

States endowed with extensive underwater areas within their boundaries should enact provisions to regulate activities affecting shipwrecks and underwater archeological sites and artifacts. Such regulation may be directly incorporated into the overall State historic preservation program or, if archeological conservation is administratively separate from the remainder of the historic preservation program, consideration should be given to joining the underwater program with the archeological program because of the similarity of research techniques and problems. Wording of the provisions below should be modified accordingly.

A. Declaration of legislative intent.

Section 301. The Legislature hereby declares that the public has an interest in the protection and recovery of underwater historic properties situated under the navigable waters and territorial seas of the State; that the public has a right to the knowledge to be derived and gained from a scientific study of these materials; and that therefore it is the purpose of this Article to provide that activities for the protection, recovery, study and exhibition of underwater historic properties be undertaken in a coordinated and organized manner for the general welfare of the public as a whole.

B. Definitions.

Section 302. Definitions: As used in this Article,

- a. "Underwater historic property" means any shipwreck, vessel, cargo, tackle or underwater archeological specimen, including any found at refuse sites or submerged sites of former habitation, that has remained unclaimed for more than ten years on the bottoms of any waters.*

C. Declaration of State title to underwater historic properties located within the navigable waters of the State.

This section is based on accepted common law principles regarding the right of the sovereign to any wreck that remained unclaimed for a year and a day. An exception is the remains of any vessel or prize of the United States Navy.

Section 303. Subject to any statute of the United States, the title to all bottoms of navigable waters within one marine league seaward from the (name) seashore measured from the extreme low watermark and the title to any underwater historic property lying on or under said bottoms or the bottoms of any other navigable waters of the State, is hereby declared to be in the State, and such bottoms and underwater historic properties shall be subject to the exclusive dominion and control of the State.²⁴

D. State Historical Preservation Agency to be custodian of underwater historic properties.

The statute should entrust the protection and management of underwater historic properties to the Preservation Agency which has the necessary professional expertise and administrative capability to best fulfill these duties. The Preservation Agency should be empowered to prescribe rules and regulations and administer a permit system for exploration and recovery operations.

Section 304. The custodian of underwater historic properties as defined in Section 302 and 303 shall be the State Historic Preservation Agency which shall administer the preservation and protection of these properties as hereinafter directed by this Article. The aforesaid Agency is empowered to prescribe such rules and regulations as may be necessary to preserve, protect and recover any or all underwater historic properties; such rules and regulations, when approved by the Governor of the State, shall have the force and effect of law.²⁵

E. Permit system for the exploration and recovery of underwater historic properties.

The State Historic Preservation Agency should be authorized to issue permits to parties that it deems qualified to undertake exploration and recovery operations in a manner consistent with the public interest. The Agency should designate such conditions and restrictions for the conduct of these activities as it determines are necessary for the protection of the interests of the State. This section retains title in the State to objects recovered pursuant to licensed operations.

Section 305. Any qualified person, firm or corporation desiring to conduct any type of exploration or recovery operations, in the course of which any underwater historic property or part thereof may be removed, displaced or destroyed, shall first make application to the State Historic Preservation Agency for a permit to conduct such operations. If the State Historic Preservation Agency shall find that the granting of such permit is in the best interest of the State, it may grant such applicant a permit for such a period of time and under such conditions as the Agency may deem to be

in the best interest of the State. Such permit may provide for the fair compensation to the permittee in terms of a percentage of the reasonable cash value of the objects recovered or a fair share of the objects recovered, such fair compensation or share to be determined by the Agency. Superior title to all objects recovered shall be retained by the State unless or until they are released to the permittee by the Agency. All exploration and recovery operations undertaken pursuant to a permit issued under this Section shall be carried out under the general supervision of the State Historic Preservation Agency and in accordance with the rules and regulations prescribed under Section 304 and in such manner that the maximum amount of historic, scientific, archeological and educational information may be recovered and preserved in addition to the physical recovery of items. Permits may be renewed upon or prior to expiration upon such terms as the Agency may specify. Holders of permits shall be responsible for obtaining permission of any Federal Agencies having jurisdiction prior to conducting any recovery operations.²⁶

F. Criminal penalties for violations of this Article.

Section 306. Any person violating the provisions of this Article or any rules and regulations duly established thereunder shall be guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars or by imprisonment in the county jail for a period not to exceed six months or both, and, in addition, shall forfeit to the State any artifacts or objects collected.²⁷

PART IV. STATE ADVISORY COUNCIL ON HISTORIC PRESERVATION

This Article would create a mechanism on the State level that parallels the Federal Advisory Council established by the National Historic Preservation Act of 1966. The primary objective is to extend the same safeguards to State Register properties affected by State-sponsored or funded undertakings as Section 106 procedures provide for National Register properties in relation to Federal undertakings. Similar provisions may be found in the laws of several States.²⁸

A. Declaration of legislative intent.

Section 401. The Legislature hereby declares that the public has an interest in preservation of the historical, architectural, archeological and cultural resources of the State; that the increasing number of undertakings authorized, funded, licensed or otherwise provided by and through the State significantly complicates the task of conserving these resources; and that therefore it is the purpose of this Article to establish a forum through which competing public interests affecting historic preservation may be considered and through which State activities having an impact on historic properties may be better coordinated.

B. Establishment of the Council.

To best accommodate the objectives of historic preservation with pressing needs of other government programs, the State Advisory Council should represent both preservation interests and agencies that will be directly affected by the Council's decisions. This is the theory behind the Federal Advisory Council. Furthermore, the inclusion of representatives of impact agencies should enhance the credibility of the Council's actions and promote a greater degree of compliance with its decisions. In concrete terms, this means that State agencies involved in transportation, urban and regional planning, budgetary matters, utility regulation, environmental affairs and the like should be included in the Council's membership in addition to representation of the Governor, the State Historic Preservation Agency, and significant preservation interests. Balancing these government interests should be a number of citizen members selected by the Governor on the basis of their knowledge and experience in historic preservation and related fields. Broad geographical distribution of membership should be encouraged to ensure balanced representation in Council decisions, although the size of the Council must be kept at a workable level to make effective action possible. The statute should also address itself to general administrative considerations, including provision for the necessary professional staff. Items such as term of office, expenses and so on, should be included in accordance with the accepted practice of the State.

Section 402. There is hereby established the State Advisory Council on Historic Preservation, hereinafter referred to as "the Council," which shall be composed of (number) members, as follows:

(The heads of the various government agencies and departments suggested in the guideline and the number of citizen members should be included here.)

Section 403. Each agency or department head listed in Section 402 above may designate another officer or employee of his department or agency to serve on the Council in his place. The Governor may likewise designate a member of his staff to serve in his place. The citizen appointees shall be selected on the basis of their known and demonstrated interest, experience, and training in the fields of history, architecture, archeology and related subjects.

Section 404. The citizen members appointed by the Governor shall each serve for a term of five years, commencing from the expiration date of the term of his predecessor, except that initial appointees shall serve for terms of from one to five years, as designated by the Governor at the time of appointment. [This provision should set staggered terms for members and must necessarily be adapted to the precise number of Council members.] Members of the Council shall hold office until their successors are appointed and qualified. A vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment and for the balance of the unexpired term.

Section 405. The Chairman and the Vice Chairman shall be appointed by the Governor from among the citizen members of the Council, and shall each hold office for a term of two years. The Chairman and the Vice Chairman shall be eligible for reappointment.

Section 406. The Executive Director of the Council shall be appointed by the Governor. The Executive Director shall be selected on the basis of his professional competence and experience in the field of historic preservation. He may employ such qualified persons as may be needed to assist him in the performance of his duties.

Section 407. The Council shall meet at such times as it shall determine. The Council may, in its discretion, solicit or receive the views of other public and private agencies and individuals, in considering any matter to come before it.

Section 408. The Council shall file annually with the Governor and the Secretary of State a report summarizing its activities, investigations, recommendations and conclusions. The Council may prepare such other special reports as it deems necessary for the performance of its duties.

C. Powers and duties of the Council.

The primary duty of the State Advisory Council is to comment to the appropriate authorities on proposed State government undertakings that affect State Register properties. Prior to the expenditure of any funds or the approval or issuance of any license for an undertaking, each State agency should be required to consider the effect of such undertaking on any property listed on the State Register, availing itself of the informational resources of the State Historic Preservation Agency. Where the Council determines that an undertaking will have an effect on a Register property, the agency involved should afford the Council opportunity to review the situation and comment. The success of this procedure is based on a system of voluntary compliance with the objective judgment of the Council. For this reason the review should come early in the life of the project so that compliance with the Council's decision will present the least inconvenience to the agency involved. Note that through its authority to prepare special reports under Section 408, the Council has the power to comment to the appropriate authorities on proposed State government undertakings that affect properties that should be on the State Register but have not been formally designated.

Section 409. It shall be the duty of the Council, meeting at such times and according to such procedures as it shall by rule prescribe, to provide an advisory and coordinative mechanism by which State undertakings of every kind which are potentially harmful to the cause of historic preservation within the State may be discussed, and, where possible, resolved, giving due consideration to competing public interests which may be involved. To this end, the head of any State agency having direct or indirect jurisdiction over a proposed State or State-assisted undertaking, or independent agency having authority to build, construct, license, authorize or approve any undertaking, shall, prior to the approval of any State funds for the undertaking, or prior to any approval, license, or authorization as the case may be, take into account the effect of the undertaking on any historic property that is included in the State Register of Historic Places. Where, in the judgment of the Advisory Council, such undertaking will have an effect upon any listed district, area, site, building, structure or object, the head of any such State agency shall afford the Council a reasonable opportunity to comment with regard to such undertaking.

Section 410. The Council, with the assistance of the State Historic Preservation Agency, shall act with reasonable diligence to insure that all State departments and agencies potentially affected by the provisions of this Article be kept currently informed with respect to the name,

location, and other significant particulars of any historic property listed or placed upon the State Register of Historic Places. Each affected State department or agency is hereby authorized and directed to furnish, either upon its own initiative or at the request of the Council, such information as may reasonably be required for the proper implementation of this Article.

In addition to this primary responsibility, the Council should utilize its experience in accommodating preservation with other government policies in a general advisory capacity. This may include consultation on legislation²⁹ and internal administrative procedures. Such a function would supplement the activities of the Preservation Agency in this area.

Section 411. The Council shall further advise the Governor, the Legislature and agencies of the State on matters relating to historic preservation and recommend measures to coordinate activities of State and local agencies and private individuals and organizations relating to historic preservation.

PART V. STATE HISTORICAL TRUST

The concern of these guidelines has thus far been exclusively with preservation activity within the governmental sphere. An effective and comprehensive State program of historic preservation must necessarily include the active participation of the private sector. To organize and coordinate this activity, it is recommended that there be a State Historical Trust created, either as an organization of a strictly private nature or, preferably, one chartered by the legislature as a quasi-governmental entity and receiving public funds on an annual basis. The requirement for the success of either model is adequate State funding to supplement private sources of income. Organizations similar to the one suggested here exist in Maryland and New York. ³⁰

A. Establishment of the State Historical Trust

This Article creates a State-chartered public membership corporation, similar to the National Trust for Historic Preservation. Structured this way, the State Trust can provide effective leadership and coordination within the private sector while maintaining close relations with preservation interests within the State government. For this reason, membership should be open to individuals and private organizations and societies with an interest in historic preservation. Equally important is the opportunity this arrangement affords the Trust to receive State financial assistance and assume management and ownership of historic properties under the jurisdiction of the State government. These guidelines recommend this model for a State Trust over one included within the organizational structure of the government, since one of the Trust's primary functions is to represent private interests and organizations in the preservation field. The statutory provisions of this Part are purely demonstrative since the chartering of the Trust must necessarily conform to the varying requirements of individual State's laws.

Section 501. There is hereby created a charitable, educational and non-profit membership corporation to be known as the State Historical Trust, hereinafter referred to as "the Trust."

B. Administration of the State Historical Trust

The board of trustees should include representatives of the general public and governmental agencies, selected by the incorporators on the basis of their involvement in historic preservation. For example, the National Trust is under the direction of a board composed of the Attorney General, the Secretary of the Interior, the Director of the National Gallery of Art and a number of general trustees elected by the members of the Trust. On the State level, membership might include the Director of the State Historic

Preservation Agency, the director of the State's museum or art gallery, the president of the State university or the chairman of its department of history or the like, and the director of the State's parks or conservation department. The remaining citizen trustees would be chosen by the membership of the State Trust. The objective is the creation of a board of trustees, representative of the public and private sector, which is endowed with sufficient prestige through its membership to establish the Trust in the forefront of the State preservation movement. The statute should also provide for the rotation of trustees on an orderly basis for continuity and address itself to other necessary administrative details.

Section 502. The affairs of the Trust shall be under the general direction of a board of trustees composed as follows: (Here should be listed those persons the State determines should represent the government and a specified number of citizen members as general trustees.) The term of office for any general trustee shall be five years from the date of his election (provision should be made here for staggered terms for the first general trustees.) At the first meeting of the board and the first meeting in each fiscal year thereafter, the members of the board shall choose from the number of general trustees a Chairman and a Vice Chairman. The members of the board shall serve without compensation, but shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their official duties.

C. Purposes and powers of the State Historical Trust.

1. Coordinate private historic preservation activities throughout the State.

The State Trust should be the principal coordinator of private preservation activity, working closely with local organizations and the National Trust. It should assume the role of spokesman for the many diverse parties involved in historic preservation throughout the State, providing them with a voice in the determination of preservation goals and priorities at the State level.

2. Acquire, preserve and operate historic properties, including properties conveyed to the Trust by the State.

The preservation and operation of historic properties could be a major contribution of the Trust to the State preservation movement. To realize its full potential, this function should not be limited to properties acquired by the Trust from the private sector by purchase or donation. Assuming the ownership and management of historic properties currently owned by the State would reduce the administrative and direct financial burdens of such properties on the State's resources. Transfers of State historic properties would necessarily exclude properties in current governmental use where State control is appropriate, such as the State

capitol, courthouses and the like. Besides eliminating much of the duplication of services inherent in two State-level bodies managing historic properties, such an arrangement would greatly enhance the State Trust's prestige and effectiveness in organizing the private sector of preservation activity. The precedent might further encourage localities to turn properties over to the Trust, thereby reducing the drain on scarce preservation resources.

3. Disseminate information and stimulate public interest in historic preservation through the preparation of educational programs and the promotion of training in preservation skills and techniques.

Complementing the efforts of the State Historic Preservation Agency, the State Trust should take an active role in educating the public with regard to historic preservation. These activities should be well coordinated with those of the Preservation Agency, with the Trust taking the lead in instructing preservationists in skills and techniques of historic preservation. The assignment of this function to the State Trust parallels that of the National Trust and is based on the intended relationship between the State Trust and the various local organizations and individuals engaged in preservation. The execution of this informational role envisions close cooperation with the National Trust and the State Preservation Agency to provide an effective program and to minimize duplication of effort.

4. Administer privately funded programs of financial assistance for historic preservation.

The State Trust, as the preeminent private preservation organization within the State, may serve as the focal point for the administration of financial assistance from private sources to other private recipients. When undertaking such a function, the State Trust should coordinate its efforts with the National Trust in the distribution of public preservation funds. The State Trust should consider grants or loans for the preservation of historic properties and the establishment of revolving funds to aid organizations and individuals engaged in preservation.

Section 503. The purpose of the Trust shall be to stimulate and coordinate historic preservation activities throughout this State, to acquire, preserve, restore and operate historic properties, including those entrusted to it by the government of this State or its political subdivisions, and to further the goals of historic preservation by administering programs of educational, technical and financial assistance. To carry out these purposes, the Trust shall have the following powers:

- a. *To have continued corporate existence until terminated by law, in which event all its rights and properties shall vest in the State, provided that*

no such law shall take effect as long as the Trust shall have bonds, notes and other obligations outstanding, unless adequate provision has been made for the payment thereof in the documents securing same.

- b. To sue and be sued in its corporate name.
- c. To adopt, alter and use a corporate seal which shall be judicially noticed.
- d. To adopt a constitution and make such bylaws, rules and regulations, not inconsistent with the laws of the State, as it deems necessary for the administration of its functions, including bylaws, rules and regulations governing visitation to historic properties, administration of corporate funds and the organization and procedure of the board of trustees.
- e. To accept, hold and administer gifts and bequests of money, securities or other personal property of whatsoever character absolutely or in trust, for the purposes for which the Trust is created. Unless otherwise restricted by the terms of the gift or bequest, the Trust is authorized to sell, exchange or otherwise dispose of, and to invest or reinvest in such investments as it may determine from time to time, the moneys, securities or other property given or bequeathed to it.
- f. To acquire by gift, devise, purchase or otherwise, absolutely or in trust, and to hold and, unless otherwise restricted by the terms of the gift or devise, to encumber, convey or otherwise dispose of any real property, or any estate or interest therein as may be necessary and proper in carrying into effect the purposes of the Trust.
- g. To contract and make cooperative agreements with Federal, State or local departments or agencies, corporations, associations or individuals, under such terms and conditions as it deems advisable, respecting the protection, preservation, maintenance or operation of any historic property used in connection therewith for public use, regardless of whether the Trust has acquired title to such properties or any interest therein.
- h. To enter into contracts generally and to execute all instruments necessary or appropriate to carry out its corporate purposes, which instruments shall include concession contracts, leases or permits for the use of lands, buildings or other property deemed desirable either to accommodate the public or to facilitate administration.
- i. To appoint and prescribe the duties of such officers, agents and employees as may be necessary to carry out its functions, and to fix

and pay such compensation to them for their services as the Trust may determine.

- j. And generally to do any and all lawful acts necessary or appropriate to carry out the purposes for which the Trust is created.*

D. Exemption from taxation.

This provision should comply with the appropriate State constitutional and statutory requirements to afford the necessary exemption of the State Trust and its properties from taxation. The section should further specify that contributions to the Trust are deductible from State and local income taxes in order to encourage private support through donation of money and property.

Section 504. It is hereby found, determined and declared that the creation of the Trust and the carrying out of its corporate purposes is in all respects for the benefit of the people of this State for the preservation and improvement of the historic resources contributing to their heritage and in furtherance of their welfare and prosperity, and is a public purpose in that the Trust will be performing an essential governmental function in the exercise of the powers conferred upon it by this Article and the Trust shall not be required to pay taxes or assessments upon any of the property acquired by it or under its jurisdiction and control, or upon its activities in the operation and maintenance of such properties or use of any moneys, revenues or other income received by the Trust. All contributions of real or personal property made to the Trust whether by gift, devise or bequest shall qualify as deductions in computing the net taxable income of the donor for the purposes of any income tax imposed by the State or any political subdivision thereof.

PART VI. ENABLING LEGISLATION FOR PRESERVATION
ACTIVITIES BY LOCAL GOVERNMENTS

The most significant preservation activity occurs on the local level in the course of daily operations. State preservation legislation should specifically authorize local governing bodies to undertake a comprehensive program of historic preservation. The term "local" is used in a general sense so that the guidelines can be adapted to the political structure of any given State. To permit the local preservation program to conform with the particular needs of the community, enabling legislation should provide a wide range of powers to local governments so that they may utilize those suitable to the situation.

A. Declaration of legislative intent.

Section 601. Whereas the Legislature of this State has determined that the historical, architectural, archeological and cultural heritage of this State is among its most important assets, it is hereby declared to be the purpose of this Article to authorize the local governing bodies of this State to engage in a comprehensive program of historic preservation, to promote the use and conservation of historic properties for the education, inspiration, pleasure and enrichment of the citizens of this State.

B. Authority to establish a local Historic Preservation Commission.

For local preservation activity the commission rather than agency structure is recommended. Commission refers to that form of organization in which the administrative power is in the hands of a few persons, as distinguished from an agency where one person has primary responsibility for the program. This conforms to existing practice and provides sufficient supervisory capability with a minimal drain on scarce local financial and governmental resources. The commission model may be modified with regard to size, composition, and other features in order to meet the needs of the community it serves. While the local Historic Preservation Commission should have the primary responsibility for the conduct of local historic preservation activity, it should not duplicate the functions of the State Preservation Agency. Similarly, its relation to programs of direct Federal or State aid to historic properties within its jurisdiction would be one of assistance and cooperation.

