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ADVANCE FOR RELEASE
12:30 P.M. - EST
THURSDAY, MAY 13, 1971

REMARKS OF CASPAR W. WEINBERGER
DEPUTY DIRECTOR OF THE
OFFICE OF MANAGEMENT AND BUDGET
BEFORE THE
CONFERENCE BOARD
WALDORF ASTORIA
NEW YORK, NEW YORK



THE INTENSE PUBLIC DISCUSSION IN RECENT MONTHS CONCERNING THE IMPOUNDMENT OF FUNDS BY THE EXECUTIVE BRANCH HAS TAKEN ME, I MUST CONFESS, SLIGHTLY BY SURPRISE. IT HAD NOT SEEMED TO ME POSSIBLE THAT A PRACTICE IN USE SINCE THE TIME OF THOMAS JEFFERSON -- WHEN A TREATY OF FRIENDSHIP WITH CERTAIN INDIANS ON THE MISSISSIPPI MADE UNNECESSARY THE PURCHASE OF SEVERAL GUN-BOATS FOR WHICH APPROPRIATIONS HAD BEEN MADE -- AND, AT LEAST TO SOME DEGREE, OF UNDOUBTED NECESSITY IF THE GOVERNMENT'S FUNDS ARE TO BE WISELY MANAGED COULD BE THE SUBJECT OF SO MUCH MISUNDERSTANDING AND IRRESPONSIBLE CRITICISM.

BECAUSE THE PUBLIC DEBATE ON THIS ISSUE HAS BEEN SO CONFUSED, I WOULD LIKE TO START BY CLARIFYING A NUMBER OF POINTS CONCERNING THE WITHHOLDING OF FUNDS. THEN, I WOULD LIKE TO SUGGEST WHAT MAY BE THE ROOT CAUSES OF SOME OF THE UNDESIRABLE FEATURES OF THE PRACTICE, WHICH WE IN THE EXECUTIVE BRANCH WOULD VERY MUCH LIKE TO BE RID OF, AND INDICATE WHERE I THINK THE SOLUTION TO SUCH PROBLEMS AS THERE ARE MAY BE FOUND.

DISCUSSION IN THE CONGRESS AND THE NEWS MEDIA HAS FOCUSED ON THE FIGURE \$12.8 BILLION -- THE AMOUNT APPROPRIATED BY THE CONGRESS BUT NOT YET APPORTIONED FOR SPENDING DURING FISCAL 1971 AS OF FEBRUARY. BECAUSE IT HAS BEEN ASSERTED THAT THIS SUM IS FAR OUT OF LINE WITH THE PAST PRACTICE IN THIS FIELD, THAT IN WITHHOLDING THESE FUNDS THE ADMINISTRATION WAS CALLOUSLY IGNORING THE PLIGHT OF OUR URBAN AREAS, THAT THIS WITHHOLDING WAS ENTIRELY UNNECESSARY AND SHOULD BE ENDED FORTHWITH, AND THAT IN WITHHOLDING THIS MONEY THE ADMINISTRATION WAS THWARTING THE WILL OF CONGRESS, -- ALL SERIOUS CHARGES -- I WOULD LIKE TO DISCUSS THE ACTUAL CHARACTER OF THIS FIGURE IN SOME DETAIL.



FIRST, LET US CONSIDER THE ASSERTION THAT THIS WITHHOLDING IS ON AN UNPRECEDENTED SCALE. THIS IS SIMPLY NOT TRUE. ACTUALLY, ONE YEAR EARLIER, IN FEBRUARY OF 1970, \$12.9 BILLION OR \$100 MILLION MORE, WAS BEING WITHHELD, AND THAT WAS AT A TIME WHEN TOTAL BUDGET OUTLAYS WERE MUCH SMALLER THAN NOW. IN FACT, IF WE CONSIDER THE AMOUNTS WITHHELD AS A PERCENTAGE OF TOTAL BUDGET OUTLAYS, THE 6% BEING WITHHELD IN FEBRUARY AND THE 5.7% BEING WITHHELD NOW, AFTER A NUMBER OF ROUTINE RELEASES, IS BELOW THE PERCENTAGE OF OUTLAYS WITHHELD AT THE END OF SEVEN OF THE TWELVE PRECEDING FISCAL YEARS. THE AMOUNT HAS NEVER BEEN

LESS THAN 3.5% AND ONLY THREE TIMES BELOW 5%; IT WAS AS HIGH AS 8.7% A FEW YEARS AGO. IN SHORT, A REVIEW OF THE HISTORY SHOWS THAT WE ARE WITHHOLDING BELOW THE CUSTOMARY LEVEL FOR AT LEAST THE PAST DECADE.