1. Administrative provisions.

State enabling legislation should not have to deal with administrative matters in any detail. Variations will necessarily be required to meet local conditions. State law might specify the interests to be represented

on the Commission, generally the same as those prescribed for the State Review Board. The enabling act should also specify that members of the Commission reside within the locality they serve.

*Section 602. The governing body of any county or municipality is hereby authorized to establish a Historic Preservation Commission, hereinafter referred to as "the Commission," to preserve, promote and develop the historical resources of such county or municipality in accordance with the provisions of this Article. The Commission shall consist of not less than five and not more than ten members, who shall be appointed by the governing body with due regard to proper representation such fields as history, architecture, urban planning, archeology and law. All members of the Commission shall reside within the jurisdiction of the county or municipality establishing the Commission and shall serve for terms not to exceed three years, being eligible for reappointment as shall be specified by the governing body. The Commission may employ such qualified staff personnel as it deems necessary.*³¹

2. Powers and duties of the local Historic Preservation Commission.

Enabling legislation should authorize the Commission to undertake the specific functions enumerated below. Such powers would facilitate the implementation of an effective local historic preservation program. Since several are similar to those entrusted to the State Historic Preservation Agency, comment will be made only to the extent there is a departure from the comparable State function.

a. Conduct a local historical survey in conjunction with the State survey.

Involvement of the local Historic Preservation Commission in the survey process can be advantageous in several ways. It removes a burden from the State Preservation Agency and utilizes the skills and background of individuals who have greater knowledge and closer contact with the historic properties in the community. For the Commission, participation in the survey process can afford the opportunity for careful analysis of the properties within its jurisdiction and further its relationship with the Agency. To ensure the achievement of these ends, the statute should require that the local survey comply with all relevant State standards, criteria and procedures. The Commission should also coordinate the efforts with those of Federal agencies owning properties within the area.

b. Acquire fee and lesser interests in historic properties, including adjacent and associated properties.

- c. Accept unconditional gifts and donations of real and personal property, including money, for the purposes of historic preservation.

Conditional gifts, requiring the expenditure of local funds or the undertaking of contractual obligations, should require the approval of the local governing body.

- d. Preserve, restore, maintain and operate historic properties.
- e. Lease, sell and transfer properties, with restrictions for continued public use or benefit where suitable.
- f. Contract with Federal, State and local government agencies and private parties.
- g. Cooperate with Federal, State and local government agencies and private organizations in preservation matters.
- h. Participate in overall land-use planning, including urban renewal planning.

This is a most important function of the local Historic Preservation Commission. The Commission should actively advocate the accommodation of preservation objectives with renewal and development activities. To this end, the Commission should be represented on existing planning bodies and on those proposed under the National Land-Use Policy Act and the A. L. I. Model Land Development Code.³²

- i. Recommend ordinances and provide relevant information to local governing bodies.

The Commission should assume an active rather than passive role in shaping local preservation policies. This can be accomplished by advocating the adoption of municipal ordinances and regulations and by keeping other local agencies informed of preservation policies and activities.

- j. Promote local educational and interpretive programs.

These activities should be coordinated with those of the State Preservation Agency, the State and National Trusts and local historical societies. The exact delineation of activity for each must necessarily be resolved with regard to local situations.

- k. Enter upon private lands to make surveys, examinations and inspections.

Section 603. Any county or municipal Historic Preservation Commission established pursuant to this Article shall be authorized to:

- a. Conduct a survey of local historic properties, complying with all applicable standards and criteria of the statewide survey undertaken by the State Historic Preservation Agency.*
- b. Acquire fee and lesser interests in historic properties, including adjacent or associated lands, by purchase, bequest or donation.*
- d. Preserve, restore, maintain and operate historic properties under the ownership or control of the Commission.*
- e. Lease, sell and otherwise transfer or dispose of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property.*
- f. Contract, with the approval of the local governing body, with the State or the Federal Government, or any agency of either, or with any other organization.*
- g. Cooperate with the Federal, State and local governments in the pursuance of the objectives of historic preservation.*
- h. Participate in the conduct of land-use, urban renewal and other planning processes undertaken by the county or municipality.*
- i. Recommend ordinances and otherwise provide information for the purposes of historic preservation to the county or municipal governing body.*
- j. Promote and conduct an educational and interpretive program on historic properties within its jurisdiction.*
- k. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building or structure without the express consent of the owner or occupant thereof.³³*

Section 604. The governing board of a county or municipality is authorized to make appropriations to a Historic Preservation Commission established pursuant to this Article in any amount that it may determine

necessary for the expenses of the operation of the Commission, and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation and management of historic properties.³⁴

Section 605. All lands, buildings, structures, sites, areas or objects acquired by funds appropriated by a county or municipality shall be acquired in the name of the county or municipality unless otherwise provided by the governing board. So long as owned by the county or municipality, historic properties may be maintained by or under the supervision and control of the county or municipality. However, all lands, buildings or structures acquired by a Historic Preservation Commission from funds other than those appropriated by a county or municipality may be acquired and held in the name of the Historic Preservation Commission, the county or municipality, or both.³⁵

Section 606. Nothing in this Article shall be construed to prevent the regulation or acquisition of historic buildings, structures, sites, areas or objects owned by the State or any of its political subdivisions, agencies or instrumentalities.³⁶

C. Authority to designate historic districts and establish Historic District Commissions.

This provision incorporates a well-established method of historic preservation into the legislative program. It is also included in Section 3.108 of the A. L. I. Model Land Development Code. The historic district approach has withstood legal challenge and has provided admirable results not only in the advancement of historic preservation but in beneficial side effects such as increased property values, higher tax revenues and outstanding community stability.³⁷ The main purpose of the provision is to preserve established districts of significant historical, architectural or aesthetic character. In accordance with existing historic district laws, this power to designate districts should vest in the local governing bodies and be exercised in a manner consistent with general development plans for the locality. It authorizes the imposition of exterior architectural controls within the district, administered by a local Historic District Commission. Such Commission should include professional representation of the fields of architecture, architectural history, real estate and law and should draw its membership from the district it regulates. The statute should provide the procedure to be followed in the creation of such districts, so all concerned parties have an opportunity to be heard before any action is taken. In order to ensure that delineation of the historic district for National and State Register purposes coincides with the local designation under this

section, the Study Committee should be guided by criteria prescribed by the statute. Since the National Register has established such criteria and presumably under Section 108(b) of these guidelines the State Preservation Agency has adopted those criteria, the Study Committee should be directed to follow such criteria.

Section 607. A county or municipality may establish by ordinance one or more historic districts within the area of its jurisdiction. No historic district or districts shall be designated until the following requirements are met:

- a. A Historic District Study Committee, established pursuant to Section 608, shall make an investigation of the historical, architectural, archeological and cultural significance of the buildings, structures, features, sites or surroundings included as any such proposed historic district. The Committee's investigation and recommendations shall comply with the criteria adopted by the State Historic Preservation Agency pursuant to Section 107(b) of this Act. The Committee shall report its findings to the local planning board, the local Historic Preservation Commission and the State Historic Preservation Agency for their consideration and recommendations.*
- b. Sixty days after such transmittal the Committee shall hold a public hearing thereon after due notice, which shall include written notice, postage prepaid, to the owners of all properties to be included in such district.*
- c. The Committee shall submit a final report with its recommendations and a draft of a proposed ordinance to the county or municipal governing body.*

Any such ordinance may, from time to time, be amended in the same manner except that the Historic District Commission established as provided in Section 608 shall study such proposed amendments and report thereon as required hereunder.³⁸

Section 608. A Historic District Study Committee may be established for the purpose of making an investigation of a proposed historic district. Whenever a historic district is established as provided in Section 607, a Historic District Commission shall be established. Said Committee and Commission shall consist of not less than three nor more than seven members appointed by the local governing body, with due regard to proper representation of the fields such as history, architecture, architectural history, urban planning, archeology and law. Where possible, the members shall be selected from residents of the proposed district. The appointments to membership in the Commission shall be so arranged that the term of at

least one member will expire each year, and their successors shall be appointed in like manner for terms of three years. The Commission shall elect annually a chairman and vice-chairman from its own number. The Commission may adopt rules and regulations not inconsistent with the provisions of this Article, and may, subject to appropriation, employ clerical and technical assistants or consultants and may accept gifts of money and expend the same for such purposes.³⁹

1. Power and duty of the Historic District Commission.

To preserve and protect the historical, architectural and aesthetic character of the district, the Commission should be given comprehensive control over any changes in exterior appearance of properties in the district. The accepted method of implementing this system is by requiring an owner obtain from the Commission a certificate of appropriateness for his proposed alteration. Although the power of the Commission is limited to alterations affecting exterior appearance to avoid constitutional difficulties, its power within those bounds should be comprehensive. The extent of this power is delineated in Section 609. A certificate of appropriateness should also be required for any change in the use of a property within the district (Section 610). The statute should set forth the procedure for passing on a certificate of appropriateness to protect the rights of individual property owners from arbitrary decisions by the Commission (Section 611). In its deliberation, the Commission should consider the historical and architectural significance of the building or fixtures, their style, arrangement, texture, color and material, and their relation to their environs, including natural features such as trees or bushes. Finally, ordinary maintenance and repair should be exempted from the requirements of this procedure (Section 612).

Section 609. After the designation of a historic district, no exterior portion of any building or other structure (including walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the Historic District Commission. The municipality shall require such a certificate to be issued by the Commission prior to the issuance of a building permit or other permit granted for purposes of constructing or altering structures. A certificate of appropriateness shall be required whether or not a building permit is required. For purposes of this Article, "exterior features" shall include the architectural style, general design and general arrangement of the exterior of a building or other structure, including the color,

the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs, other appurtenant fixtures and natural features such as trees and shrubbery. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size and location of all such signs. The Commission shall not consider interior arrangement and shall take no action under this Section except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs or natural features in the historic district which would be incongruous with the historical, architectural, archeological or cultural aspects of the district.⁴⁰

Section 610. No change in the use of any structure or property within a designated historic district shall be permitted until after an application for a certificate of appropriateness has been submitted to and approved by the Historic District Commission. The county or municipality shall require such a certificate to be issued by the Commission prior to the approval of any change of zoning classification within the historic district.⁴¹

Section 611. Prior to issuance or denial of a certificate of appropriateness the Commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard. In cases where the Commission deems it necessary, it may hold a public hearing concerning the application. If the Commission determines that the proposed construction, reconstruction, alteration, moving or demolition is appropriate, it shall forthwith approve such application and shall issue to the applicant a certificate of appropriateness. If the Commission determines that a certificate of appropriateness should not be issued, it shall place upon its records the reasons for such determination and shall forthwith notify the applicant of such determination, furnishing him an attested copy of its reasons therefor and its recommendations, if any, as appearing in the records of said Commission. The Commission may approve such application in any case where the owner would suffer extreme hardship, not including loss of profit, unless the certificate of appropriateness were issued forthwith. Any applicant aggrieved by a determination of the Commission may appeal to the appropriate court for the county or municipality in which the land concerned is situated.⁴²

Section 612. Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of any exterior feature in a historic district which does not involve a change in design, material, color or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration or demolition of any such feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition.⁴³

D. Authority to control the use of properties adjacent to or associated with historic properties.

This is an essential aspect of preserving the historic environment of a significant property. It can be accomplished by land-use restrictions such as zoning or by acquisition through purchase or condemnation of the entire fee or easements as provided by Section E. The following provision incorporates such authority into a general grant of power to a local government for historic preservation purposes.

Section 613. In addition to any power or authority of a county or municipality to regulate by planning or zoning laws and regulations or by local laws and regulations, the governing body of any county or municipality is empowered to provide by regulations, special conditions or restrictions for the protection, enhancement, preservation and use of historic properties. Such regulations, special conditions and restrictions may include appropriate and reasonable control of the use or appearance of adjacent or associated private property within the public view, or both.⁴⁴

E. Authority to obtain easements for purposes of historic preservation.

Easements, or restrictions as they are legally known, can be employed to protect external features of valuable structures, preserve the immediate environment of historic properties or secure scenic vistas that enhance a historic site. Such easements can be obtained by purchase, condemnation or donation, which may be induced by tax incentives. State property law must be carefully examined to determine whether such easements can be held and enforced by the local government without statutory revisions. Special attention should be given to proper recordation and notification to subsequent takers of the encumbered property to ensure continued legal capacity to enforce the easement or restriction. Legislation clarifying or amending usual common law requirements such as ownership of appurtenant land, proof of damage, and enforcement against subsequent takers may be necessary. Providing they conform to the necessary requirements of State law, easements can offer a flexible approach to comprehensive preservation efforts on the local level.⁴⁵

Section 614. Any county or municipality may acquire, by purchase, donation or condemnation, historic easements in any area within their respective jurisdictions wherever and to the extent that the governing body of the county or municipality determines that the acquisition will be in the public interest. For the purpose of this Section, "historic easement" means any easement, restriction, covenant or condition running with the land, designated to preserve, maintain or enhance all or part of the existing state of places of historical, architectural, archeological or cultural significance.⁴⁶

F. Authority to delay demolition and alteration of historic properties.

This authorization is intended to aid in the preservation of historic properties not located in regulated historic districts. It is one of the most important tools available to the local government for preservation purposes. Such a provision would authorize the adoption of ordinances providing for the designation of specific historic properties by the local governing body. Such designations should be based on the criteria adopted by the State Historic Preservation Agency for inclusion on the State Register. Under such an ordinance, the owner of a designated property, after submitting a proposal for material alterations to his property, must refrain from any such action for a prescribed period, possibly up to one year, if the local Preservation Commission does not initially approve the owner's request. During this period of delay, the Commission is directed to pursue alternate means of preserving the property. These may include providing the owner with more acceptable development plans, securing a purchaser who will preserve the property and outright government acquisition of the property by purchase or exchange. Stricter formulations of this delaying power that might be explored with regard to individual State constitutional and legal limitations include extending the delay procedure to any private undertaking that adversely affects a property so designated and the absolute prohibition against demolition of significant historic properties.⁴⁷

Section 615. The local governing body of any county or municipality may adopt an ordinance designating one or more historic properties on the following criteria: historical, architectural, archeological and cultural significance; suitability for preservation or restoration; educational value; cost of acquisition, restoration, maintenance, operation or repair; possibilities for adaptive or alternative use of the property; appraised value; and the administrative and financial responsibility of any person or organization willing to underwrite all or a portion of such costs. In order for any historic property to be designated in the ordinance, it must in addition meet the criteria established for inclusion of the property in the State Register of Historic Places. For each designated historic property, the ordinance shall require that the waiting period set forth in Section 616 be observed prior to its demolition, material alteration, remodeling or removal. The ordinance shall also provide for a suitable sign or marker on or near the property indicating that the property has been so designated.⁴⁸

Section 616. No ordinance designating a historic property pursuant to Section 615 may be adopted until the following procedural steps have been taken:

- a. The local Historic Preservation Commission shall make an investigation and report on the historical, architectural, archeological or cultural significance of the property in question.
- b. The local governing body shall hold a public hearing on the proposed ordinance, after giving sufficient written notice to the owners and occupants of the property and posting public notice in its normal manner.
- c. Following such public hearing, the local governing body may act on the ordinance.
- d. Upon adoption of the ordinance, the owners and occupants of each designated historic property shall be given written notification of such designation by the local governing body. One copy of the ordinance shall be filed by the local Historic Preservation Commission in the office of the register of deeds for the county in which the property is located.
- e. The local Historic Preservation Commission shall give notice of such designation to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes. 49

Section 617. A historic property designated by ordinance as herein provided may be demolished, materially altered, remodeled, relocated or put to a different use only after 180 days' written notice of the owner's proposed action has been given to the local Historic Preservation Commission. During this period, the Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the property. During this period, or at any time prior thereto following notice of designation to the owner as provided in Section 616(d) and where such action is reasonably necessary or appropriate for the continued preservation of the property, the Commission may enter into negotiations with the owner for the acquisition by gift, purchase, exchange or otherwise of the property or any interest therein. The Commission may reduce the waiting period required by this Section in any case where the owner would suffer extreme hardship, not including loss of profit, unless a reduction in the required period were allowed. The Commission shall have the discretionary authority to waive all or any portion of the required waiting period, provided that the alteration, remodeling, relocation or change of use is undertaken subject to conditions agreed to by the Commission insuring the continued maintenance of the historical, architectural, archeological or cultural integrity and character of the property. 50

*Section 618. Nothing in this Section shall be construed to prevent the ordinary maintenance or repair of any exterior feature in or on a historic property that does not involve a change in design, material, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, demolition or removal of any such feature when a building inspector or similar official certifies to the Commission that such action is required for the public safety because of an unsafe or dangerous condition.*⁵¹

G. Authority to enact an anti-neglect ordinance.

One method utilized to undermine preservation attempts has been to allow the property to lapse into such a state of disrepair that health or building inspectors must order it torn down. The thrust of the anti-neglect ordinance, which has been upheld in operation, is to prevent the owner from allowing his historic property to deteriorate by the imposition of criminal penalties. Such a provision aids the implementation of the demolition delay procedure by requiring a minimum amount of care and maintenance during the delay period. The anti-neglect ordinance can, in turn, be supplemented by the suggested modifications of the health and building codes proposed in Section

H. This anti-neglect ordinance should apply to any historic property designated under Section F above and to any property located within a historic district established pursuant to Section C. Such an ordinance should be drafted to extend only to willful neglect to avoid penalizing persons financially unable to maintain their property.

*Section 619. The governing body of any county or municipality may enact an ordinance to prevent the deterioration by willful neglect of any designated historic property or any property within an established historic district. Any property owner violating an ordinance established pursuant to this Section shall be guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars or imprisonment in the county jail for a period not to exceed six months. Each day that a violation continues to exist shall constitute a separate offense.*⁵²

H. Authority to modify local health and building codes provisions as applied to historic properties.

Special relaxation or modification of these code requirements can ease two problems encountered in preservation. To supplement the anti-neglect ordinance, the relaxation of code standards can forestall the issuance of a demolition order by the building or health inspector. With regard to the restoration or preservation of historic buildings, reasonable modification of applicable standards can make such undertakings financially more attractive. Of course, any such change in these codes would have to be the result of careful study so that the overriding demands of public health and safety are not sacrificed.

Section 620. The governing body of any county or municipality, in order to promote the preservation and restoration of historic properties within its jurisdiction, may exempt a historic property from the application of such standards contained in the county or municipal health or building codes, or both, as the governing body, upon recommendation of the local Historic Preservation Commission, shall determine would otherwise prevent or seriously hinder the preservation or restoration of said historic property.

I. Power to authorize the transfer of development rights.

This method is particularly suited to the preservation of historic properties that have substantial unused development potential in high value urban areas. Briefly, it involves the transfer of unused rights to build under existing zoning from the historic property to adjacent or nearby properties that may then be more intensively developed. This provides a financial resource for the undeveloped site and permanently removes its potential for future development. This is adaptable to various situations that may be encountered in urban preservation programs. A further refinement of this process is a development rights bank to receive and hold on deposit development rights from historic properties for disbursement and use at some later date. ⁵³

Section 621. Any county or municipal governing body may establish procedures authorizing owners of designated historic properties to transfer development rights in such amounts and subject to such conditions as the governing body shall determine. For the purposes of this Section, "development rights" are the rights granted under applicable local law respecting the permissible bulk and size of improvements erected thereon. ⁵⁴

J. Authority to raise funds for historic preservation by the levy of special taxes and the issuance of revenue bonds.

These are two methods of meeting the crucial demand for preservation funds on the local level. Both are subject to State constitutional restrictions and should be utilized within the overall context of fiscal priorities for the locality. The important consideration for a State legislative program is that local governing bodies be authorized to undertake these methods of financing should they so desire.

Section 622. To achieve the purposes of this Article, the governing body of any county or municipality may levy annual taxes therefor as a special purpose, in addition to any allowed by the State Constitution. No tax shall be levied for the purposes of this Article unless it shall have been first approved by the qualified voters of the county or municipality. ⁵⁵

*Section 623. To achieve the purposes of this Article, the governing body of any county or municipality may issue revenue bonds in accordance with the laws of this State. No bonds shall be issued for the purposes of this Article unless such action shall have been first approved by the qualified voters of the county or municipality.*⁵⁶

PART VII. PRESERVATION PROCEDURES TO GUIDE
STATE AGENCIES

Recognizing that many significant properties are under public ownership, the State should establish preservation procedures, consistent with the relevant national procedures, to guide agencies of the State government with regard to historic properties they own or control. This section would apply to substantive provisions of Executive Order 11593 of May 13, 1971, on the State level. Such a system would implement the general State policy of historic preservation in a direct and visible manner that can not only preserve valuable remnants of the State's heritage but also exemplify to the public the benefits of a well-conceived preservation program.⁵⁷

A. Declaration of Legislative intent.

Section 701. The Legislature hereby declares it to be the public policy of this State to provide leadership in preserving, restoring and maintaining the historical, architectural, archeological and cultural environment of this State and that therefore it is the purpose of this Article to provide that the instrumentalities of the State administer the historic properties under their control in a spirit of stewardship and trusteeship for future generations and conduct their activities, plans and programs in a manner consistent with the preservation and enhancement of historic properties.

B. Responsibilities of State agencies.

The State should enact certain requirements to be met by the agencies and departments of the State government. These should include the following:

1. Consult the State Advisory Council before demolishing, altering or transferring any historic property under the particular agency's jurisdiction. This provision may be implemented by requiring each State agency to submit its annual capital improvement plan to the Council.
2. Undertake the maintenance, preservation and restoration of designated Register properties under the agency's jurisdiction. Standards established by the State Historic Preservation Agency should be complied with.
3. Develop guidelines and procedures for structuring agency policies, plans and programs to promote the preservation and enhancement of historic properties. To ensure that the overall State policy of preservation is adhered to, each agency should submit these procedures and guidelines to the Preservation Agency and the State Advisory Council for review and comment.

Section 702. All agencies, departments, bureaus and commissions of the State, shall:

- a. Consult the State Advisory Council on Historic Preservation before demolishing, altering or transferring any property under their jurisdiction that is potentially of historical, architectural, archeological or cultural significance, including, but not limited to, any property listed on the State Register. Each State agency, department, bureau and commission shall submit its annual capital improvement plan to the Council in the furtherance of the policy of this subsection.*
- b. Initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation or restoration, of properties under their ownership that are listed on the State or National Register; such measures and procedures shall comply with applicable standards prescribed by the State Historic Preservation Agency.*
- c. Develop plans for the maintenance, through preservation, rehabilitation or restoration, of historic properties under their ownership in a manner compatible with preservation objectives and which does not result in an unreasonable economic burden to public interest.*
- d. Institute procedures to assure that their plans, programs, codes and regulations contribute to the preservation and enhancement of sites, structures and objects of historical, architectural, archeological or cultural significance.*
- e. Submit annually procedures required pursuant to subsections (b), (c) and (d) to the State Historic Preservation Agency and the State Advisory Council on Historic Preservation for review and comment.*

ANNEX

TAX INCENTIVES FOR THE ENCOURAGEMENT OF PRIVATE HISTORIC
PRESERVATION ACTIVITY

Legislation and regulation can only solve some of the problems encountered in the historic preservation field. For an effective program that does not lean too heavily on public funding and operation, it is essential that the preservation of historic properties be made an economically viable alternative to redevelopment that destroys the historic integrity of the property. One of the most promising methods of achieving this goal is the use of the State and local tax systems to give substance to economically unquantified historic values. The devices available are numerous; so are the questions of policy and political reality that they raise. Given the importance of this economic assistance for historic properties this Annex sets forth tax incentive proposals for discussion. Each must be considered with regard to State constitutional requirements and general questions of State and local tax reform.

1. Deduction of restoration costs from income taxes, with provision for carry-over.

This proposal would allow the owner of a historic property to deduct documented and approved restoration expenditures from his State income tax with a provision for a five or ten year carry-over of this deduction. To qualify the property would have to be listed on the State Register and be subject to such rights of public access as the State Historic Preservation Agency deems suitable. Furthermore, the restoration must meet applicable standards of the Preservation Agency. The amount of the deduction may be limited to a certain percentage of the owner's adjusted gross incomes.

2. Deduction of donated properties, including less than fee interests, from State income tax.

This tax incentive to preservation can be achieved under existing State tax laws. The Internal Revenue Service authorized the charitable deduction for historic properties through a Revenue Ruling several years ago. Under such a provision the owner of a historic property would be entitled to deduct the fair market value of the property or the interest in it, such as an easement, he had donated to an authorized non-profit preservation organization or to the government for preservation purposes. Similar treatment for inheritance tax purposes could also be afforded.⁵⁸

3. Depreciation of property value to extent of market value reduction due to restrictions on use.

This provision would be similar to the reduction in assessment for local property taxes as set forth in Section 5. At the State level this depreciation would be allowed as a deduction from ordinary income to the extent the market value of the property was reduced by a preservation restriction.

It would be limited to a certain percentage of the owner's income and be subject to a carry-over provision. There is a question whether such deduction for depreciation should be extended to non-business properties.

4. The British "Country House Scheme."

Under this method, the owner of a historic property may donate his property and an endowment fund for its maintenance to a preservation organization like the National Trust or the suggested State Trust. The organization allows the donor and his heirs to live in the house, rent-free, with certain conditions of public access. Such property and endowment fund would be exempt from inheritance taxes and the income from the endowment fund is not subject to income tax. Certain properties in the United States would benefit from this arrangement although its impact would not be widespread.

5. Abatement of property tax when tax level threatens continued existence of historic property.

The State of Connecticut authorizes municipalities to abate real property taxes in whole or in part on designated properties of historic or architectural significance. The owner must show that the current level of taxation is a "material factor" threatening the continued existence of the structure to qualify for an abatement. Subsequent demolition or remodeling that destroys the structure's historic or architectural value obligates the owner to reimburse the municipality for the total amount of taxes abated. The statute permits the State to reimburse the municipality for the tax abatement.⁵⁹

6. Reduction in property tax assessment to extent of reduction in property value due to restrictions on use.

Several States, including Illinois, Virginia, North Carolina and Oregon, direct local tax assessors to consider the amount of depreciation in value occasioned by the imposition of use restrictions for historic preservation when making valuations of the property for tax assessments. This would apply to properties located within a designated historic district as well as properties subject to more direct or individual restrictions.⁶⁰

7. Exemption from property taxes to extent of restoration costs.

New Mexico exempts owners of historic properties from that portion of local property taxes that are offset by approved and documented restoration, preservation and maintenance expenses. The owner is permitted to carry forward these expenses up to ten years for application to property taxes. The property must be listed on the State Register and be available for educational purposes in order to qualify. Any unused tax credit lapses if the property is removed from the Register.⁶¹

8. Special classification of historic buildings for tax purposes.

Under this method, a structure listed on the State Register or otherwise determined to be of historic significance would be specially classified for the purposes of property taxation. This would have to be done in accordance with an appropriate State constitutional provision. Once so classified, all buildings within this class, but not the land they are situated upon, would be taxed at a reduced rate.

9. Exemption from property taxes in consideration for agreement with owner of historic property to refrain from altering or demolishing structure without permission of local commission.

This method would exempt the owner of a historic property from all or part of his property taxes for a period of up to ten years in consideration for a binding agreement that he will meet certain conditions. These might include refraining from demolition or alteration and preserving or restoring his property in a certain manner.

FOOTNOTES

1. Title 71, Sec. 104, Purdon's Pa. Stat. Ann. and Chap. 42-45, R.I. gen. Laws (1956).
2. Sec. 149.30, Page's Ohio Rev. Code Ann. (1953) and Chap. 44, West's Wisc. Stat. Ann. (1957).
3. Chap. 121, N.C. Gen. Stat.
4. Art. 41, Sec. 181A through 181K, Md. Ann. Code (1957) and Sec. 8-901 through 903, Ark. Stat. Ann. (1947).
5. Chap. 121B, Sec. 48, Mass. Ann. Laws (1971 Gen. Laws) and Sec. 42-45-5 and 6, R.I. Gen. Laws (1956).
6. Sec. 136-42.3, N.C. Gen. Stat. and Sec. 10-145.3, Va. Code (1950).
7. Sec. 121-7, N.C. Gen. Stat.
8. Sec. 121-7.7, N.C. Gen. Stat. and Sec. 14-602, S.C. Code (1962).
9. Sec. 121-7.1, N.C. Gen. Stat.; see also note 32.
10. Sec. 121-7.6, N.C. Gen. Stat.
11. Sec. 121-7.3, N.C. Gen. Stat.
12. Sec. 121-7.2, N.C. Gen. Stat.
13. Sec. 121-7.4, N.C. Gen. Stat.
14. Sec. 157A-3, N.C. Gen. Stat.
15. See Joseph L. Sax, *Defending the Environment* (1971).
16. For an extensive State-sponsored development program, see Sec. 9-001 through 1017, Ark. Stat. Ann. (1947). For general reference on legislation concerning archeological resources, see Charles R. McGimsey's book, *Public Archeology*.
17. Sec. 8-801, Ark. Stat. Ann. (1947).
18. Sec. 8-802, Ark. Stat. Ann. (1947) and Sec. 4-27-11, N.M. Stat. Ann. (1953).
19. Sec. 41-771 and 772, Ariz. Rev. Stat. Ann. (1956) and Sec. 4-27-8(0), N.M. Stat. Ann. (1953).
20. Sec. 8-804, Ark. Stat. Ann. (1947); Art. 6145-9, Sec. 7, Vernon's Tex. Civ. Stat. (1970); and Sec. 6192-106, Miss. Code Ann. (1942).
21. Sec. 8-803, Ark. Stat. Ann. (1947) and Sec. 41-774, Ariz. Rev. Stat. Ann. (1956).
22. Sec. 8-801, Ark. Stat. Ann. (1947) and Sec. 4-27-12, N.M. Stat. Ann. (1953).
23. Sec. 8-806 through 808, Ark. Stat. Ann. (1947); Art. 6145-9, Sec. 15 through 17 Vernon's Tex. Civ. Stat. (1970); and Sec. 41-773 and 776, Ariz. Rev. Stat. Ann. (1956).
24. Art. 6145-9, Sec. 5, Vernon's Tex. Civ. Stat. (1970); Sec. 54-321, S.C. Code (1962); and Sec. 6192-105, Miss. Code Ann. (1942).
25. Art. 6145-9, Sec. 11, Vernon's Tex. Civ. Stat. (1970); Sec. 6192-104, Miss. Code Ann. (1942); Sec. 54-322, S.C. Code (1962); and Sec. 121-23, N.C. Gen. Stat.
26. Art. 6145-9, Sec. 10, Vernon's Tex. Civ. Stat. (1970); Sec. 6192-106, Miss. Code Ann. (1942); and Sec. 54-323, S.C. Code (1962).

27. Art. 6145-9, Sec. 17, Vernon's Tex. Civ. Stat. (1970); Sec. 6192-117, Miss. Code Ann. (1942); and Sec. 54-328, S.C. Code (1962).
28. Sec. 43-51.790 through .820, Rev. Code Wash. Ann. (1970); Sec. 121-8 through 121-8.2, N.C. Gen. Stat; see also 16 U.S.C. Sec. 470f through m.
29. Sec. 43.51.800(2) Rev. Code Wash. Ann. (1970); see also National Environmental Policy Act of 1969, 42 U.S.C. Sec. 4332(2)(C).
30. Art. 41, Sec. 181A through 181K, Md. Ann. Code (1957); N.Y. Conservation Law, Art. 16, Sec. 829 through 834; N.Y. Public Authority Law, Sec. 2000 through 2010; see also National Trust Act, 16 U.S.C. Sec. 468.
31. Chap. 40, Sec. 8D, Mass. Ann. Laws (1966) and Sec. 157A-2, N.C. Gen. Stat.
32. Chap. 121B, Sec. 48, Mass. Ann. Laws (1971 Gen. Laws) and Sec. 42-45-5 and 6, R.I. Gen. Laws (1956).
33. Sec. 157A-3, N.C. Gen. Stat.
34. Sec. 157A-9, N.C. Gen. Stat.
35. Sec. 157A-10, N.C. Gen. Stat.
36. Sec. 157A-11, N.C. Gen. Stat.
37. See "Land Use Controls in Historic Areas," 44 *Notre Dame Lawyer* 379 (1969), for an in depth discussion of historic districts.
38. Chap. 40C, Sec. 3, Mass. Ann. Laws (1966); Sec. 19-5003, Ark. Stat. Ann. (1947); Sec. 7-147a and b, Conn. Gen. Stat. Ann. (1958); and Sec. 160-178.1, N.C. Gen. Stat.
39. Chap. 40C, Sec. 4, Mass. Ann. Laws (1966); Sec. 19-5004, Ark. Stat. Ann. (1945); Sec. 7-147c, Conn. Gen. Stat. Ann (1958); and Sec. 160-178.2, N.C. Gen. Stat.
40. Sec. 160-178-3, N.C. Gen. Stat; Chap. 40C, Sec. 5 and 6, Mass. Ann. Laws (1966); Sec. 19-5005, Ark. Stat. Ann. (1947); and Sec. 7-147d and f, Conn. Gen. Stat. Ann. (1958).
41. Chap. 24, Sec. 11-48.2-2, Ill. Ann. Stat. (1961).
42. Chap. 40C, Sec. 7 and 9, Mass. Ann. Laws (1966); Sec. 19-5007, Ark. Stat. Ann. (1947); Sec. 7-147e and i, Conn. Gen. Stat. Ann. (1958); and Sec. 160-178.3, N.C. Gen. Stat.
43. Chap. 40C, Sec. 8, Mass. Ann. Laws (1966); Sec. 19-5008, Ark. Stat. Ann. (1947); Sec. 7-147j, Conn. Gen. Stat. Ann. (1958); and Sec. 160-178.4, N.C. Gen. Stat.
44. N.Y. General Municipal Law, Sec. 96-a and Chap 24, Sec. 11-48.2-2(d), Ill. Ann. Stat. (1961).
45. See "Open Space and Recreation Program for Metropolitan Boston. Volume 4, Massachusetts Open Space Law," (1969) pages 18-23 and 140-156, for a discussion of easement legislation and legal requirements. (Available from the Conservation Law Foundation.)
46. Sec. 271.720, Ore. Rev. Stat. (1969); Chap 184, Sec. 31 through 33, Mass. Ann. Laws (1969 Gen. Laws); and Chap 24, Sec. 11-48.2-2(c), Ill. Ann. Stat. (1961).

47. New Orleans Municipal Code, Chap 65, Sec. 65 (1962).
48. Sec. 157A-4, N.C. Gen. Stat.
49. Sec. 157A-5, N.C. Gen. Stat.
50. Sec. 157A-6, N.C. Gen. Stat.
51. Sec. 157A-7, N.C. Gen. Stat.
52. "Anti-Demolition-By-Neglect" Ordinance, No. 1354 M.C.S. (New Orleans).
53. See John J. Costonis "The Chicago Plan: Incentive Zoning and the Preservation of Urban Landmarks," 85 *Harvard Law Review* 574 (1972) and John Costonis and Jared Shlaes "Development Rights Transfers: A Solution to Chicago's Landmarks Dilemma," (available from the National Trust).
54. Chap 24, Sec. 11-48.2-1A and 2(c) Ill. Ann. Stat. (1961); see also note 40, *supra*.
55. Sec. 160A-406, N.C. Gen. Stat.
56. Chap 24, Sec. 11-48.2-2(h), Ill. Ann. Stat. (1961).
57. See Executive Order 11593, May 13, 1971; see also Art. 6145-10, Vernon's Tex. Civ. Stat. (1970).
58. See Part III of this paper, Section 304.
59. Sec. 12-137a, Conn. Gen. Stat. Ann. (1958).
60. Chap 24, Sec. 11-48.2-6, Ill. Ann. Stat. (1961); Sec. 10-139 and 140, Va. Code (1950); Sec. 157A-5(6), N.C. Gen. Stat.; and Sec. 271.740, Ore. Rev. Stat. (1969).
61. Sec. 4-27-14, N.M. Stat. Ann. (1953).

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Mr. SEIBERLING. If you could also, when you have the opportunity, give some thought to possible incentives to States to strengthen their laws in this regard. I think it would be very very helpful, and if this committee would need to act on them, then I would hope we would have your advice and recommendations.

Mr. WALKER. Thank you, sir. We will do that.

Mr. SEIBERLING. Now, what is being done to curb scandalous international trafficking in archeological artifacts, the most notorious one, recently being the Etruscan vase that the Metropolitan Museum of Art acquired for a fantastic amount of money under very dubious circumstances. What are you doing? What is the International Centre doing about that, particularly with respect to recommending legislation?

Dr. CONNALLY. The International Centre, Mr. Seiberling, is interested in all aspects of preservation, of course, but its main purpose is to address itself to the technical and scientific study of restoration problems. Chemists, museum conservators, people of this kind make up the constituency of the International Centre. There are other organizations such as UNESCO itself which have taken stands recommending legislation and measures regarding the illegal export and import of works of art. That really goes a bit beyond the special scientific mission of the International Centre.

Mr. SEIBERLING. Well, isn't it something, though, that your Department ought to be considering from the standpoint of the United States doing what it can to tighten up the laws that control this kind of thing?

Mr. WALKER. Yes sir, within our power.

Mr. SEIBERLING. Because archeological finds are being looted and destroyed and important historical data are being lost forever all over the world because of the fact that the laws have not yet caught up with this tremendous new market for historical and art objects.

Dr. CONNALLY. We agree, Mr. Seiberling. However, there is a limit to what the National Park Service as a bureau in the Department of the Interior can do regarding enforcement of customs laws, theft from museums, and that kind of thing. We are aware of the problem, and we are sympathetic to it. So far as American antiquities are concerned, we administer the Antiquities Act of 1906 and with the advice of the Smithsonian Institution grant permits for study of paleolithic and archeological remains on Federal land. This is pretty much the extent of our police power in archeological matters.

Mr. SEIBERLING. Well, is anyone in the administration, in the executive branch, taking the initiative to try to develop a policy on this whole problem? It seems to me that your Department could logically be the leader in that. I have the impression it is sort of falling between the chairs because it is nobody's baby at the moment.

Mr. WALKER. Well, as far as historic preservation is concerned we think that the National Park Service is the front-runner in the administration. There are other areas of interest to Interior, such as the illegal traffic in skins. But I think the Smithsonian and State Department are the agencies that are best qualified to deal with protecting antiquities such as museum objects.

Mr. SEIBERLING. Doesn't that come under the Interior Department?

Mr. WALKER. The Smithsonian? No, sir, it does not.

Mr. SEIBERLING. OK.

I just have one other brief question. Is Venice the most serious international historic preservation problem today? Do you happen to know?

Mr. WALKER. Sir, I don't know. I am sorry.

Mr. SEIBERLING. I just wondered what the leading—

Dr. CONNALLY. Venice is a very serious problem because you know the city is subsiding and it also—

Mr. SEIBERLING. Also the stone is deteriorating from industrial pollution.

Dr. CONNALLY. Yes. We know what the technical solution is there and I understand the Italian Government is making a commitment now to build an aqueduct that will bring water from the mainland to supply the industrial community of Marghera and the city of Venice so that several things can happen: the city won't have to depend on the wells there any more and they won't have to draw water out from under Venice for industrial use. It is like drying up a sponge; without the water the weight of the buildings tends to push them down. By keeping water in the substrata the subsidence can be arrested. That is the basic solution, because they don't want to force away the factories that are so important to the livelihood of that part of Italy.

The problems of stone deterioration are similar to those elsewhere and are somewhat exaggerated in the case of Venice. There is deterioration, of course. The other big problem there is the tides, since the level of the sea is rising everywhere. There will be a kind of dike built and a gate that can be closed when unusually high tides come, thus reducing the periodic flooding of the Piazza San Marco and other parts of the city.