WITH RESPECT TO THE SECOND CONTENTION, THAT THE RELEASE OF THE WITHHELD FUNDS WOULD GO FAR TOWARDS INCREASING THE TOTAL AMOUNT OF MONEY AVAILABLE FOR URBAN DEVELOPMENT PROGRAMS, A QUICK REVIEW OF THE PROGRAMS IN WHICH FUNDS ARE BEING HELD UP SHOULD DEMONSTRATE ITS INACCURACY. MORE THAN \$7 BILLION OF THE MONEY BEING WITHHELD, OR WELL OVER HALF OF THE TOTAL OF \$12.8 BILLION, IS IN THE DEPARTMENT OF TRANSPORTATION, MOST OF IT IN THE HIGHWAY ADMINISTRATION. FAR FROM ALLEVIATING THE PROBLEMS OF OUR CITIES, AN OBJECTIVE TOWARDS WHICH THE HIGHWAY PROGRAM IS NOT PRINCIPALLY DIRECTED IN ANY CASE, MANY WOULD SAY THAT THE EXPENDITURE OF THESE FUNDS WOULD HAVE THE OPPOSITE EFFECT. FURTHERMORE, THIS ITEM IS ON THE LIST ONLY BECAUSE CONGRESS HAS COMPLETED THE APPROPRIATION PROCESS, NOT BECAUSE THERE ARE SUFFICIENT APPROVED PROJECTS ON WHICH TO SPEND IT.



FURTHER EXAMINATION OF WHY FUNDS ARE BEING WITHHELD FAILS TO REVEAL SUBSTANTIAL AMOUNTS OF URBAN DEVELOPMENT MONEY. OVER A BILLION ON THE LIST IS IN

THE DEFENSE DEPARTMENT, SOME OF IT FOR MILITARY CONSTRUCTION BUT MOST FOR SHIPBUILDING. THE REASON IT IS ON THE LIST IS SIMPLY THAT SHIPS ARE NOT YET BUILT -- IN SOME CASES NOT YET ORDERED.

OVER \$900 MILLION ON THE LIST APPEARS AS "LOW-RENT PUBLIC HOUSING PROGRAMS", BUT IN FACT ALMOST ALL OF THIS MONEY IS NOT BEING HELD IN ANY PROHIBITIVE SENSE. IT IS THE AMOUNT DETERMINED TO BE NECESSARY TO BE HELD IN RESERVE IN CASE CREDIT CONDITIONS SHOULD PREVENT LOCAL PUBLIC HOUSING AUTHORITIES FROM OBTAINING PRIVATE FINANCING. WE HAVE TO DO THIS, BECAUSE THE LAW REQUIRES US TO MAKE TEMPORARY LOANS TO PUBLIC HOUSING AGENCIES IN THOSE CIRCUMSTANCES. MUCH OF THE OTHER MONEY ON THE LIST WE HAVE PROVIDED THE CONGRESS AND THE PRESS IS IN A SIMILAR CATEGORY -- PROVIDING AGAINST CONTINGENCIES -- AND SPREAD THROUGH A LARGE NUMBER OF SMALLER PROGRAMS AND PROJECTS. ONE OF THE MORE POPULAR ACTIONS WE TOOK, FOR EXAMPLE, INVOLVED IMPOUNDING FUNDS FOR THE CROSS-FLORIDA BARGE CANAL WHEN IT APPEARED THAT THE PROJECT COULD PRODUCE UNANTICIPATED HAZARDS FOR THE ENVIRONMENT.