I would hesitate, Mr. Seiberling, to say what is the most serious threat to cultural property today. There are many threats everywhere. There are several big preservation projects of world interest, such as Mohenjodaro in Pakistan, Borobudur in Indonesia, and other places. In Western Europe certainly Venice has attracted quite a lot of attention because the city is unique. The technical means are at hand and it is my understanding from recent conversations that the Italian Government is now making the commitment to carry them out.

Mr. SEIBERLING. Thank you, Mr. Chairman.

Mr. TAYLOR. We have five other witnesses, so I hope we can move along with reasonable dispatch.

The gentleman from California, Mr. Clausen.

Mr. CLAUSEN. In the interest of time, Mr. Chairman, I think I will just ask one question and then submit some others and I would ask unanimous consent to address questions in writing.

Mr. TAYLOR. In the absence of objection the gentleman can submit questions as he sees fit and the Department's answers will be placed in the record.

Mr. CLAUSEN. I do want to compliment my colleague from Ohio for his very perceptive questioning. It has been informative to me. I want to take this opportunity to compliment him.

One question I would like to ask, and this relates to grants-in-aid for historic preservation on the chart that you have presented to us.

Now, you referred to matching capabilities of the States. Could you tell the committee whether this is actually hard dollars or is this a rough estimate or a projection?

Dr. CONNALLY. It is not just a projection, Mr. Clausen. It is a firm estimate. Each year the States submit to us an annual preservation program and an apportionment warrant, which is a legal-binding document. They have to have the money there. It is an auditable figure they supply us. Each year they give us a forecast based on the same kind of information for the succeeding 2 years. That is why we can make estimates for 1974 and 1975 with some reasonable certainty of the firmness of those figures.

NOTE: Subsequently Mr. Clausen submitted questions to Mr. Walker. The questions are contained in a letter from Mr. Skubitz to Mr. Walker dated May 14, 1973, and the answers are in a letter from Mr. Robert M. Utley, Director, Office of Archeology and Historic Preservation, Department of the Interior, to Congressman Skubitz.

[The letters follow:]

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., May 14, 1973.

Hon. RONALD H. WALKER,
Director, National Park Service,
U.S. Department of the Interior,
Washington, D.C.

DEAR MR. WALKER: At the hearing held on May 3 before the House Interior Subcommittee on National Parks and Recreation, Congressman Clausen requested and was granted permission to submit questions to the Department, the answers to which will appear as part of the hearing record. The following questions, relative to H.R. 5743 and H.R. 7127 (amending the National Historic Preservation Act) are submitted for your response.

1. Would you explain the formula used for the annual apportionment of grant funds for this program. What recommendations, if any, can you make for needed changes in the fund apportionment system?

2. Could you give us some idea of how actively these grant funds are pursued by those entities qualified to receive them? Is the distribution of funds equitable? Do some states seem to receive greater benefits than others? Are there some states which seem to be lacking in participation, to the detriment of adequate historic preservation efforts in those states?

3. It is my understanding that anyone who receives grants through this program is responsible for assuring continued maintenance of the structure in accord with criteria established by the Secretary. Have you encountered any problems here of lack of compliance? If so, how do you handle this matter and what rectifications, if any, do you purpose? I am particularly concerned that Federal funds may be put into some project, with later neglect of the facility by the grantee, resulting in a loss of the Federal investment.

4. Are there any recommendations in the annual reports of the Advisory Council for the last three years which call for a change in approach in the way this program has been operating?

5. This program for historic preservation seems to be quite an effective device for enlisting active interest and funding involvement at the local level. It occurs to me that some similar approach might be very effectively applied as a device to help save some important privately held unique *natural* landmarks from destruction around the country. What is the feasibility of extending your existing *natural* landmarks program to also encompass some type of grant-in-aid enticement so as to activate state and local matching funds in the interests of preserving some important privately held *natural* landmarks?

Since these bills are scheduled for mark-up on May 24, we would appreciate your prompt reply.

Sincerely,

JOE SKUBITZ, Member of Congress.

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, D.C., May 23, 1973.

HON. JOE SKUBITZ,
House of Representatives,
Washington, D.C.

DEAR MR. SKUBITZ: Thank you for your letter of May 14 concerning the National Park Service's implementation of the National Historic Preservation Act of 1966 (80 Stat. 915), as amended.

To encourage State and local governments and private participants in historic preservation, the annual appropriation for grants-in-aid to the States and the National Trust for Historic Preservation is apportioned by the Secretary of the Interior in accordance with the following criteria:

1. Thirty percent (of the appropriation) shall be apportioned equally among the 55 States, as States are defined in the National Historic Preservation Act.
2. Forty-five percent shall be apportioned among individual States which have approved statewide historic preservation plans on the basis of need, as revealed in Annual Preservation Programs submitted as supplements to State plans.
3. Seventeen and one-half percent, not to exceed \$1,750,000 under the current appropriation, shall be apportioned to the National Trust for Historic Preservation.
4. Seven and one-half percent shall be reserved for emergencies and administrative expenses.
5. The combined apportionment (1. and 2. above) available to any one State shall not exceed 5 percent of the current appropriation.

The formula was drafted in cooperation with the National Conference of State Historic Preservation Officers and received the approval of that body at the 1972 annual meeting for the State representatives sponsored by this agency early last year. The formula represents a concerted effort on the part of the National Park Service and its grantees to develop a system of allocating funds as equitably as possible among eligible program participants. It was first applied in apportioning the fiscal year 1973 appropriation and will be used to allocate fiscal year 1974 funds. We stress, however, that the formula is not, and should not be, regarded as immutable. The States and this agency cooperate in a continuing evaluation of the formula, with the aim of enhancing the equitableness of the apportionment system.

Grant funds are pursued actively by most program beneficiaries. The National Trust has expended all but \$650,000 of over \$4 million allocated to it since passage of the National Historic Preservation Act. Over \$600,000 of the unexpended balance is fiscal year 1973 money nearing liquidation. The remainder of the balance is fiscal year 1971 money that will be liquidated in a matter of days. The record of the States in using grant funds is similarly encouraging, especially in light of staff limitations and organizational problems confronting many of the States in administering a program whose level of funding permits extremely small allocations as compared with other Federal grant programs and in light of the time necessary first to initiate and then to accomplish individual projects before expenditures may be reported. Specifically, over \$15 million has been made available to the States under appropriations, and over \$11 million of that has been committed to specific projects. The balance is virtually all money from fiscal years 1972 and 1973, commitment of which is proceeding as rapidly as the processing of applications will allow. Of the amount committed, \$9 million has been reported by the States as expended.

Grants-in-aid benefits accruing to each State vary widely depending on requests for Federal assistance presented by the States in Annual Preservation Programs. Such requests, submitted in the form of statements of matching capability, are applied in the Apportionment Formula. Under Criterion A of the formula, each State is guaranteed a base share of the appropriation. The amount of additional funds allocated to it under Criterion B is a reflection of the strength of public and private support for historic preservation in the State. Five States and Territories have as yet to benefit from grant assistance. These are Indiana, North Dakota, Guam, American Samoa, and the Virgin Islands. There is every indication, however, that all will participate in the program in fiscal year 1974. For those already participating, momentum varies depending on the prevailing preservation situation in each jurisdiction.

The concern that assisted properties be maintained for the benefit of the public and to preserve the results of a Federal investment was foremost in developing

policies regulating the administration and use of assisted resources. The State agency designated to administer grants-in-aid is responsible for insuring public access to and preservation of assisted properties in accordance with standards prescribed in the program's basic administrative manual, "Historic Preservation Grants-in-Aid: Policies and Procedures." In instances where funds are transferred to private organizations or individuals, the State shall insure that title to the property is encumbered with covenants, enforceable by the State, and running with the land for prescribed periods depending on the amount of Federal aid involved, providing for public benefit and proper maintenance. In the event of noncompliance, which to date has presented no problems, the State, and ultimately the Federal Government, would, by virtue of having required the covenants, be in an extremely strong position to seek compliance with the terms of those covenants through legal action, should that become necessary. Within the limits of funds available for the purpose, National Park Service personnel inspect a large number of assisted sites every year, not only to confirm that maintenance and public benefit requirements are satisfied, but also to insure that project work is or has been accomplished in accordance with approved specifications.

Annual reports of the Advisory Council on Historic Preservation have included to date no recommendations for change in regard to the grant program's operation or its approach to implementation of the enabling legislation.

With reference to your last question concerning grants-in-aid for the preservation of natural landmarks, we call your attention to H.R. 4865, a bill introduced pursuant to the Department's executive communication dated February 15, 1973. Among other things, the bill would amend the Land and Water Conservation Fund Act of 1965 to require the Secretary of the Interior to withhold payments to States until he is satisfied that appropriate action has been taken " * * * to consider preservation of small natural areas, especially near cities * * * ." We believe this provision will assure better opportunities for natural landmark preservation.

Your interest in the preservation of America's natural and manmade heritage is deeply appreciated.

Sincerely yours,

ROBERT M. UTLEY,

Director, Office of Archeology and Historic Preservation.

Mr. TAYLOR. The gentleman from the Virgin Islands.

Mr. DE LUGO. Thank you very much, Mr. Chairman.

Mr. SEIBERLING. Will the gentleman yield? What are your estimates for 1974?

Mr. WALKER. 1974 is \$41.4 million, sir.

Mr. DE LUGO. Mr. Walker, I notice in the chart that you have presented here which shows the grants to the States that the Virgin Islands is not listed, but you have listed other areas such as Guam, Puerto Rico, American Samoa. Are the Virgin Islands—

Mr. WALKER. The Virgin Islands are very much on the move right now. They have a State plan that is just about ready to be sent to the National Park Service.

We are holding for them a little over \$100,000 that is ready as soon as they are in a position to match, and we understand they are. They will be in business, sir.

Mr. DE LUGO. Fine. I am glad to hear that since we weren't on that list.

Would you know in this State plan that they are presenting, are there plans for the restoration of the Fredrikstad Fort? I say this because the Fredrikstad Fort is singularly important in our history. It was certainly one of the first if not the first place where the new Republic was recognized and a salute was fired as the American flag **hove to.**

It was also the place where Governor von Shulton freed the slaves, he emancipated the slaves in the Virgin Islands, prior to that action being taken here on the mainland. So it is a very historic building. It is falling into disrepair at the present time. Is this included in the plan?

Mr. WALKER. Sir, we won't know until we receive their State plan. There is an interim plan coming in but when it gets here they will be in a position to go into 1974 with eligibility for grants-in-aid money.

Mr. DE LUGO. This report or this application, is the National Park Service working on this in conjunction with the local government?

Mr. WALKER. Governor Evans has his own individual that is responsible for the plan that will be submitted to us.

Mr. DE LUGO. It is not being coordinated with your people?

Mr. WALKER. It will not be until it is received in our office. Advice and counsel, yes.

Mr. DE LUGO. You are giving advice on this?

Mr. WALKER. We are giving advice and counsel on the preparation of their plan.

Mr. DE LUGO. I would like as much advice and counsel as possible to be given because this has been hanging fire for sometime.

Thank you very much, Mr. Chairman.

Mr. TAYLOR. The gentleman from California, Mr. Ketchum.

Mr. KETCHUM. Thank you, Mr. Chairman.

Could you just very briefly speak on the bills here, other than the continuing appropriation, what is the precise difference between H.R. 5743 and 7127?

Dr. CONNALLY. For grants-in-aid there is a specific amount in H.R. 7127. There is one other problem that it would pose to us, Mr. Ketchum, and that is the provision that payments of membership fees to the International Centre would not exceed \$100,000 annually or in no case more than 25 percent. The 25-percent limitation would put us in arrears in fiscal 1974, for the coming year.

Mr. KETCHUM. How many nations belong to this?

Dr. CONNALLY. There are 57 now. We said 55 in our statement and there were 55 that were in the program that was presented at the General Assembly of the International Centre. Two further nations have joined recently, Iran and Algeria, making a total of 57.

Mr. KETCHUM. Do they each put up equivalent amounts of money?

Dr. CONNALLY. They each make a membership contribution based on the scale that each nation pays to UNESCO.

Mr. KETCHUM. You refer to 25 percent somewhere in here.

Mr. WALKER. It has been 30 percent.

Mr. KETCHUM. The United States has provided 30 percent of the funds?

Mr. WALKER. That is correct.

Dr. CONNALLY. It is actually a little less than 30 percent. It has been based on the U.S. contribution to UNESCO.

Mr. KETCHUM. Of the total?

Dr. CONNALLY. Total assessment.

Mr. KETCHUM. Fifty-seven nations?

Dr. CONNALLY. Yes sir.

Mr. KETCHUM. Well, \$100,000 doesn't bother me too much.

Dr. CONNALLY. We subscribe to the 25 percent limitation but not for the coming fiscal year.

Mr. KETCHUM. Those are basically the only two differences between these bills. I am reading letters here from the Department of Interior, Department of State, Smithsonian Institution, and in each instance the chairman or some individual has asked for a comment on 7127 and all I read here is thank you for your letter about 7127. We don't like it. We like this other bill in lieu. I don't find much to substantiate that and that is why I ask what the difference of the bills is.

I would like to associate myself with the Chairman's remarks as far as unlimited appropriations at this hearing. Speaking as one member of this subcommittee I am not at all inclined to go for unlimited appropriations.

Thank you, Mr. Chairman.

Mr. TAYLOR. The gentleman from New York, Mr. Bingham.

Mr. BINGHAM. Thank you, Mr. Chairman.

I am very interested in the very brief reference you made here, and I am familiar in general with it, that urban historic districts are being developed. Just recently there was an editorial in the Washington Post on this matter.

I think, Mr. Chairman, it might be of interest to have it in the record, in the hearing record. It refers to the plan particularly with regard to the Chicago Loop and I wonder if you would develop that, just give us a little information on that and also whether anything comparable to that is envisaged for New York City.

[The article referred to above follows:]

[From the Washington Post, Apr. 24, 1973]

A NEW FUTURE FOR THE PAST

Americans like to move on and look forward. It was not until early in this century that a few of them looked back. They were dismayed to discover that relentless "progress" was about to destroy the country's natural and historic heritage. The efforts of these conservationists led to the Antiquities Act of 1906 and, by 1933, to the Historic American Building Survey. The survey was expanded six years ago to include historic places and sites of local and national interest in addition to isolated buildings. Still more recently, President Nixon called on all federal agencies to preserve historic properties under their jurisdiction.

But the wreckers still work a great deal faster and more effectively than the preservers. Demolition experts boast that they can now dynamite a sizeable old structure in eight seconds. Preservationists have tried for more than eight years to save one of the nation's foremost landmarks—the west front of the U.S. Capitol. Yet the House voted 215 to 185 the other day to bury the original facade and the beautiful Capitol terraces under a \$58 million marble addition. Contrary to our usual legal order, historic buildings are presumed guilty of obstructing progress. How do you prove them innocent?

As we celebrate the first National Historic Preservation Week, May 6 to 12, we will, to be sure, hear a lot of innocent proclamations as people join sentimental, architectural walking tours and all kinds of festivities all over the country. But the celebrations are under the shadow of the grim fact that of the 16,000 cherished and certified landmarks in this country, one third have been destroyed over the past 40 years. The casualties range from picturesque barns that recall rural America (such as the 16-sided one on the Hayfield Farm in Fairfax County, Va., which once belonged to George Washington, and was vandalized and burned in 1967) to imposing commercial structures that made urban America urbane (such as Louis H. Sullivan's Stock Exchange in Chicago, which was demolished a year ago).

Preservation Week or not, sentimental incantations will not save America from becoming lost in progress. It is naive, as John J. Costonis of the Illinois Law School has pointed out, "to ascribe America's landmark carnage to a cabal of Philistines spearheaded by real estate developers and speculators." Luckily, there is a new realistic hope in Mr. Costonis' "Chicago Plan," which has just been endorsed by Secretary of the Interior Rogers C. B. Morton.

Under this plan, which is, of course, applicable in other cities, the government would buy the "development rights," that is, the potentially permissible building height and bulk, from the owner of a certified landmark and sell that right to developers elsewhere in a specified area. The landmark owner must use the money to preserve and restore his building. The purchaser can use his "development right" to make his new building larger and more profitable than prevailing zoning regulations permit. Until buyers are found, the rights would be held in a "development rights bank."

To get things started, Mr. Morton would try this concept in Chicago's "Loop," which he proposes to declare a national historic park under the National Park Service, which would operate the program. The "Loop" is where American high rise architecture began. It still contains some 30 landmark buildings designed by such pioneers as William Le Barron Jenny, Louis Sullivan, Frank Lloyd Wright and Walter Burley Griffin. They mark a turning point in Western cultural history, similar to the development of Gothic in 12th century France and the development of Renaissance in 15th century Italy. Under the Chicago Plan these buildings would continue to serve their intended purposes. But they would stand in renewed glory to redeem the nation's shameful preservation record.

We cannot think of a better way to celebrate Preservation Week than to have Congress begin to give serious consideration to Mr. Morton's proposal. Come to think of it, effective preservation is not a matter of looking back at all. It would mean true progress toward a new cultural renaissance in America as we move on and look forward to the nation's bicentennial celebration in 1976.

Mr. WALKER. Sir, that is a separate program and not involved in this grants-in-aid program.

Mr. BINGHAM. Not at all? Is it necessary for there to be legislation to make this urban district—you state in your statement urban historic districts are being developed.

Mr. WALKER. Yes, sir.

Mr. BINGHAM. Why don't you develop that thought, please.

Dr. CONNALLY. If I may, Mr. Bingham, there is a slight confusion perhaps as to what the Chicago proposal is. The national register includes, of course, numerous urban districts, historic quarters, over 200 of them. Such registered properties, whole historic quarters of towns, are eligible for financial assistance. What is proposed for Chicago is simply a trial of a new concept to see how well it might be received by the public and private interests in Chicago, to find new ways to preserve very expensive but historically important real estate in some of our largest cities.

That report addressed itself to the peculiar problems of trying to preserve some of the world's finest skyscrapers, first examples of modern architecture anywhere in the world, which were one of our most important developments not only nationally but internationally, a prefiguration of the 20th century city. So grants-in-aid assistance, you see, wouldn't really do very much in the Loop of Chicago. You can imagine the kind of money that would be required there.

Based on a study made under the auspices of the National Trust with a grant from the Department of HUD, the proposal addresses itself basically to zoning problems with the new concept of transfer of development rights up in the air, within the planning density by zoning that is permitted. The older buildings are not as tall as the developers would like to build now, as total heights permitted in any district. If

the unused rights, unused space over the historic monuments, can be sold into a bank and then sold to a developer who could build taller elsewhere than he otherwise might while the overall density in the area is preserved, then you have lowered the tax base for the historic building, encouraging its preservation and removing the economic pressure that would work for its demolition. This is the essence of the proposal.

Mr. BINGHAM. I understand.

Dr. CONNALLY. We want to see what response there might be to that.

Mr. BINGHAM. Is the Department going to submit legislation to make this possible? I see that the reference here is that Congress should begin to give serious consideration to Secretary Morton's proposal.

Mr. WALKER. First, there would have to be a favorable response from the city of Chicago. We are hopeful that it will be forthcoming.

Mr. BINGHAM. Thank you.

Now, just one other thing. It would save the time of the committee if you could submit information—I would be interested to have a statement as to the status of the project for the transfer of Lindenwald-Van Buren House, in New York, to the National Park Service. I am generally familiar with the facts but I would like to hear from you what the status is and what the prospects are.

Thank you, Mr. Chairman.

Mr. TAYLOR. In the absence of objection, information concerning this inquiry will be placed in the record when furnished.

Ed. note: The House Interior and Insular Affairs Committee has requested a report on H.R. 2032, "To establish the Van Buren-Lindenwald historic site an Kinderhook, N.Y., and for other purposes." As of May 15, 1973, that report was still being prepared.

Mr. TAYLOR. One question. Under the Federal Advisory Committee Act of 1972, all advisory committees are scheduled to terminate on January 5, 1975, unless otherwise provided for by the authorizing law. Will this provision effect the Advisory Council on Historic Preservation?