MANY OF THOSE IN CONGRESS AND ELSEWHERE WHO CHALLENGE THE RESERVATION OF THESE FUNDS AS UNNECESSARY AND DEMAND THE IMMEDIATE RELEASE OF THE FULL \$12.8 -- OR AS IT NOW IS \$12.4 -- BILLION MANIFEST A COMPLETE MISUNDERSTANDING OF THE NATURE OF THESE WITHHOLDINGS AND THE



PROGRAMS INVOLVED. RESOLUTIONS IN THE CONGRESS THAT WOULD REQUIRE US TO SPEND THE ENTIRE \$12.8 BILLION FORTHWITH, FOR EXAMPLE, ARE UTTER NONSENSE. THEY COULD NOT POSSIBLY BE OBEYED WITHIN THE LAW. THERE IS LITERALLY NO ONE TO PAY SOME OF THESE FUNDS TO WHO WOULD QUALIFY UNDER THE AUTHORIZING LEGISLATION, WHICH REQUIRES THAT THE GOVERNMENT SPEND ITS MONEY ONLY IN CERTAIN CIRCUMSTANCES AND WHEN CERTAIN CONDITIONS ARE FULFILLED, FOR EXAMPLE, WHEN THE SHIP IS BUILT AND ACCEPTED.

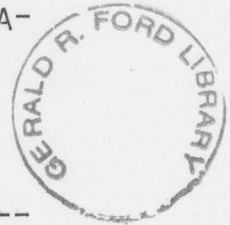


FAR FROM BEING AN UNNECESSARY EXPANSION OF EXECUTIVE POWER, THE POLICY OF ESTABLISHING RESERVES OF AVAILABLE FUNDS IS ACTUALLY ESSENTIAL TO PRUDENT MANAGEMENT OF THE GOVERNMENT'S FUNDS. THE \$900 MILLION IN THE LOW-RENT HOUSING FIELD, WHICH I MENTIONED AS BEING HELD TO PROVIDE FOR CONTINGENCIES IN THE FINANCING OF PUBLIC HOUSING AUTHORITIES, IS AN EXAMPLE OF THIS. SIMILARLY, THE AMOUNTS HELD UP IN THE DEPARTMENT OF DEFENSE FOR SHIP-BUILDING ARE THERE SIMPLY BECAUSE THE CONGRESS HAS APPROPRIATED THESE FUNDS LONG IN ADVANCE OF THE TIME WHEN THE CONTRACTS ARE LET FOR CERTAIN ASPECTS OF THE SHIP, AND THEY MUST BE HELD SOMEWHERE UNTIL THE TIME ARRIVES FOR THE CONTRACTS TO BE LET AND PERFORMED.

PERHAPS THIS MANAGEMENT ASPECT OF THE WITHHOLDING PRACTICE CAN BE ILLUSTRATED AS FOLLOWS: WE MIGHT THINK OF ALL CONGRESSIONAL APPROPRIATIONS AS POURING LARGE

BULK SUMS OF MONEY INTO A SINGLE TANK FROM WHICH HUNDREDS OF PIPES LEAD OUT, REPRESENTING VARIOUS DIFFERENT PROJECTS AND PROGRAMS. MONEY IS RELEASED FROM THE TANK INTO THE VARIOUS PIPES WHEN PROJECTS ARE READY, DESIGNS ARE APPROVED, DISPUTES OVER LOCATIONS ARE RESOLVED, AND ALL THE CONDITIONS WHICH DISTINGUISH ONE OF THE PIPES FROM ANOTHER ARE MET. NATURALLY, THERE IS ALWAYS SOME MONEY IN THE TANK -- PROBABLY A RATHER CONSISTENT PERCENTAGE OF THE TOTAL GOING THROUGH IT, AS THE FIGURES FOR THE PAST DOZEN YEARS SUGGEST, -- AND ALWAYS SOME MONEY GOING OUT THE PIPES. QUITE THE OPPOSITE OF A FREEZE, WHAT WE HAVE HERE IS A FLOW, AND THE REGULATION OF THE FLOW, WHICH IS THE PRUDENT MANAGEMENT OF THE FUNDS MADE AVAILABLE BY THE CONGRESS, CREATES THE RESERVOIR IN THE TANK ABOUT WHICH THERE IS SO MUCH COMPLAINT. BUT OBVIOUSLY TO LET GO OF THE RESERVOIR COMPLETELY WOULD MEAN AN ABDICATION OF OUR MANAGEMENT RESPONSIBILITIES. THUS IT IS A CONTINUOUS PROCESS OF FUNDS COMING INTO THE TANK AND FUNDS GOING OUT.