Mr. WALKER. Yes, sir; it will.

Mr. TAYLOR. Should the subcommittee consider amending this legislation to provide for the extension of the life of this Council?

Mr. WALKER. Sir, we need authority for it. The Department of the Interior now has a number of advisory committees that need further authorization. There will be one overall legislative package submitted; and the Advisory Council is in that.

Mr. TAYLOR. In the nature of an omnibus bill extending several councils?

Mr. WALKER. Yes, sir.

Mr. TAYLOR. During the proceedings on the House floor on April 5, the gentleman from Iowa raised several questions, some substantive. Will you study the House Record for April 5 (page 2457) and respond to each of the questions which he asked?

Mr. WALKER. Yes, sir; I will be very happy to.

Mr. TAYLOR. In the absence of objection, a copy of the questions and answers will be placed in the record at this point.

[The information supplied follows:]

Please respond to the questions raised by Representative Gross on the floor of the House on April 5, when the House was considering a resolution authorizing 2 representatives of this subcommittee to attend the recent meeting of the Rome Centre.

On reading the Congressional Record of April 5 it appears to us that the questions posed by Mr. Gross confused the purpose of the trip with the name and purpose of the International Centre. Throughout the questions it is evident that he thought the purpose of the trip was to make a study of the preservation and restoration of cultural property in Rome. Of course, the purpose of the trip was to attend the meeting of the Seventh General Assembly of the International Centre. The full name of the Centre is the International Centre for the Study of the Preservation and Restoration of Cultural Property. The purpose of the Centre is the technical and scientific study of problems of world interest in the preservation of historic monuments and the conservation of museum objects.

We offer the following responses to the questions he raised.

QUESTIONS POSED BY REPRESENTATIVE GROSS, OF IOWA, IN FLOOR DEBATE,
APRIL 5, 1973

Question. What is a study of the preservation and restoration of cultural property in Rome? What does that entail?

Answer. Of course it was not to study cultural property in Rome. The International Centre is located in Rome. Its work involves (1) the collection, evaluation and circulation of information concerning the scientific and technical problems of historic preservation, museum conservation and restoration; (2) the coordination, stimulation and initiation of research in these areas by commissions to experts, international meetings, publications, and exchanges of specialists; (3) the furnishing of advice and recommendations on general and specific questions of preservation and restoration; (4) assistance for training research workers and technicians in preservation and restoration work; and (5) generally raising the standard of restoration work on an international level. While the Centre is located in Rome, the benefits of its work extend to all countries, directly and indirectly.

Question. That would not involve a study of the peasantry in Italy or anything of that kind, would it?

Answer. No.

Question. It would not involve a study of the way they have been living through the ages in Italy?

Answer. No.

Question. I thought we had the Cultural Centre of the World along the Potomac River in Washington. I thought it was possible to study all the culture that was necessary to be studied right here. For the life of me, I do not understand what these two gentlemen are going to study when they get to Rome.

Answer. Domestic facilities for research and training in preservation and restoration are extremely limited and do not adequately meet current or projected demands for such services. With the increasing need for information on preservation and restoration techniques and for training of experts in this field, the International Centre provides a splendid opportunity for the United States to draw upon the knowledge and expertise of the international community in the area of restoration and preservation.

Question. If they are going to consider fees, there is only one way the fees will go for the United States, and that is up. That is the story with practically all of these international study groups, whether they be studying art and culture or whatever they happen to study.

Answer. United States membership costs will actually decrease from \$90,609 for Fiscal Year 1974 to \$70,485 in Fiscal Year 1975. This is due to statutory limitation on United States contributions to international organizations. Effective December 31, 1973, the United States contribution to the International Centre may not exceed 25 percent of the total assessment. The International Centre adopted this limitation, thereby reducing future United States contributions from the present 30 percent ceiling to 25 percent. In future years, the actual dollar amount of United States membership may increase because the addition of a new member nation increases the total budget figure and 25 percent increases proportionately.

Mr. TAYLOR. Counsel has a question.

Mr. McELVAIN. Yes, Mr. Chairman.

You mentioned that States have a matching capability of \$41.4 million for fiscal year 1974.

Mr. WALKER. Projected, right, sir.

Mr. McELVAIN. Now, would it be the intention of the Department to try to match all of the dollars that the States have available?

Mr. WALKER. We would be hopeful of it, yes.

Mr. McELVAIN. If that is the case, what was the budget request approved by the National Park Service for fiscal year 1974 and what was the figure approved by OMB for fiscal year 1974?

Mr. WALKER. It was \$15.5 million.

Dr. CONNALLY. The budget request is \$15,505,000 for fiscal year 1974.

Mr. McELVAIN. That is the amount that OMB has cleared for 1974?

Mr. CONNALLY. That is right.

Mr. McELVAIN. What was National Park Service request?

Dr. CONNALLY. Our program always calls for full funding. I have the whole breakdown of it here. The request under the planning ceiling was \$7½ million.

Mr. McELVAIN. \$7½ million. So the real intent, then, was not to try to match the \$41.4 million in fiscal 1974. Neither the National Park Service nor the Office of Management and Budget planned to make that much available, is that correct? I mean, it would probably be impossible to match all of the dollars that apparently the States have available. So when you talk in terms of matching capability, while it may be a "hard" figure on the part of the States, it is not a realistic figure as far as the Federal Government is concerned because you just can't get the dollars to match the State moneys.

Mr. WALKER. Well, I would be hopeful that we would be in a position that I could work toward getting those dollars.

Mr. McELVAIN. In terms of a reasonable projection for the amounts needed for fiscal 1974, 1975, 1976, do you think the terms of H.R. 7127 are reasonable and what you might reasonably expect to be able to get approved by OMB?

Mr. WALKER. Well, here is the point. The States are moving with great rapidity now.

Mr. McELVAIN. Yes, but the Federal Government isn't, and neither is National Park Service.

Mr. WALKER. Well, I hope that we would be in a position to move with them, sir.

Mr. McELVAIN. Well, you say the States are ready to put up \$41.4 million in the next fiscal year.

Mr. WALKER. That is projected.

Mr. McELVAIN. Well, projected or not, those are supposed to be "hard" dollars, as I understand it.

Mr. WALKER. That is correct.

Mr. McELVAIN. And the National Park Service was willing to put up \$7.5 million. OMB was willing to put up \$15.5 million—which was a surprise to me. Why did OMB allow more than the Park Service requested—that is almost a contradiction of terms.

Mr. WALKER. Well, that was increased for the Bicentennial, sir. There were certain geographic areas that OMB, backed by the Department of the Interior, felt were going to be prominent in the Bicentennial, certain cities up and down the east coast, Philadelphia, Boston, Savannah, Charleston, and others, and that \$8 million—

Mr. McELVAIN. Well, could you supply for the record a list showing the areas that are to be benefited by that \$8 million?

Mr. WALKER. Yes, I would be very happy to.
[The material supplied follows:]

Special American Revolution Bicentennial matching funds for Historic Preservation will be apportioned to States with cities: 1. that played primary roles in the movement that led to American independence; 2. that were central to the conduct of the Revolution; 3. that are the location of outstanding properties illustrating various important themes in the United States history; 4. that can expect to host large numbers of visitors during the Bicentennial Era; and 5. where viable projects with high potential for illustrating the American heritage have been developed.

Examples of cities which might meet these criteria are Philadelphia, New York, Boston, Annapolis, Charleston, and Savannah. There could be others.

Mr. McELVAIN. Does that mean that after 1976 this program will suffer a severe cutback because there won't be a bicentennial to celebrate?

Mr. WALKER. The \$8 million is programed for 3 years through 1976.

Mr. McELVAIN. But after 1976 what happens to this program when you don't have a bicentennial to lean on any more?

Mr. WALKER. I don't have any answer, I am sorry. We would still hope to meet the needs of the States.

Mr. McELVAIN. The main thrust of my questioning is to point out that the matching capabilities of the States are good. They are apparently very solid.

Mr. WALKER. I understand that.

Mr. McELVAIN. But the fact is that the Federal Government isn't going to have enough dollars to match all of those State moneys, so we need to look for a more reasonable amount of money that we can expect will actually be cleared by OMB and appropriated.

That is all I have, Mr. Chairman.

Mr. TAYLOR. Any other questions of this witness? Well, thank you, Mr. Walker, and thank you, Dr. Connally.

Our next witness is Richard Forster, Cultural Affairs Officer, U.S. Department of State.

Mr. Forster, you may proceed.

STATEMENT OF RICHARD D. FORSTER, CULTURAL AFFAIRS OFFICER, U.S. DEPARTMENT OF STATE

Mr. FORSTER. Thank you, Mr. Chairman.

The Department of State believes that U.S. interests are well served by our participation in the International Centre for the Study of the Preservation and the Restoration of Cultural Property, popularly called the Rome Centre, and recommends that the funding authority be extended indefinitely to provide for our continued participation in its work. We would further recommend that no limitation be placed on the amounts that may be appropriated annually, noting in this connection that the overall level of assessments of the Rome Centre is already limited by the Centre's statutes, which provide that assessments shall be an amount equal to 1 percent of the members' UNESCO assessments.

In addition, at the recent meeting in April of the General Assembly of the Rome Centre it was decided that, as of January 1, 1974, no member's assessment will exceed 25 percent of the Centre's total annual assessments. However, since the previous ceiling of 30 percent will be

in effect through 1973, the provision in H.R. 7127 relating to the application of the 25-percent limitation to fiscal year 1974, from which our calendar year 1973 contribution will be paid, would make it impossible for the United States to pay its full assessment.

It is the Department of State's belief that the Rome Centre is an appropriate international expression of this Nation's interest in world-wide historic preservation. Moreover, as Mr. Walker and Dr. Connally attested, the United States has itself received substantial direct benefits from its membership in the Centre. In particular, as was emphasized by Dr. Connally, in the rapidly developing field served by the Centre a major advantage to the United States of membership in the Centre is the fact that it gives American experts, through publications, meetings, training courses, and technical assistance projects, access to invaluable international information relative to the preservation and restoration of cultural properties.

As was emphasized by Mr. Walker, a number of Americans have participated in the Centre's varied training courses, its traveling summer school, and the North American International Regional Conference held last year in Williamsburg and Philadelphia. The United States also benefited from a special mission, conducted by the Centre at the request of the Architect of the Capitol, and is expected to profit similarly from the mission currently being organized to investigate and advise upon the deterioration of four ancient Franciscan Missions in San Antonio, Tex.

U.S. influence on the activities of the Centre is substantial. The United States is represented on the 17-member Council which administers the Centre's programs between the biennial assembly meetings, and a U.S. civil servant, on loan to the Centre, is one of the Centre's three program directors.

Thank you, Mr. Chairman.

Mr. TAYLOR. You state that the 25-percent limitation should not be applied for the fiscal year 1973.

Mr. FORSTER. Excuse me, sir; fiscal year 1974.

Mr. TAYLOR. Should not be applied for 1974.

Mr. FORSTER. Fiscal year 1974, that is correct, sir.

Mr. TAYLOR. Because our commitment already reaches 30 percent in 1974?

Mr. FORSTER. For calendar year 1973, and our contribution for this calendar year will be drawn from the fiscal year 1974 authorization.

Mr. TAYLOR. Does the Centre keep its budget on a calendar year basis?

Mr. FORSTER. Yes, it does.

Mr. TAYLOR. So, if we followed the provisions of H.R. 7127, you would want us to amend it so as to permit 30-percent contribution through the year 1973?

Mr. FORSTER. That is correct, sir.

Mr. TAYLOR. But you have no objection to a 25-percent limitation thereafter?

Mr. FORSTER. No, sir; indeed, we worked very hard before the general assembly meeting in April to have the Centre adopt the 25-percent provision, applicable to calendar year 1974 and following.

I might add that the other members were very sympathetic to our request, and I believe I am correct in saying that the Centre was the

first international organization to approve a scale of assessments reflecting the limitation adopted by Congress last fall.

Mr. TAYLOR. Would you summarize again the benefits that you attribute to the United States through its participation in the Centre? That is a question that will be asked us on the House floor.

Mr. FORSTER. Well, sir, I am a lay person in this field, but it does seem to me from reading the records of the Rome Centre's Council and Assembly and the reports of what has been accomplished, that they have achieved a great deal with very few people. As I recall, the secretariat consists of only seven members, which speaks well for their dedication and suggests that it is a program oriented operation. They are functioning as a kind of clearinghouse, making available the information that is developed in this burgeoning field, so that through this exchange, nations like the United States do not have to rely solely on their own resources to develop techniques for historical preservation, but can also make use of the experience acquired by others.

That is one aspect that I emphasized in my statement; in addition, I understand that the students that have attended the various programs sponsored by the Centre have been very satisfied with their experiences.

I suppose that if one were to divide the number of American students so served by the amount of our contribution, the per student figure would seem substantial. On the other hand, when these students come back to the United States and begin their important work in their careers, it seems to me that the dollar value of what they received would have to be placed very high. In addition, it is very difficult to put an adequate dollar figure on the important, basic function of the Centre of acting as a clearinghouse.

Mr. TAYLOR. What is the usual procedure now for the appointing of members of the U.S. delegation, and do you think it advisable that members of this subcommittee participate?

Mr. FORSTER. To answer the last part of your question first, I certainly do agree with Mr. Walker and Dr. Connally that it would indeed be advisable. I myself did not have the opportunity to attend the general assembly meeting in April, but I am going to Europe in June and will visit the Centre then. I definitely agree that there is an advantage to being able to see something in operation and talk to the people who are actually making the Centre work, to find out what they are doing and get a sense of their own feeling of dedication and of purpose, quite apart from the fact, and I believe this was emphasized by Mr. Walker, that Congressmen attached to the delegation could make a very substantial contribution to its effectiveness.

As to the first question, the procedure is for the National Advisory Council, through the good offices of its International Centre Committee, to submit recommendations to the Department of State, and the Secretary of State is obligated by the authorizing legislation to select the members of the delegation from among those persons recommended by the National Advisory Council, to which the State Department looks for help in this highly technical area.

Mr. TAYLOR. If in the future Members of Congress are to be invited to participate, would you initiate that invitation well in advance so that the Members selected would have time to make plans?

Mr. FORSTER. Well, sir, this is an area about which I am not too well informed, but I believe it would be the National Advisory Council's responsibility to do that since, as I say, we are obligated to select the members for the delegation from the persons they recommend. But I am sure that the Department of State would be delighted to facilitate this process in whatever way it can.

Mr. TAYLOR. I mention that because this year the request from the Department of State apparently got to the Speaker rather late. In any event, the action initiated was taken just a few days before the time of the meeting, making it more difficult than ever for any Member to go.

Mr. FORSTER. Well, as I say, I am not thoroughly informed on this particular problem, but I will certainly make it a point of informing myself so that when the next occasion arises, there will be ample lead-time in which to make the necessary arrangements because I do think this is very important.

Mr. TAYLOR. Yes. Thank you.

I will recognize any member who has questions.

Mr. CAMP. Mr. Chairman——

Mr. TAYLOR. The gentlemen from Oklahoma.

Mr. CAMP. Could you give us a dollar figure on what this might cost, or close?

Mr. FORSTER. The U.S. contribution to the Centre?

Mr. CAMP. Yes.

Mr. FORSTER. For the calendar year 1973 it is \$91,000, and for calendar year 1974, the second half of the biennial budgetary period observed by the Centre, it will be \$70,000, as a result of the 25 percent limitation adopted by the centre's general assembly.

Mr. CAMP. If I understand you rightly, this would be enough to take care of what you would feel would be our part of this operation, by limitation of the 25 percent?

Mr. FORSTER. The 25 percent limitation, sir, has been adopted in order to prevent any one member country from paying a disproportionate share.

Actually, the formal assessment of the United States is, as it is for every member state of the Rome Centre, 1 percent of its UNESCO assessment. This was put in the statutes of the centre partly as a result of the fact that UNESCO was the parent organization. But since the 1 percent of the U.S. assessment to UNESCO would be—let's see—our UNESCO assessment is about 30 percent of \$110 million, and that is for a 2-year period——

Mr. CAMP. It would be 33, wouldn't it? Thirty percent would be——

Mr. FORSTER. \$155,000.

Mr. TAYLOR. On a percentage——

Mr. FORSTER [continuing]. Per year.

Mr. TAYLOR. On a percentage basis it would be \$155,000.

Mr. FORSTER. That is correct, sir.

Mr. TAYLOR. Now, where did that 25-percent limitation originate, in the centre itself?

Mr. FORSTER. Yes, sir. It was formerly 30 percent, which will continue to be applicable for this calendar year. And, as I said, that ceiling was originally adopted simply to insure that no one member state paid too much.

Mr. TAYLOR. Now, as I understand it, the Appropriations Committees have moved to limit the contributions of the United States to all international organizations to 25 percent. Has the centre approved a resolution also limiting the contribution of any one member to 25 percent?

Mr. FORSTER. Yes, sir.

Mr. TAYLOR. The gentleman may proceed.

Mr. CAMP. Over on page 2 of your testimony, in the first paragraph, the extension of the paragraph on that page, just for information purposes, because I am sure that from what transpired on the floor the other day that we are going to be asked many questions with regard to this, why is it necessary that the Architect of the Capitol would request the Rome Centre for information regarding the West Front?

Mr. FORSTER. I have——

Mr. CAMP. Why should we go to them?

Mr. FORSTER. I would like to defer to someone else for an answer to your question.

Mr. CAMP. Or why should we ask for advice on the deterioration of the four Franciscan Missions in San Antonio, Tex.?

Mr. FORSTER. I understand that representatives from the Smithsonian Institution will be able to reply to that question.

Mr. CAMP. I understand maybe our staff can tell us.

Mr. McELVAIN. Well, I think, Mr. Camp, that the reason for going to the International Centre for this kind of information is because it has the scientific expertise.

Mr. CAMP. That we don't have in the United States?

Mr. McELVAIN. Well, we have it available to us in the United States as a result of our participation in the International Centre.

Mr. CAMP. I am talking about individuals in the United States who could give us this information. Do we have anyone like that who can give us this information without going to Rome?

Mr. FORSTER. I'm afraid I don't know.

Mr. SEIBERLING. Would the gentleman yield?

Mr. CAMP. Yes.

Mr. SEIBERLING. The European countries have had a tremendous amount of experience with the problems of deterioration of sandstone buildings. Notre Dame Cathedral in Paris is a perfect example as a result of the air pollution and the rest. I am just guessing but I would suspect that the Architect of the Capitol was trying to get all possible information he could as to whether there was any feasible way to preserve the existing stonework on the West Front.

Mr. TAYLOR. Would the gentleman yield to me?

Mr. CAMP. Yes.

Mr. TAYLOR. I might state that this International Centre is the recognized international authority on technical information dealing specifically with preservation techniques, so that it seems to me to be a logical place to seek information.

Mr. CAMP. Again, the point I was trying to make; what happened on the floor the other day when some of these questions were asked by the gentleman from Iowa, I thought maybe I would like to have been more qualified to answer some of these questions, and at that time I sure wasn't. This is why I am asking these questions.

Mr. SEIBERLING. If the gentleman would yield further, perhaps it would be in order to ask the Architect of the Capitol to write us a letter as to the background just for our record and our information.

Mr. CAMP. I would even ask that the staff get this information from the Architect and it be made a part of the record.

Mr. TAYLOR. In the absence of objection, that procedure will be followed.

[The information follows:]

WASHINGTON, D.C. June 1, 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. CHAIRMAN: It is my understanding that your subcommittee is considering H.R. 7127 which, as I understand it, is a bill that would extend funding authorization for, among other things, U.S. participation in the Rome Centre.

We have recently been afforded the gratuitous services of several European stone experts through the Rome Centre. We received responses to our technical inquiries, not only by written reports translated into English, but also through a visit to the Capitol by three persons who were in the United States for another meeting. We had asked for the help of the Rome Centre in furtherance of our investigation of proposed solutions to the deteriorated west central front of the Capitol. This brief but fruitful experience with the Rome Centre has indicated to me its very worthwhile activities, achievements, and goals.

It occurred to me that knowledge of the above association of this office with the Centre and the fact that, as Architect of the Capitol, I have been made a recent member of the Rome Centre Committee, would be of interest to the Congress.

Cordially,

GEORGE M. WHITE, FAIA,
Architect of the Capitol.

Mr. TAYLOR. Is the gentleman from Oklahoma through?

Mr. CAMP. I am finished, sir.

Mr. TAYLOR. Any other questions?

Mr. SEIBERLING. Just one question, Mr. Chairman.

What is the State Department doing, if anything, to try to help get some control on the scandalous situation with respect to international trafficking in archeological objects?

Mr. FORSTER. That is one of the subjects covered by a UNESCO Convention to which the United States is in the process of becoming a party. We expect to participate actively in international efforts designed to prevent this kind of traffic.

As a matter of fact, a request came across my desk just 4 or 5 days ago from UNESCO for an American to attend a meeting of experts in Paris at the UNESCO Headquarters in December, who would be an expert on the technology of prevention, that is to say, all the techniques of preventing important cultural artifacts from being illegally transported from one country to another. This is something that UNESCO is very concerned about, and it has an active program underway to prevent this.

Mr. SEIBERLING. Well, is the State Department going to recommend any legislation for Congress to consider to help tighten up our own laws on this?

Mr. FORSTER. Mr. Chairman, I wonder if I might refer the question to my Smithsonian colleague, Mr. Powers, who, I believe, could answer that.

Mr. TAYLOR. Yes, you may.

**STATEMENT OF PETER POWERS, GENERAL COUNSEL,
SMITHSONIAN INSTITUTION**

Mr. POWERS. I am Peter Powers, General Counsel of the Smithsonian.

For several years now we have been participating in an effort on two scores: One, we participated in the drafting convention 2 years ago in Paris, the drafting session to draft the UNESCO Convention. That was approved by the Senate last year but it requires some implementing legislation of a customs nature.

Only yesterday did I receive for comment from the State Department, and I guess from OMB, the proposed draft legislation to be sent to the Congress I think in the next month or two. It has a very short deadline on it for our comments.

The other effort we have been making is that among the museum community as a whole in the world. We helped draft a resolution and a policy statement for an organization called ICOM, International Council on Museums, which was adopted about 18 months ago, at their general conference.

The witness for the Smithsonian who will follow, Mr. Perrot, has recently been participating in an effort to get American museums to adopt a similar policy statement. He can tell you a bit more about that.

We have a draft which we prepared which we hope will be adopted at the American Association of Museums meeting in June, its annual meeting. We feel that only a limited amount can be done by customs legislation, by international conventions, but it is also the responsibility of the institutions, where a great many of these objects eventually end up, to police themselves and to refuse to accept objects which they either know to have been stolen or where they are not quite sure where they came from. That is the thrust of these policy statements.

In the Smithsonian itself we have a draft which will go before our Board of Regents next week, next Wednesday, and I think will be adopted, to the same effect.

Mr. SEIBERLING. Is there a code of ethics among museums that could be—

Mr. POWERS. That in effect is what this statement—these policy statements are.

Mr. SEIBERLING. Well, thank you, that is a very serious problem and there have been some possible ethical lapses, it seems to me, including the possibility that the director of the Metropolitan Museum in New York was looking the other way when he zealously acquired a very important Etruscan vase which has been featured a great deal in the press.

Mr. POWERS. I have just been in Italy and it is a constant rumor mill in Rome. I think the facts on that one are still yet to be established.

Mr. SEIBERLING. Well, I agree, but certainly it is not the kind of situation a museum director ought to find himself in. If there is any doubt, he should not proceed without going through some established procedure.

Maybe my colleague from New York is more familiar with this than I am.

Mr. BINGHAM. Well, if the gentleman will yield, I would simply express the same thought: that the facts in the matter have not been established. I agree as to the seriousness of the problem but I would not want to appear to join in any apparent criticism of Mr. Hoving, who does an outstanding job as director of the Metropolitan Museum.

Mr. SEIBERLING. I am not suggesting he did anything illegal or unethical, but the whole subject needs to be restudied and we need to have some clear-cut rules and procedures as to when and the manner in which a museum director can properly proceed.

Mr. TAYLOR. The gentleman from California, Mr. Ketchum.

Mr. KETCHUM. Thank you, Mr. Chairman.

I don't wish to belabor this one particular subject area revolving around this \$100,000. Correct me if I am wrong, but didn't you just respond to Mr. Camp that in 1973 our assessment would be something like \$70,000, and in 1974, \$90,000, or vice versa?

Mr. FORSTER. The figure that I gave was \$91,000 for 1973 and \$70,000 for 1974.

Mr. KETCHUM. Why, then, would the \$100,000 bother you?

Mr. FORSTER. Well, the reason why the Department of State believes that it would be preferable not to have a limitation on the money figure goes back to our basic view that once having accepted an international obligation, the United States should be prepared to pay its duly established assessment and that it should have a clear, unambiguous statutory basis for that. Our position is not motivated so much by the concern that \$100,000 would be inadequate, although, as has been mentioned, if the Soviet Union were to join this might well happen, especially if the UNESCO budget, with which the Rome Centre's budget is linked, were increased as a result of inflationary pressures of the kind that have occurred in the past. So there is a real possibility of embarrassment to us. But apart from that, we believe that, in principle, once we join an organization we should be prepared to pay what we are duly assessed—whatever that amount is.

[Additional comments with respect to this inquiry follow:]

The following additional reasons are provided for the Department of State's recommendation that no dollar ceiling be included in the legislation extending the funding authorization for the Rome Centre:

In general, we do not believe that dollar ceilings in themselves serve the purpose of holding down the budgets of the international organizations involved. Moreover, as was emphasized in the foregoing testimony, the Rome Centre's assessments are already limited by its statutes to 1% of members' UNESCO assessments, and this is further limited by an overall ceiling, in relation to total assessments, of 30% for 1973 and 25% for subsequent years.

It has been our experience that dollar ceilings may adversely affect our relations with the organization involved and with the other member countries, which tend to interpret such ceilings as an attempt by one country to determine unilaterally the budget and program of the organization. Similarly, a limitation on our Rome Centre contribution could, at some future date, weaken the ability of the U.S. delegation to the Centre's General Assembly meetings to influence budgetary decisions because of the inflexibility which such a ceiling would impose.

Finally, we believe that a distinction should be made between those programs where financial decisions lie wholly within the U.S. Government and those international organization programs where the decisions are the results of multi-lateral negotiation.

Mr. KETCHUM. You know, it just appears to me the U.S. contribution to almost anything overseas is disproportionate just because it were here.

What was the total budget? Do you know what the total budget for the center is?

Mr. FORSTER. I have that figure.

Mr. POWERS. It is approximately \$300,000 for the coming year.

Mr. FORSTER. The total budget?

Mr. POWERS. Yes.

Mr. FORSTER. I have the figure here. It was \$303,540.

Mr. KETCHUM. Total budget for the year.

Mr. FORSTER. I'm sorry. Those were the assessments. The total budget was somewhat larger than that.

Mr. KETCHUM. Well, would it approach \$2 million a year?

Mr. POWERS. Oh, no.

The total budget, with extra contributions, is in the order of \$400,000 a year.

Mr. FORSTER. \$749,000 for 2 years, which would mean about \$380,000 per year.

Mr. KETCHUM. But it has been indicated that there are 56 member nations and if there are 56 member nations and they each contributed \$100,000, it would be \$5,600,000 a year.

Mr. POWERS. No. I was going to say that the Rome Center contributions are calculated as 1 percent of UNESCO contributions.

Mr. KETCHUM. I understand that.

Mr. POWERS. It is the same situation with the 30 percent rule which originated in UNESCO as prevails in UNESCO.

The U.S. contributions to UNESCO this year will be \$15,504,000. It bears exactly the same proportion to other members of UNESCO as ours will in the case of the Senate.

Mr. KETCHUM. I understand that and I had no part in making that agreement, so that is why I am questioning it. But if you have 56 member nations it simply occurs to me that \$100,000 is not an awful lot of money to any nation, and if each of these member nations contributed \$100,000, you would have \$5,600,000 a year to operate on, which is a substantial amount of money.

Mr. POWERS. I think the realities are that for many nations around the world, to provide more than a few hundred dollars of convertible currencies, in other words, dollars, which is what they are required to pay, is extremely difficult for them, and some of the smaller nations are the ones who are in arrears occasionally for failure to be able to find \$500. I don't know why that should be so, but it seems to be so.

Mr. FORSTER. I think it should be borne in mind that there are in existence many international organizations, all serving different interests, and that whereas \$100,000 for the Rome Centre might not seem excessive, if you multiplied that by the number of organizations that have a claim on the limited resources of the smaller nations, it would be a tremendous burden on them.

As Mr. Powers has pointed out, some of them do find it difficult to pay even a few hundred, much less a few thousand dollars each year. But apart from that, there is, of course, the tendency, especially for small countries, to relate contributions to international organizations the ability to pay, with the result that the United States is asked to pay a much larger amount than these smaller countries.

Mr. KETCHUM. Well, perhaps that is what I am trying to tell you, is that I think perhaps it is time that we change that attitude. I think the people in the United States are getting a little bit weary of constantly being out ahead on all these contributions.

Mr. FORSTER. I would say that there are many people who would sympathize with that point of view. The fact is that the disproportionate share that the United States pays of contributions to international organizations was established just after the Second World War at a time when many countries' economies had been devastated.

Mr. KETCHUM. I understand that.

Mr. FORSTER. The United States, fortunately, had emerged from the war with a strong economy and a much greater ability to pay. But this was a temporary measure, a temporary answer to a problem that existed then. I think the feeling is now that over a period of time the U.S. proportion should be further reduced.

Mr. KETCHUM. Well, again, all I am saying is it is a temporary action that has been continuing for 30 years.

Mr. FORSTER. I might add that the center's reduction in the ceiling on contributions, from 30 percent to 25 percent, which is the effective basis for the U.S. contribution since 1 percent of our UNESCO assessment is well above this, represents an important effort to remedy this situation.

Mr. KETCHUM. Thank you.

Thank you, Mr. Chairman. I am sorry to use so much time.

Mr. TAYLOR. Any other questions? If not, thank you, Mr. Forster, and if you have any further information which would be helpful to us on this legislation, please submit it in writing. I am particularly interested in knowing why you think it is necessary to commit the United States to membership in the international center indefinitely.

[The following memorandum responds to the above request:]

MEMORANDUM

With respect to the reasons for the State Department's recommendation that the funding authority for the International Centre for the Study of the Preservation and the Restoration of Cultural Property (Rome Centre) should be extended indefinitely, the Department believes that the benefits which the United States has derived from the Rome Centre have amply justified our confidence in it and our decision to join. Conversely, we are concerned that the inclusion of a time limit in the new authorization might imply some reservation on our part about our membership in the Centre and suggest that we wished to continue only on a trial basis.

The Department is of the opinion that the absence of a time limitation would strengthen our influence in the Centre and reinforce our claim to be represented, on a continuing basis, on the Centre's Council, which administers the Centre's programs between the biennial Assembly meetings. In this connection, it may be noted that an authorization limited to fiscal years 1974-76 would only cover United States contributions for calendar years 1973-75, placing the U.S. Delegation to the next meeting of the Centre's General Assembly, in April 1975, in the awkward position of seeking support for the U.S. candidate for a two-year Council term that extended more than a year beyond the period for which the U.S. contribution had been authorized.

Mr. TAYLOR. Our next witness is Mr. Paul M. Perrot, Assistant Secretary, museum programs, Smithsonian Institution.

STATEMENT OF PAUL M. PERROT, ASSISTANT SECRETARY, MUSEUM PROGRAMS, SMITHSONIAN INSTITUTION; ACCOMPANIED BY R. M. ORGAN, CHIEF, CONSERVATION ANALYTICAL LABORATORY

Mr. PERROT. Mr. Chairman, with your permission, I would like to ask Mr. Robert Organ, Chief, Conservation Analytical Laboratory, to join me.

Mr. Organ was associated with the First Director of the Rome Centre and has been following the developments of the Centre since its inception.

Mr. TAYLOR. We will be glad to have him join you.

Mr. PERROT. Mr. Chairman, may I proceed?

Mr. TAYLOR. Yes.

Mr. PERROT. I am appearing here on behalf of the Secretary of the Smithsonian Institution, Hon. S. Dillon Ripley. I am also appearing in a sense as a member of the Rome Centre since I was elected to the Council of the Centre at the General Assembly last April.

The written statement I have provided includes in some detail much of the ground that has already been covered by previous testimony this morning.

I would like to highlight a few items, however, among them, the fact that all the professional organizations of this country that are concerned with historical preservation are involved in the International Centre Committee which has been formed at the behest of the Advisory Council for Historic Preservation and which advises the Council on matters of conservation and particularly on activities which relate to the Rome Centre.

Among the over 25 organizations on the Rome Centre Committee are the National Trust, the Smithsonian Institution, National Park Service, the American Association of Museums, the American Association for State and Local History, the American Institute of Architects, the American Society for Civil Engineering, the Association for Preservation of Technology, the U.S. Committee of the International Council of Museums, the Cooperstown Graduate program, the Library of Congress, the National Endowment for the Arts, the National Endowment for the Humanities, the National Gallery of Art, and many others.

I think a listing of these, which I will be glad to provide for the record, Mr. Chairman, indicates that activities of the Centre and the need for conservation are very well understood and supported by these professional organizations.

[The information supplied has been placed in the Committee files.]

If I might digress a little bit from my prepared statement, if you will allow me, the activities of the Rome Centre are somewhat broader in a sense than much of what has been reported this morning.

There is a drastic need throughout the world for trained conservators, conservators who can handle museum objects, restore them, conserve them.

There is also a drastic need for persons who are understanding of the properties of materials that go into historical structures. In the prior discussion this morning, much was said about historic sites and historic districts.

As of now we have very few trained people to carry out the intent of the various legislative acts that have been taken. It has been estimated that the yearly need for conservators in the United States over the next 5 years is 60 trained professionals. All of the schools in this country, as of now are providing no more than 20. Thus we have a yearly deficit of some 40 trained professionals.

In addition to that, interest in conservation is developing in other countries. Our colleagues to the north, in Canada have created a National Conservation Institute which is now recruiting 92 conservators in this country and abroad. The people are not there to fill these obligations!

Now, the Rome Centre is acting as a catalyst, not only for the study of the problems of decomposition, of deterioration, and of restoration, but also is serving as a very important teaching center.

As has been mentioned earlier this morning, a number of courses are given in which American students can participate, and indeed they do. Over 30 have participated in general courses; and nine have taken special courses in the last 20 years.

We feel very strongly at the Smithsonian Institution that museums and historic districts cannot fulfill their task, the task that has been entrusted to them, unless they have adequately trained personnel, personnel that have a broader view of the problem of conservation than those that can be acquired nationally.

By this I mean that the properties are different. From the circumstances and different situations in various parts of the world we can learn a great deal, helping us to understand the problems that confront our material culture here. The Rome Centre acts as a catalyst bringing these people, the specialists, together through conferences, teaching programs, and especially through publications.

Mr. Organ, who has joined me, has brought a number of the publications that have been issued by the Rome Centre since its creation.

May I remind you that the majority of these were published and carried out without the participation of the United States, since the United States only joined the Rome Centre in 1971.

The purposes of the Historic Preservation Act of 1966 are all, I think, very clear in everybody's mind. Without the people, the trained personnel, to institute and to carry out these purposes, much of the legislation, much of our effort will either go down the drain or may end up in misguided attempts at conservation and restoration.

If you would like, Mr. Chairman, I would be glad to read from my prepared statement, but perhaps in the interests of time—

Mr. TAYLOR. In the absence of objection, a copy of your entire statement will be placed in the record, then. You can comment on it further as you see fit.

Mr. PERROT. I just alluded to publications. Mr. Organ has brought a list of them, samples, and I have a list of some of the recent publications of the Centre which I will be glad to introduce for the record, if you wish.

Mr. TAYLOR. In the absence of objection, they can be turned over to the counsel and placed either in the record or file as he determines appropriate.

Mr. PERROT. In addition, I have a copy of the report to the Council, Seventh General Assembly, prepared by the staff of the Rome Centre.

Unfortunately, I only have one copy to make available, but if you would like it, I can leave that.

Mr. TAYLOR. In the absence of objection, that material can also be turned over to the counsel and placed either in the record or file as he deems appropriate.

Mr. PERROT. Reference was made earlier to consultation that members of the Rome Centre staff gave to the Architect of the Capitol on preservation and restoration of some parts of the Capitol Building, and also reference has been made to the work carried out, or that will be carried out in behalf of the San Antonio mission buildings in Texas, which are in need of serious attention due to rather unexpected deterioration.

Now, the deterioration which has taken place in those buildings is one which is new to our scientific understanding. Buildings which have been in existence for centuries and which at the beginning of this century were in perfectly good condition, and gave every promise of being able to survive for a number of centuries more, have begun to disintegrate drastically.

I am not an architectural specialist. My specialty before joining the Smithsonian Institution was the history of glass.

If I might digress a minute on this, it has been found that in the last two decades stained glass windows in the great cathedrals of Europe, which had survived since the 12th, 13th, and 14th centuries with no other damage than that created by man, have started to disintegrate. The glass is just going—laminating itself away into powder.

Now, we may say, "well, that is a problem that affects European monuments," but it is also a problem that affects objects in American collections, as well as on American monuments. We have the problem of the decomposition of glass which is occurring within exhibition cases in museums, glass which appeared completely stable and whose composition was fully understood to be stable. In the last few years, with the effects of changes in light, in temperature, the lack of humidity control or over control of the humidity, it is beginning to disintegrate.

We do not understand why this is happening, but the kind of activities going on at the Rome Centre, the kind of research carried out there by members of the staff and by professionals to whom they have access around the world, will, we hope, provide solutions. It is from that viewpoint that I think it important for the United States, which has inherited substantial parts, in one way or the other, of man's material heritage (in collections that have been acquired by museums), and which has been inherited, as well, the culture of other societies by the variety of its citizenry, to support the important program that the Centre represents. I think we owe it to ourselves.

I would be glad, Mr. Chairman, to answer questions as you would like at this point, or if you would like me to continue.

Mr. TAYLOR. Thank you, Mr. Perrot, for a very excellent presentation as to the importance of the work of the Centre and how it affects our efforts to preserve historic buildings and other cultural properties in this country.

Does anyone have any questions?

Mr. BINGHAM. I do not have so much a question as a comment, particularly in line with what the gentleman from California, Mr. Ketchum, said.

From what we have heard today, I am really amazed at the amount of work this Centre does for what appears to be a relatively small amount of money, and the U.S. contribution would seem to be a very minor effort for us to make in supporting this important work.

Mr. SEIBERLING. I would just like to compliment Mr. Perrot on a very, very informative and excellent statement.

Mr. PERROT. Thank you.

Mr. TAYLOR. I might add that we, in this subcommittee and the Congress, have approved the restoration of a great many historic buildings and other historic sites in recent years. It is important that we know the latest methods and that we have the best technical information as to how buildings should be preserved and how they should be restored. As you say, I can see that by consulting with the Centre, by having their guidance, we might prevent some serious and expensive mistakes.

Any other statements or questions?

Thank you very much.

[Prepared statement follows:]

STATEMENT OF PAUL N. PERROT, ASSISTANT SECRETARY, MUSEUM PROGRAMS,
SMITHSONIAN INSTITUTION

Thank you, Mr. Chairman. I am appearing today on behalf of the Secretary of the Smithsonian Institution, the Hon. S. Dillon Ripley, to comment on amendments relating to the further extension of the Historic Preservation Act of 1966. The Smithsonian Institution strongly supports the purposes of the Act and, as you know, actively participates in the works of the Advisory Council on Historic Preservation.

One of the provisions of the Act which, we feel, is most beneficial for the United States is that providing for its participation in the "International Centre for the Study of the Preservation and the Restoration of Cultural Property," which is located in Rome, Italy (generally known as the Rome Centre), and in which the United States has been a member since 1971.