RIGHT NOW, BECAUSE THE CONGRESS HAS PRETTY MUCH FINISHED THE APPROPRIATIONS PROCESS FOR THE FISCAL YEAR ENDING THIS JUNE 30, THE TANK IS AT ABOUT ITS HIGH WATERMARK, AND PERHAPS THAT IS WHAT HAS SET OFF THE RECENT DISCUSSION. BUT EVIDENCE OF WHAT I AM



SAYING CAN BE FOUND IN THE FACT THAT IN THE LAST SEVEN WEEKS OR SO WE HAVE RELEASED \$389 MILLION OF THE NOTORIOUS \$12.8 BILLION JUST IN THE NORMAL COURSE OF DOING BUSINESS. THE REASONS FOR THE DIFFERENT RELEASES ARE TYPICAL OF THE MANAGEMENT FUNCTION I HAVE BEEN DESCRIBING. WE PAID OUT \$135 MILLION BECAUSE CERTAIN PROGRESS PAYMENTS FOR MILITARY CONSTRUCTION BECAME DUE; ANOTHER ITEM OF OVER \$100 MILLION WAS RELEASED BECAUSE A SETTLEMENT WAS REACHED CONCERNING A DISPUTE AS TO SPEEDING UP THE TIMING OF PAYMENT AMOUNTS OWED BY THE GOVERNMENT UNDER CERTAIN MARITIME OPERATING SUBSIDIES.



NEXT, I WOULD LIKE TO TURN TO THE CHARGE THAT IN WITHHOLDING THESE FUNDS THE ADMINISTRATION IS IN SOME WAY THWARTING THE WILL OF CONGRESS. QUITE THE CONTRARY, AS I WILL EXPLAIN, IT IS UNDENIABLY THE WILL OF CONGRESS THAT WE SHOULD WITHHOLD SOME FUNDS, THOUGH IT IS TRUE THAT THE CONGRESS HAS NOT SPECIFIED WHICH PROGRAMS IT WANTS TO SEE REDUCED AND WHICH MAINTAINED AT APPROPRIATED LEVELS. BUT THERE CAN BE NO DOUBT THAT THE CONGRESS FULLY EXPECTED THIS ADMINISTRATION, AS OTHER ADMINISTRATIONS, TO EXERCISE THE POWER TO WITHHOLD IN ORDER TO COMPLY WITH SPECIFIC LIMITATIONS THAT CONGRESS ITSELF PUT ON SPENDING -- THE CEILING ON THE TOTAL SPENDING TO BE DONE BY THE CONGRESS IN FISCAL 1971, AND THE DEBT LIMIT, WHICH ALSO PUTS AN EFFECTIVE LIMIT ON SPENDING.

WITH REGARD TO THE EXPENDITURE CEILING, SUFFICE IT TO SAY THAT WE NEVER KNOW UNTIL THE END OF THE YEAR WHETHER CONGRESS WILL INSIST ON OUR ABSORBING A LARGER AMOUNT OF CERTAIN PAY INCREASES THAN WE HAVE ASKED, OR WHETHER OUR ESTIMATES OF CERTAIN REQUIRED EXPENDITURES ARE CORRECT. CERTAINLY, RELEASING ALL THE IMPOUNDED FUNDS THAT COULD HAVE BEEN SPENT EARLY ENOUGH SO THEY COULD HAVE BEEN SPENT THIS YEAR WOULD HAVE PUT US WELL OVER THE CEILING.



THE DEBT LIMIT PRESENTS US WITH A SIMILAR CONSTRAINT, WHICH, OBVIOUSLY, THE CONGRESS WISHES US TO OBSERVE. AS YOU MAY KNOW, IN FEBRUARY OF THIS YEAR WE WERE EXTREMELY CLOSE TO THE DEBT LIMIT AND WOULD PROBABLY HAVE EXCEEDED IT IN A WEEK IN THE NORMAL COURSE OF EXPENDITURES HAD THE CONGRESS NOT VOTED AN INCREASE. WHAT WAS THE AMOUNT OF THAT INCREASE? WE ASKED FOR THE LIMIT TO BE RAISED TO \$435 BILLION, THE AMOUNT WE CALCULATED AS NECESSARY TO TAKE US THROUGH FISCAL 1972 IF SPENDING PURSUED THE PATTERN RECOMMENDED IN THE PRESIDENT'S BUDGET. THE REQUEST ASSUMED THAT THE BUDGET RECOMMENDATIONS FOR WITHHOLDING FUNDS WOULD BE ACCEPTABLE TO THE CONGRESS. NOW IF THE CONGRESS WISHES THESE FUNDS TO BE RELEASED, I WOULD THINK IT WOULD HAVE GRANTED A HIGHER INCREASE IN THE DEBT LIMIT THAN THE ADMINISTRATION REQUESTED. ACTUALLY, HOWEVER, THE CONGRESS

ENACTED A LIMIT OF ONLY \$430 BILLION REDUCING OUR REQUEST, APPARENTLY ASSUMING THAT THESE FUNDS WOULD BE WITHHELD, AND, IN FACT, MAKING IT IMPOSSIBLE TO RELEASE THEM ALL NEXT YEAR AND STAY WITHIN THE DEBT LIMIT IT HAS SET.