The participation of the United States in the Rome Centre is coordinated by the Advisory Council on Historic Preservation, which established an International Centre Committee composed of twenty-six U.S. federal and national organizations, among which are the Smithsonian Institution, the Library of Congress, and the Architect of the Capitol. This Committee was established pursuant to Section 206 of the National Historic Preservation Act of 1966, as amended in 1970.

I have the privilege of representing the Secretary of the Smithsonian Institution on this committee, and, in that capacity, as of January 1, 1974 I shall be its Chairman.

The International Centre was created to:

(1) collect, study and circulate documentation concerned with scientific and technical problems of the preservation and restoration of cultural property;

(2) coordinate, stimulate, or institute research in this domain, by means, in particular, of commissions, bodies of experts, international meetings, publications, and exchanges of specialists;

(3) give advice and recommendations on general or specific points connected with the preservation and restoration of cultural property; and

(4) assist in training research workers and technicians and raising the standards of restoration work.

Membership in the Centre is limited to member states of UNESCO, but includes, as well, associate members, public or private organizations of a scientific or cultural nature. Among these, I am pleased to say, the Smithsonian Institution is included.

In fifteen years of existence the Centre has become an increasingly important international force for the understanding of those processes which lead to the deterioration of cultural properties and of those steps which can and must be taken to halt that deterioration.

To achieve its goals, the Centre is located in facilities which are provided free of charge by the Italian government, and is carrying out a variety of programs. These, in random order, include:

Course in Conservation and Restoration of Historic Sites. At the last count this was attended by forty-three students, from twenty-three different countries. Studies include urban planning and the physical and sociological factors which affect historic preservation.

Course in the Preservation of Mural Paintings. This includes detailed studies on the conservation of masonry, the effects of humidity, changes in temperature, etc. These studies are particularly relevant to the efforts made in the United States and elsewhere to develop ways of preserving polychrome surfaces.

In cooperation with the Institute of Archaeology at the University of London, a program in basic conservation technology for archaeological and other objects has been instituted, and a new course has been recently developed on Basic Conservation Science.

I would like to emphasize that all of these courses are open to American students, as well as to students from the fifty-six other countries which are currently members of the Centre.

Additional activities include regional conferences. One of the most successful, and possibly far reaching in its implications, was held last fall in Williamsburg and Philadelphia, with the cooperation of the National Trust and the Advisory Council. Its subject was "Preservation and Conservation—Principle and Practice." This conference brought together, for the first time, leading authorities in the field of historic preservation and museum conservation, in the hope that greater cooperation could develop among all the disciplines concerned with preservation.

Further, the Centre cooperates with a number of national and international organizations. Of particular interest is the work that was done in the last few months at the behest of the Architect of the Capitol, in the hope of finding a solution to the structural stability of the West Front. Another study is being carried out on several structures at the Franciscan Mission of San Antonio, Texas. Specialized research on the problem of water-logged wood is of particular interest to North American archaeologists who are increasingly concerned with wooden and other artifacts that are found in the waterways and lakes of our nation.

In pursuing training programs and research activities, the Centre is directly serving the needs of this country, and the expertise of its staff is constantly available to the various museums, conservation laboratories, and organizations concerned with the preservation of our buildings and monuments.

Thank you, Mr. Chairman, for this opportunity to testify on behalf of this extremely important organization and in defense of programs which, now more than ever, are necessary if we are to transmit to future generations an important part of man's cultural patrimony.

Mr. TAYLOR. Gordon Gray, chairman of the board of the National Trust for Historic Preservation.

Gordon, we are glad to welcome you back before our subcommittee.

STATEMENT OF GORDON GRAY, CHAIRMAN OF THE BOARD, NATIONAL TRUST FOR HISTORIC PRESERVATION; ACCOMPANIED BY JOSEPH PRENDERGAST, AND GEORGE NEWSTEDT

Mr. GRAY. Thank you, Mr. Chairman.

Mr. TAYLOR. You have spoken to us several times with regard to historical preservation.

Mr. GRAY. Well, since 1966 when we got this important legislation, I have been involved.

I shall be brief. I have a prepared statement which, with your permission, Mr. Chairman, I will ask be put in the record.

Mr. TAYLOR. In the absence of objection, a copy of your statement will be included in the record and you may comment on it as you see fit.

[Prepared statement follows:]

STATEMENT OF GORDON GRAY, CHAIRMAN, NATIONAL TRUST FOR HISTORIC PRESERVATION IN THE UNITED STATES

Mr. Chairman, my name is Gordon Gray, I am the Chairman of the Board of Trustees of the National Trust for Historic Preservation, which, as you know, was chartered by Congress in 1949, and entrusted with responsibility for the leadership of private preservation efforts throughout the United States of America. The Trust now has some 38,000 individual members and over 1,000 member organizations in all 50 States and the District of Columbia.

I am appearing before you to support companion bills, S. 1201 and H.R. 5743 to amend the 1966 National Historic Preservation Act (89-665) to authorize future Congressional appropriations thereunder.

With the permission of the Committee, I would like to submit a statement for the record and make my remarks at this time very brief.

It is likely that more progress in historic preservation, more awareness, more action has taken place in the last ten years than in all previous time. The National Trust, individual citizens, local, state and federal governments, historical societies, all combined in that period to move the art of historic preservation rapidly and effectively from the status of a cause of a few to one of many, resulting in an on-going, self-renewing process for historic preservation.

During that period, in 1966, the 89th Congress earned the title of "The Preservation Congress" when it enacted, to the cheers of professional and amateur alike, the National Historic Preservation Act and other preservation legislation.

One of the major programs set in motion by the act was instituted by an authorization to the Secretary of the Interior to make matching grants-in-aid to the National Trust for Historic Preservation and to the States for a variety of preservation projects. This included surveys for landmark evaluation, and designation, the comprehensive statewide historic preservation plan and the request and use of matching funds for actual landmark preservation and restoration.

The U.S. Congress in 1966 set forth a role of the federal government in historic preservation with these words: "Although the major burdens of historic preservation have been borne and the major efforts initiated by private agencies and individuals and both should play a role—a vital role—it is nevertheless necessary and appropriate for the federal government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means and to assist state and local governments and the National Trust to expand and accelerate their historic preservation programs and activities."

The success and strength of historic preservation from 1966 onward has been and will continue to be dependent, in large part, upon how effective the good example of the United States government is, and on Congressional approval of the appropriations needed to implement the 1966 national legislation.

I, therefore, urge your approval of the companion House and Senate bills referred to above authorizing future appropriations under the 1966 Historic Preservation Act.

Mr. GRAY. May I just with a slight digression refer to the editorial in the Washington Post which was referred to a few minutes ago?

I wrote my first letter to the editor of the Washington Post in my life just a couple of days ago, because that editorial referred to National Preservation, which I think the Congress has already passed.

I hope the House passed it yesterday. This was conceived by the National Trust months ago. A number of organizations are related. They are all making preparations for National Preservation Week.

There was also some colloquy about the transfer of air rights and this, as Dr. Connally said, was a study made by Mr. Costonis, a portion of which Mr. Morton has adopted, under a grant which the National Trust solicited from HUD, therefore, they financed a study.

The Washington Post failed to mention the National Trust and I wrote a letter in sadness to the editor saying this.

Our problem through the years, Mr. Chairman, has been getting off the society pages of the newspapers and obtaining newsworthiness that historic preservation really deserves in this country, and I see such a difference now from 1966 when we talked about this act, in the interests of all the members of this committee on preservation, and it is terribly encouraging to me because I have given 12 years of my life to this work.

Well, sir, we have now grown to the point where we have 38,000 individual members, 1,000 member organizations. We, of course, support the legislation that is before the committee.

Like anybody requesting money, I would say we want as much as we can get and the smallest amount of limitation, but I have to be practical and understand that this committee will make its decision about limitations to time and amount.

We hope you will be as generous as you can.

Mr. TAYLOR. Mr. Gray, let me state that up until now the real limitation has not been the authorizing legislation. The real limitation has been the budget and appropriation process. I am very much inclined to think that that will be the case in the future, unless historic preservation is treated better than all other National Park work.

Mr. GRAY. Well, I cannot speak, of course, for the Secretary of Interior or the Director of the Park Service. My impression is that the Secretary of Interior intends to make historic preservation a greater priority than it has ever been made before in his Department, and with the Bicentennial coming up, I think there will be great emphasis in these years ahead.

I must say that the movement is growing. I think there is more progress, more awareness, more action in the last 10 years than in all previous times in the history of our country. We really now have a movement going which 10 years ago would have been hard to define as a movement.

Mr. TAYLOR. I think that is true of the entire operation of the National Park Service.

Those of us on this committee listened to the Secretary of Interior when he requested \$300 million a year for the Land and Water Conservation Fund for the acquisition of national parklands, et cetera, and for aid for the States in acquiring and developing parklands.

We passed that legislation. This year we have seen most of that money frozen so that very little of it can be spent. Now, we have a situation in which the Department—the administration—has asked for only \$50 million to be appropriated in fiscal year 1974 out of an authorized \$300 million. So, as I see it, the limitation up until now has not been the authorization process on these programs. Instead it has been the budget and appropriation process.

Mr. GRAY. I understand that, Mr. Chairman, and we have chafed under this lack of maximum requests, but you understand that, although we are chartered by Congress, we are a private organization and we have no authority to go to OMB or anybody else and demand that these amounts be increased.

All we can do is express our hope and interest and concern, and this, of course—there is being requested about twice what has been requested in the past, which is progress.

Mr. TAYLOR. That is right.

Mr. GRAY. So I do not think I would like to take any more time of this committee unless there are questions except to make a personal point, if I may, Mr. Chairman.

That is that I have been around this town with my nose in and out of the public trough since 1947, and I have never ceased to marvel at the patience of the Members of the Congress in hearings of this sort, and if I may say also, the patience of some of the witnesses.

I shall be glad to try to answer any questions you might have about the National Trust.

Mr. TAYLOR. Mr. Gray, on what basis are the historic preservation funds allocated to the National Trust versus the States?

Mr. GRAY. The Secretary of Interior makes the determination.

Someone testified earlier that it is contemplated—I guess Mr. Walker—let me say this year we would hope that the legislation and appropriation passes to get \$1.613 million-plus.

You have heard the Director of the Park Service say it is contemplated that the share of the National Trust will never exceed \$1.175 million. That comes somewhat out of the legislative history of the act when the first year I think there was authorized \$2 million. The second year, there was an appropriation of \$300,000, all of which went to the National Trust, because the States were not ready. They had nothing.

The next year—1969—the allocation to the National Trust was only \$17,500 out of the \$100,000 appropriated. Which sort of established in the minds of a lot of people a 17.5 percent share.

I think frankly—I am being quite candid, sir—that the legislative history would seem to support that amount of percentage of allocation to the National Trust.

I should also be candid to say that at the present time, although we are able to match that with our own funds, we could not go very much beyond it.

I hope that is not a permanent ceiling, but at the moment the formula, to oversimplify it, is 17.5 percent.

Mr. TAYLOR. What is the maximum amount that you are in a position to match in 1974?

Mr. GRAY. I have it, sir.

For 1974, we requested \$1.613 million. We could have spent \$3 million.

Mr. TAYLOR. In other words, you could match \$3 million?

Mr. GRAY. No. We could match \$1.6 million, but we had projects which—firm projects for which there was a need to spend.

Mr. TAYLOR. You match it on a dollar-for-dollar basis?

Mr. GRAY. That is right.

Mr. TAYLOR. And the States do the same?

Mr. GRAY. That is correct, sir.

For fiscal year 1975, our requirements would go to something over \$4 million.

For fiscal 1975, 4.6 million.

Fiscal 1977, 4.3 million.

Fiscal 1978, 6.1 million.

Mr. TAYLOR. Mr. Gray, could you come back this afternoon?

Mr. GRAY. May I ask, Mr. Chairman, if you want figures. Mr. Prendergast and Mr. Newstedt know more about the figures than I do. If that would be the subject of discussion, they could come back, since I do have another commitment.

Mr. BINGHAM. I have a brief comment, not a question.

I would just like to join in commending Mr. Gray for the tremendous work he has done, and I do not know whether the subcommittee has known this, but he certainly has maintained one of the most beautiful houses in Washington. It is truly a historic house in Georgetown.

I had the pleasure of living across the street from it for 7 years and observing it with pleasure.

Mr. GRAY. I hope I live long enough to continue to preserve it.

Mr. TAYLOR. I, too, have been proud of my fellow Tarheel and his dedicated interest in historic preservation. Our paths have been crossing ever since we both attended the same law school in 1936 and took the same bar exam in 1936. Gordon has rendered a real contribution to historic preservation and has brought to our attention many things that need to be done.

Mr. SEIBERLING. Mr. Chairman, could I add my commendation of Mr. Gray, and appreciation for the tremendous pioneer work that the national trust has accomplished. If it were not for the national trust, we would be decades behind.

Mr. GRAY. Sir, I am grateful for that observation and I am constrained to agree with you, sir.

Mr. TAYLOR. We will stand in recess until 3 p.m. this afternoon.

[Whereupon, at 12:15 p.m., the committee recessed, to reconvene at 3 p.m., of the same day.]

AFTERNOON SESSION, 3:05 O'CLOCK, THURSDAY, MAY 3, 1973

TESTIMONY OF JOSEPH PRENDERGAST AND GEORGE NEWSTEDT— Resumed

Mr. TAYLOR. The Subcommittee on National Parks will reconvene.

Mr. Prendergast, how is the money that has been allocated for the National Trust being used?

Mr. PRENDERGAST. I have the record right here. I can give it to you right from the very beginning step by step. The first money we received was for fiscal 1968. We received about \$300,000; \$50,000 of that was used for the restoration, maintenance and administration of our properties, our historic properties, which we own and administer for the public benefit.

As you know, all of our properties if we are ever dissolved by an act of Congress, since we were created by an act of Congress, will then go to the Federal Government. We are more or less trustees for the U.S. Government during this period.

\$150,000 was used during this period for technical assistance and educational programs. We are in a certain sense like the Rome Centre, we are the organization to which people turn for advice and help and

consultation, we are like a doctor or a lawyer if you have a problem in historic preservation, you will turn to the national trust for advice and help of one type or another.

We also have the responsibility by Congress to facilitate the participation of the general public in the preservation movement, and to further the national preservation policy. So we do have an educational program. And we have publications of various kinds. That was the first year.

Now, the second year, we only received \$17,500 and that was all used for technical assistance in educational programs. The third year, 1970, \$134,000 for maintenance, administration, restoration; \$166,000 for technical assistance and educational programs. 1971, \$806,518 for maintenance and administration, \$235,505 for technical assistance and education. In 1972, \$660,773 for administration, and \$381,250 for educational assistance.

In 1973, the present year, \$829,304 for restoration, maintenance, administration and \$484,071 for technical assistance.

Now, we have requested for next year, or rather we will if there's an appropriation, for some \$1,613,000; and of that, we anticipate that \$802,000 for maintenance and administration of trust properties, and \$560,000 for technical assistance, educational programs. And then for the acquisition and development of trust properties, \$359,265.

Giving a total of \$1,613,823. We haven't asked for that yet. We will testify in the hearing of the Appropriation Committee and will be using those figures. But since nothing has been in appropriation, we have made no application to the National Park Service yet.

Mr. TAYLOR. Haven't you used some of the funds for specific restoration projects?

Mr. PRENDERGAST. Only of our own, on our own properties. We have 12 properties throughout the country. For example, we have the Woodrow Wilson House here in Washington, the former home of former President Woodrow Wilson, the Decatur House. We have Woodlawn down by Mount Vernon. We have a place in Massachusetts, Chesterwood, we have one in Louisiana, one in California, and then there's one in New York. And we have other houses around the country.

Now, some of these funds go for the administration and restoration of those buildings.

Mr. TAYLOR. Are you using any of the money to add to those facilities?

Mr. PRENDERGAST. To add to them, I'm not quite sure what you mean by add.

Mr. TAYLOR. By add to, I mean to secure other similar facilities.

Mr. PRENDERGAST. Yes, yes. Some money is available to us to acquire additional properties.

Mr. TAYLOR. Yes.

Mr. PRENDERGAST. And one of the ones we now have under option at the present time is Dreyton Hall just outside of Charleston, S.C. And we're hoping, you see, we'll have to raise the money to match it dollar for dollar, so we now have an option on one of the greatest houses in America. And if we can raise the money, and match it with Federal funds, then we will acquire it.

But that is very unusual because most of the time we receive them as gifts with endowments of their own.

Mr. TAYLOR. In the future, will you use the money that you may secure to maintain and operate your properties?

Mr. PRENDERGAST. Yes.

Mr. TAYLOR. Consisting now of 12 buildings?

Mr. PRENDERGAST. Twelve buildings, and hardly a month goes by that there isn't some property offered to us for our consideration.

Mr. TAYLOR. All right, then you will use some of the money to acquire additional properties of historic value.

Mr. PRENDERGAST. Yes, that's right.

Mr. TAYLOR. Do you use some of the money for educational programs?

Mr. PRENDERGAST. Yes, I think the proportion is going that way. We have the one source for information, advice, and consultation of various kinds all over the country. We have the expert staff.

Mr. TAYLOR. Do you ever dispose of any of your properties by conveying them to the National Park Service or—

Mr. PRENDERGAST. We never have. At the present time, those that were given to us by will or bequest are sometimes restricted, we couldn't do it if we wanted to. The properties we have acquired; we never have been faced with the question.

So I don't know, but I do go back and say that any properties that we have if we are dissolved they become the property of the United States, so we could not dispose of them.

Mr. TAYLOR. Mr. McElvain, do you have any questions?

Mr. McELVAIN. I have just two quick ones.

Are the properties that you own and operate open to the public generally?

Mr. PRENDERGAST. Yes. Open almost constantly; for example, they may be closed January, February, or March, but they are open. And we are trying very, very hard to make them very useful for community activities.

We don't believe entirely in historic museums. We believe in adaptive use. We think our houses should be a center of community activity and education within whatever the area may be.

Mr. McELVAIN. Is there normally an admission charge to them?

Mr. PRENDERGAST. Yes, there would be; say \$1, 50 cents, 75 cents, whatever it may be.

One more thing I'd like to point out about the funds that we receive from the National Park Service. None of those funds are used for what you might call our private activities, that is our public relations or our fundraising. We don't use any Federal funds for that at all.

And I would say perhaps last year, 30 percent of our budget was Federal funds, so that we had—70 percent we raised from private funds.

Mr. McELVAIN. Could you provide a list showing the properties which you operate, their location, and the source from which they

were received (either by will from somebody or by acquisition), and the cost of admission for each property?

Mr. PRENDERGAST. Yes, we can do that. And we can also—we could leave a copy of the annual report, which would give you a general discussion and description of the work. And I also was hoping the Congressman from California would be here, because we now have a western office. And here is a report on 2 years of our western office.

You see, people have felt in the past that we've been too much of an eastern organization. We have now had a man out there in an office for 2 years, and doing a tremendous amount of preservation work in the Western States. And if you think you'd be interested, I'll be happy to leave this.

Mr. McELVAIN. Thank you.

Mr. PRENDERGAST. We'll provide the other information for you. [The information referred to follows:]

NATIONAL TRUST FOR HISTORIC PRESERVATION,
Washington, D.C., May 4, 1973.

Mr. LEE McELVAIN,
Consultant, Subcommittee on National Parks and Recreation, House Committee on Interior and Insular Affairs, Longworth House Office Building, Washington, D.C.

DEAR Mr. McELVAIN: On May 3, 1973 you asked us to provide a list of our historic properties and to indicate how they were acquired and the cost of public admission thereto:

Property	How acquired	Cost of admissions
Decatur House, Washington, D.C.	Bequest of Mrs. Truxton Beale	\$0.50
Shadows-on-the-Teche, New Iberia, La.	Bequest of Mr. Weeks Hall	1.00
Woodlawn Plantation, Mt. Vernon, Va.	Given to the trust by the Woodlawn Public Foundation, Inc.	1.25
Casa Amesti, Monterey, Calif.	Bequest of Frances A. Elkins	.50
Lyndhurst, Tarrytown, N.Y.	Bequest of the Dutchess De Tallyrand	1.75
Belle Grove, Middletown, Va.	Bequest of Francis Hunnewell	1.00
Pope-Leighey House, Mt. Vernon, Va.	Gift from Mrs. Marjory T. Leighey	1.25
Oatlands House, Leesburg, Va.	Gift of Mr. and Mrs. David E. Finley and Mrs. A. E. Emmett	1.00
Chesterwood, Stockbridge, Mass.	Gift from the Daniel Chester French Foundation	1.00
Cliveden, Philadelphia, Pa.	Gift and purchase	1.25
Cooper Molera Adobes, Monterey, Calif.	Bequest of Frances Molera	(1)
Woodrow Wilson House, Washington, D.C.	Bequest of Mrs. Woodrow Wilson	1.00

¹ Not open yet, under restoration.

If we can provide other information for your records, please let us know.

Sincerely,

JOSEPH PRENDERGAST, *Executive Director.*

Cliveden consists of (a) 6 acres and an historic house on Germantown Avenue in Philadelphia appraised at \$505,150, (b) furniture and other furnishings appraised at \$990,665, and (c) a maintenance fund of \$500,000. Cliveden was acquired by a combination of gifts and a purchase price of \$500,000, \$250,000 of which was a matching Federal grant.

P.S.—I am also enclosing a chart containing the figures Mr. Gray and I presented at the Hearing.

NATIONAL TRUST FOR HISTORIC PRESERVATION
FEDERAL MATCHING GRANTS-IN-AID

Fiscal year	Acquisition and administration of historic properties	Technical assistance and educational programs	Total
1968.....	\$150,000	\$150,000	\$300,000
1969.....		17,500	17,500
1970.....	134,000	166,000	300,000
1971.....	806,518	235,505	1,042,023
1972.....	660,773	381,250	1,042,023
1973.....	829,304	484,071	1,313,375
Total.....	2,580,595	1,434,326	4,014,921
Projected:			
1974.....	1,057,141	556,682	1,613,823
1975.....	1,382,770	640,184	2,022,954
1976.....	1,590,186	736,212	2,326,398
1977.....	1,828,714	846,644	2,675,358
1978.....	2,104,020	974,641	3,078,661

Mr. McELVAIN. I have one other question. You mentioned that you have people coming to you with properties of historic significance, or which they think are of historic significance, which you cannot acquire or accept for some reason. Do you try to help them to find somebody who can purchase a property or take it over?

Mr. PRENDERGAST. As a matter of fact, I would say it's a general principle, that the last thing we will do is to take the property ourselves. What we want to do is preserve that property. We would like to help the individual owner to preserve it if he can.

If he finds himself in a position where he just can't maintain it, we will work with him to find some organization, locally for example, or statewide, that will handle it. Only if it is great property and really great property of national historic significance would the trust be interested in it itself. But we are not out to acquire property for the sake of acquiring property; we are out to preserve property.

We like to use easements, if we can, restrictive covenants, if we can, arrangements with other local organizations to have responsibility for the administration of the property under our general supervision.

Mr. McELVAIN. But you don't get into the business of giving them financial assistance to help them preserve their property?

Mr. PRENDERGAST. We have in the past turned to the legislation. We have requested from the National Park Service funds for financial emergency assistance to local people. But that's never been funded. We've never received any funds for that.

We have ourselves from our own funds given money for what we call consultation grants, not brick and mortar money, but for example, if a community wanted to make a study of a particular building and they need professional advice, they can apply to us for a consultation grant.

We would make them a grant, a matching grant to them, which they would match, and then employ a professional survey man, or a professional historian to make a study. And then we would apply the funds to it.

And we also have what Mr. Newstedt called to my attention, we've raised about \$300,000 of private funds for a national historic revolving

fund, which we are now in the process of making loans from that. We are trying to get every community to do what Charleston has done and what Savannah has done.

We believe historic restoration must be economically viable or it isn't going to work. So what they have done down there, we now have this national fund program; we will loan money to a community, which would set up a revolving fund of its own and buy property, historic property to preserve it, put them under restrictive covenants, restore them, sell them, take the money and revolve it again.

So we have under this program of resolving funds the ability to make grants, the ability to make loans, and the ability to give guarantees. But those are all our private funds, they are not Federal funds.

Mr. McELVAIN. I think that's all I have, Mr. Chairman.

Mr. TAYLOR. The Federal program aids you in securing matching grants?

Mr. PRENDERGAST. Yes.

Mr. TAYLOR. Does it aid you in securing bequests of historic property?

Mr. PRENDERGAST. That's a question, frankly—there are many people that do not want to give their properties to a public agency or to the Federal Government or State government. There are those who would not be too happy if Federal funds were involved. There are others who would do just the opposite.

We were established way back in 1949. One purpose was to receive gifts of properties that would not be given to the National Park Service, because they wanted to give to a private organization rather than to a public organization. So I really couldn't say that the Federal funds help us to get properties. But they help us to provide services through our educational and technical assistance.

Mr. TAYLOR. What standards do you use in selecting a historic building as an addition to your properties?

Mr. PRENDERGAST. Well, at the present time, it's much simpler than it used to be because there is a national register, and there is the national historic landmarks that have already been selected carefully by the National Park Service, who has gone through a board of advisers who reviewed the building itself, and have come to the determination that that is a national historic landmark of national significance. So we already have that.

Now, we will go see it ourselves, and check up for ourselves. And we will also determine what it would cost in the way of administration, and we try to get endowment funds given to us to cover that cost, so far as possible.

Mr. TAYLOR. All right.

You do not accept any national historic landmark that someone proposes to give you, do you?

Mr. PRENDERGAST. Yes.

Mr. TAYLOR. Any?

Mr. PRENDERGAST. Any national historic landmark, yes, that by itself with that rating of national historic landmark, we would accept.

Mr. TAYLOR. All right.

This coming Saturday, I am supposed to participate in a program designating the Thomas Wolfe home in Asheville as a national historic landmark. This is the boardinghouse where he wrote "Look Homeward Angel." It belongs to the city of Asheville.

Are you saying that if the city saw fit to donate that to the national trust, that you would accept it?

MR. PRENDERGAST. I would not go quite that far, not having seen it, and not finding out whether there are any funds going with it. If they're just going to give us the property, and say, OK, now you maintain it forever, we would be very hesitant about that.

As a matter of fact, Mr. Chairman, I live in a national historic landmark of my own, and wish the National Trust would take it over and run it for me, because they are very expensive to run. So we would be happy to consider very seriously, and I want to emphasize very seriously; I wouldn't say in advance we would necessarily accept it.

MR. TAYLOR. Well, I don't think the city of Asheville wants to part with it, but it's just a thought.

Yes?

MR. McELVAIN. I have just one other quick question.

When a property is owned by the national trust, is it subject to local real estate taxes and so forth?

MR. PRENDERGAST. No. If it is being used as a public historic museum, no, it is not. Now, it would depend upon the particular State. I hesitate to say, one lawyer to another, Massachusetts is a little bit different. We have a place called Chestwood up there.

Now, for us to get out of real estate taxes in Massachusetts' Chestwood, we would have to set up a separate Massachusetts corporation and put it into that. The fact that we are a national corporation doesn't have much value with Massachusetts. But you know Massachusetts is a strange State these days.

MR. McELVAIN. Thank you, Mr. Chairman.

MR. TAYLOR. Well, I think that's all Mr. Prendergast. We thank you.

MR. PRENDERGAST. Thank you, sir.

MR. TAYLOR. Our next witness is Dr. H. G. Jones, State historian, North Carolina Office of Archives and History. I understand that Dr. Jones had to appear before the State legislature this afternoon, probably the appropriations committee, and couldn't be here.

Absent objection, and I hear none, a copy of Dr. Jones's statement will be made a part of the record at this point.

[The statement referred to follows:]

STATEMENT OF DR. H. G. JONES, STATE HISTORIAN, NORTH CAROLINA OFFICE OF ARCHIVES AND HISTORY

As chairman of the Advisory Committee to the National Register, a committee of the National Conference of State Historic Preservation Officers, I surprise no one with my support of the proposed legislation before this subcommittee. For, as the head of a state historic preservation program, I, for my state, have been a beneficiary of the grants-in-aid program administered under the National Historic Preservation Act of 1966.

Others can more eloquently than I speak of the great importance of preserving our heritage as transmitted to us through buildings, structures, objects, and sites. They will point to the alarming rate of destruction of the evidences of the past which document in a tangible way the history of peoples of many origins

who have contributed to our America. I shall assume that we need not justify the purposes of this program, for the Congress has on many occasions asserted its support of those purposes.

Rather, I should like to comment on the effects of the program upon our nation. The National Historic Preservation Act has in a very real way become the magnet around which the historic preservation movement has united. Yet it has also sent out its impulses in the form of an awareness which is being incorporated into other movements—land use, environmental protection, urban renewal, community development. Those of us who labored under the arbor of history for many years now have emerged into the mainstream of our national life, and we find all around us new allies, new awarenesses, new avenues for the appreciation and preservation of our heritage. In short, historic preservation has come of age. It is no longer a matter of simply saving an old building; historic preservation now is a respectable desideratum involving community pride and participation.

More than any single development, the National Historic Preservation Act has, by means of expanding the National Register and extending grants-in-aid to the states through the state historic preservation officers, brought about this dramatic change in public attitude in the past six years.

This great accomplishment has not been attained without its problems, the greatest of which has been the stimulation of hopes too optimistic. Not a week passes in which I do not have to explain to sponsors of worthy projects that the act has not yet been fully implemented by the provision of adequate funding. Perhaps a program operative for only six years cannot be expected to be fully implemented so early. But, as a representative of the National Conference of State Historic Preservation Officers, I believe I can say that the time for implementation has come because (1) the states now have staffs competent to carry out their responsibilities and (2) the National Register staff has developed operational procedures that will assure a program of high quality in the accomplishment of the purposes of the program.

Others also will speak of the needs of all the states; I shall refer only to my own state whose General Assembly this very day is considering—with every indication of favorable action—appropriations to match more than ten times the amount of North Carolina's federal apportionment for restoration work. A major factor in this favorable legislative consideration is the anticipation of increased apportionments from the federal grants-in-aid program during the coming biennium.

Thus interest has been kindled, and those of us who grew up without central heating know the difficulty of restarting an extinguished fire. The hopes that have been raised need to be nurtured along with the lightwood of a modest increase in each annual appropriation for the Department of the Interior's historic preservation grants-in-aid program.

This is a self-help program. It offers nothing to those who will not help themselves. Initiative remains in the states, where it should be. The annual apportionment is based upon the determination and demonstrated capabilities of the states and their communities to match every federal dollar—usually many fold. Yet the results accrue to the benefit of our entire nation. Of all the federal assistance programs that I know, this one most nearly approaches the ideal because it seeks to accomplish a national purpose by stimulating greater local effort rather than replacing it. For the adoption of principles and procedures which make this a model program, we are indebted largely to the members of the staff of the National Register who have worked patiently and cooperatively with the states. Never have I had the pleasure of working with a more conscientious and cooperative group of federal officials. They have made us partners in an exciting and long overdue program for the preservation of our heritage.

I support the reauthorization of the grants-in-aid program and the removal of the present limit on appropriations. Such legislation will enable the Congress to study the needs as they are presented each year and to make its determination of the limits of federal assistance in keeping with the exigencies of the times. We do not expect miracles—we know the fiscal problems of our government—but we also recognize the need for the encouragement that will emanate from favorable action on the proposed legislation before this subcommittee.

Mr. TAYLOR. William P. Pinney, State liaison officer, Agency of Development and Community Affairs.

You're from Vermont?

Mr. PINNEY. Vermont, yes, sir.

**TESTIMONY OF WILLIAM B. PINNEY, STATE LIAISON OFFICER,
AGENCY OF DEVELOPMENT AND COMMUNITY AFFAIRS, MONT-
PELIER, VT.**

Mr. PINNEY. I appreciate this opportunity to come down here today. I'm sorry I don't have a prepared presentation, because I didn't learn until almost this time yesterday that I was to appear.

I would like to speak briefly on the effect of the national register program in the States, what the program means to the States. A few brief, short years ago, when the National Historic Preservation Act was passed, we were losing our historic places at an alarming rate. This situation was compounded by the fact that many States approach to preservation was based on looking out after selected sites, the old battlefields, the historic mansion house.

In the case of Vermont, I have to admit that a few short years ago, the bulk of their attention to preservation was directed at State-owned sites. The State owns 19 historic sites with 41 buildings.

The National Act called upon the States to conduct a statewide survey of their historic assets, and to—among other things—to prepare a State preservation plan as was touched upon this morning.

The State embarked upon these projects. They conducted their surveys, and in some cases, they are still going on. They range from several hundred sites to over 2,000 or 3,000 in the case of some States, and they prepared their State plans.

They were provided with guidance by the National Register in the preparation of their plans. And this guide, which was given to the States by the National Register, is really—I have looked upon it as a vitally important thing, because it has not only withstood the time very well, it is little changed today. We are still using it, but it had a remarkable effect in the States from the standpoint of historic preservation.

As a result of the conduct of the survey, and following the guidelines as laid down by the National Register in preparing the States plans, a whole new concept of historic preservation dawned upon the States. The era of looking out after the battlefields and the old mansion was suddenly a thing of the past.

We looked over the entire State and realized that our entire statewide heritage was in jeopardy. That we must direct our attention not only to individual sites, but to our entire historic environment. And this went on all over the country at a very rapid rate; and thereby was born what is today our really great national historic preservation movement.

It becomes obvious at the same time that this was far beyond the capability of the States to fund what was necessary over a long period of time to preserve these vast numbers of historic structures and sites. In accordance with the act, funding became available for some preservation projects, acquisition, and preservation in limited amounts.

At the same time, we became so conscious of the widespread need for preservation all over the State, we realized that the day and age when

we in Vermont directed our attention to our 19 sites and our State-owned sites was a thing of the past. If we were going to get ahold on this preservation picture, we had to look out over the entire State.

And it was obvious that the future of preservation, not only in our State but I believe in every State, is going to be at the community level. It's going to be municipalities and local preservation groups. And all of these groups, especially small towns, rural towns, such as we have many of, they desperately need aid; and therein lies the entire program.

Within the past year, I have had at least 50 requests for aid from local organizations and communities in Vermont, and we have only 250 towns in the entire State. As of this date, there is nothing I can do for them. And the level of funding up until this time has been such that the portion of it that has gone to the States for the funding of their survey and planning processes has been well taken care of; and in most cases, adequate.

But in the smaller States with smaller matching capabilities beyond the survey and planning, it dropped off. And we have been able to divert some funds toward development of some of our State sites. But one way or another, we would have considered them at any rate. Where the desperate need is at the local level, and not one, or a dozen, or a hundred, but hundreds of sites.

Mr. TAYLOR. How do you determine priority? Who determines which projects will be undertaken?

Now, you say you have many requests for funds.

Mr. PINNEY. If the question is, sir, what project will be undertaken, it generally is up to the people at the local level. In this case, it doesn't—if it involved funding, we would have priorities but we are, at this point, not able to involve ourselves in grant programs within the States.

Mr. TAYLOR. Well, how do you determine on the State level which project will have priority?

Mr. PINNEY. Generally the funds that we have diverted in the past years; in this, we now will be diverting all the funds we can to local projects. But the funds we have used on State sites have generally gone to the ones that were farthest in arrears in their development.

The sites that are State owned are sites of national significance, and you can't say that one is more important than another, really. And some have had more attention over the years, and so the ones that have been, say, neglected, are the ones that we have given attention to.

Where directing funds—this gets back to one of the gentleman's questions this morning—where we are directing funds to these local projects, we would have a system of priority based on public good. And the sites that didn't involve as much public access, as much public good, would, of course, take lesser priority.

Now, this project of course, the grants go out to individual States, but this is not just funding individual State projects. Collectively, we in the States, we are working to preserve the historic properties in our individual States. But collectively, across the country, we actually in effect are preserving our entire national historic patrimony.

This is—taken in that light—is a national project, and in need of substantial national support.

In Vermont, in fiscal 1974—

Mr. TAYLOR. Now, I will have to leave in just a minute because there is a vote on the House floor.

Mr. PINNEY. I see.

Mr. TAYLOR. I would suggest that you revise and extend your statement as you see fit and mail it in to the committee adding any additional thoughts which you would like for us to consider.

Also, the Counsel will be granted the privilege to direct any questions that he might see fit to you. You are the only one, since Dr. Jones couldn't come, who is here to represent the State viewpoint. And we are interested in your experience and in your thoughts. Any other statement received by the subcommittee will be reviewed and placed in the record or file as deemed appropriate.

[Ed. note: No additional material was submitted by Mr. Pinney when this hearing was printed. Anything furnished in the future on this subject will be placed in the subcommittee file.]

With that in mind and with appreciation for those who did appear, the subcommittee will stand adjourned.

[Whereupon, at 3:35 p.m., the hearing in the above entitled matter was adjourned.]

[The following statement was submitted for the record:]

STATEMENT OF MARTIN H. COHEN, AIA, CHAIRMAN, COMMITTEE ON HISTORIC RESOURCES, THE AMERICAN INSTITUTE OF ARCHITECTS

Mr. Chairman. I am Martin H. Cohen, AIA, Chairman of the Committee on Historic Resource of The American Institute of Architects, a past Chairman of the Historic Buildings Committee of the New York Chapter of the AIA, and a practicing architect in New York City.

The American Institute of Architects, the national society for the architectural profession representing 24,000 licensed architects, wishes to express its support for the reauthorization of historic preservation programs initiated by the Historic Preservation Act of 1966.

The historical and cultural foundations of the nation should be preserved as living parts of our community life and development. It is necessary and appropriate for the Federal Government to accelerate its historic preservation programs to encourage agencies and individuals, state and local governments, the National Trust for Historic Preservation, and the Advisory Council on Historic Preservation to expand and accelerate their programs and activities.

Under the impetus of the 1966 Act, new preservation opportunities have opened up in almost every state. As the programs of the Advisory Council, the National Trust, the Department of Housing and Urban Development, and the Department of the Interior have been funded, state and local governments have responded with new attitudes. Federal agencies such as the General Services Administration and the Department of Transportation have also assumed beneficial roles, especially since the Executive Order of 1971 clarified their roles and coordinated their approaches toward preservation projects. Our precious resources are less often wasted and lost today, but they are still in danger. They are still fragile and they are still irreplaceable.

To encourage and assist the development of local preservation projects, the AIA's Committee on Historic Resources maintains a network of State Preservation Coordinators in every state. These State Coordinators work with the officials responsible for preservation programs in their states, and with the Institute's chapters throughout the country. They play a major role in helping their states increase their nominations to the National Register and their participation in grant-in-aid programs, such as those of the National Park Service and the National Trust. They are in constant touch with what is going on at the grassroots level and all their reports sound more encouraging every year.

It is now clear that preservation has become a very popular movement and that it has expanded from single buildings to whole neighborhoods. In every part of the country, people are investing their own cash and their own labor in the restoration and recycling of the homes and neighborhoods they know and love and Congress has responded with an increasing number of bills which would expand and augment available programs. President Nixon, in his second message on the State of the Union on February 15, 1973, suggested new tax laws to encourage rehabilitation of older buildings and Federal insurance of loans to restore historic buildings for residential purposes. The Institute is pleased to see these new initiatives and we will be pleased to comment on them individually at the appropriate time.

The institute recommends that the Committee approve H.R. 7127, which extends the authorization of the historic preservation program for an additional three years. However, we recommended that the funding for the program be authorized at levels equal to the actual matching capacities projected by the states and as reported by the National Park Service.

Saving the nation's historic and cultural resources is a big job. A great deal remains to be done. But we have made a good start, and we are on the right track. The Institute recommends continuation of the historic preservation programs at funding levels sufficient to maintain or increase their effectiveness. Thank you for this opportunity to present our views.



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