FINALLY, AND OF GREAT IMPORTANCE, IT IS ESSENTIAL THAT WE KEEP A FIRM GRIP ON TOTAL SPENDING. OTHERWISE, WE WILL IGNITE ANOTHER SET OF INFLATIONARY FIRES. IT IS EASY TO START, AND ENORMOUSLY DIFFICULT, AS WE HAVE SEEN IN THE PAST TWO YEARS, TO STOP INFLATION. WE BELIEVE THAT WE MUST HOLD TOTAL SPENDING WITHIN THE REVENUES WE WOULD RECEIVE IF WE WERE A FULL-EMPLOYMENT.

THE PRESIDENT AND HIS BUDGET OFFICES ARE THE ONLY ONES WHO SEEM TO HAVE THIS OVERALL CONCERN AND THIS OVERRIDING RESPONSIBILITY. IF WE COULD AND DID RELEASE FOR SPENDING ALL OF THE IMPOUNDED FUNDS WE WOULD START AN INFLATIONARY CYCLE SPINNING THE LIKE OF WHICH WOULD MAKE THE 1969 - 1970 FIGURES LOOK INSIGNIFICANT. NO MATTER WHAT THE PRESSURES WE ARE NOT GOING TO DO THAT.

IN PASSING I MIGHT NOTE TWO OTHER INSTANCES IN WHICH THE CONGRESS, OR MEMBERS OF IT, HAVE OBVIOUSLY CONDONED OR REQUIRED WITHHOLDING FUNDS. WHEN FACED WITH THE NECESSITY OF REDUCING THE APPROPRIATION FOR HEW LAST YEAR, RATHER THAN GO THROUGH THE DIFFICULT TASK OF REWRITING THE ENTIRE BILL AND DECIDING WHERE CUTS

SHOULD BE MADE, THE CONGRESS DECIDED TO APPROPRIATE THE MONEY IN TOTAL BUT DIRECT THE EXECUTIVE BRANCH NOT TO SPEND A SMALL PERCENTAGE OF IT, TO WITHHOLD IT IN OTHER WORDS. SIMILARLY, A CONGRESSMAN WROTE TO THE PRESIDENT LAST YEAR URGING HIM TO SIGN AN EXCESSIVE APPROPRIATION BILL, POINTING OUT TO THE PRESIDENT THAT NO HARM COULD COME OF THE SIGNING INASMUCH AS THERE WAS NO REQUIREMENT IN THE BILL THAT THE APPROPRIATED FUNDS BE SPENT. YET THIS SAME CONGRESSMAN HAS BEEN ONE OF THE MOST VOCAL IN RECENT WEEKS IN DECRYING THE WITHHOLDING PRACTICE AS AN INTOLERABLE INVASION ON THE LEGISLATION BRANCH BY THE EXECUTIVE.

CLEARLY, THEN, FAR FROM THWARTING THE WILL OF CONGRESS BY THESE WITHHOLDINGS, THE ADMINISTRATION IS USING THE ONLY METHOD AVAILABLE TO IT TO COMPLY WITH SPECIFIC CONGRESSIONAL DIRECTIVES. THE CONGRESS EXPECTED THE DEVICE TO BE USED, MUCH AS IT HAS BEEN USED BY ALL ADMINISTRATIONS OVER THE LAST DOZEN YEARS.

BUT THIS BEING THE CASE, HOW CAN WE EXPLAIN THAT LARGE AMOUNT OF ATTENTION THAT HAS BEEN DIRECTED TO THIS SEEMINGLY ORDINARY CIRCUMSTANCES? SURELY, THERE MUST BE SOMETHING MORE TO THIS MATTER THAN I HAVE DESCRIBED? POLITICS, PERHAPS? I THINK SO, BUT ALSO THE FISCAL SYSTEM CANNOT BE WORKING AS EASILY OR SMOOTHLY AS IT COULD, OR THERE WOULD NOT BE SO MUCH DISCUSSION OF IT, EVEN ASSUMING AT LEAST SOME OF THE DISCUSSION MAY BE MOTIVATED SOLELY BY HOPE OF SOME PARTISAN ADVANTAGE.



WELL, THE FACT OF THE MATTER, AS I SUGGESTED AT THE OUTSET, IS THAT THERE ARE PROBLEMS WITH THE SYSTEM AND WITH THE USES TO WHICH IT HAS BEEN PUT. I THINK IT WOULD BE USEFUL TO FOCUS ON THESE JUST BRIEFLY.

THE WITHHOLDING PROCESS THAT I HAVE BEEN DESCRIBING WAS DESIGNED PRIMARILY AS A FISCAL MANAGEMENT TOOL -- A MEANS BY WHICH THE GOVERNMENT COULD BE SURE THAT IT DID NOT SPEND MORE TO ACHIEVE A SPECIFIC OBJECT THAN WAS NECESSARY, EVEN THOUGH IT MIGHT HAVE APPROPRIATED AN OVERLY GENEROUS SUM; A SYSTEM WHICH WOULD PERMIT THE GOVERNMENT TO TAKE ADVANTAGE OF CHANGES IN CONDITIONS AFTER THE LEGISLATIVE PROCESS COMPLETED ITS WORK. FOR A VARIETY OF REASONS, THIS INSTRUMENT OF FISCAL MANAGEMENT HAS RECENTLY COME TO BE RELIED UPON BY THE CONGRESS FOR THE ACHIEVEMENT OF QUITE OTHER PURPOSES. SPECIFICALLY, THE CONGRESS HAS INVITED ITS USE TO AVOID SPENDING AND CONGRESS HAS REQUIRED ITS USE TO PARE DOWN THE TOTAL AMOUNT OF THE INDIVIDUAL APPROPRIATION BILLS WHICH IT PASSES TO MEET THE CEILING ON OVERALL EXPENDITURES IT WISHES TO IMPOSE FOR A GIVEN YEAR. THE HABIT OF SEPARATELY CONSIDERING A DOZEN OR MORE APPROPRIATION BILLS OVER THE COURSE OF A YEAR (AND I MIGHT ADD, NOT PASSING THESE UNTIL SIX TO EIGHT MONTHS AFTER THE START OF THE FISCAL YEAR) WITHOUT CONSIDERING HOW ACTION ON EACH BILL AFFECTS



TOTAL FEDERAL OUTLAYS, AND THEN SEPARATELY ESTABLISHING AN OUTLAY CEILING WHICH EXPANDS TO MEET CONGRESSIONAL APPROPRIATIONS, BUT NOTHING ELSE AND SEPARATELY, AGAIN, ESTABLISHING A LIMIT ON THE PUBLIC DEBT, LEAVES A GAP WHICH CAN ONLY BE FILLED BY USE OF THE POWER OF WITHHOLDING BY THE EXECUTIVE.

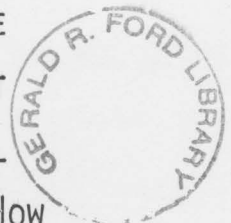
NOT UNEXPECTEDLY, SOME OF ITS CHARACTERISTICS ARE INAPPROPRIATE TO THE JOB NOW ASSIGNED IT. PARTICULARLY, WITHHOLDING FUNDS FOR PRUDENT FISCAL MANAGEMENT PURPOSES WITHIN THE ADMINISTRATION OF PARTICULAR PROGRAMS DOES NOT INVOLVE A POLICY CHOICE -- AN ESTABLISHMENT OF PRIORITIES -- BETWEEN DIFFERENT PROGRAMS AS TO THEIR FUNDING LEVELS; YET THAT IS EXACTLY WHAT IS INVOLVED WHEN THE EXECUTIVE BRANCH IS REQUIRED TO IMPOUND FUNDS TO LIMIT OVERALL SPENDING FOR ALL PROGRAMS TO A SPECIFIC TARGET -- A TARGET THAT IS LESS THAN THE TOTAL APPROPRIATED FOR ALL PROGRAMS.



THE EXERCISE OF THE MANAGEMENT FUNCTION IS ONE WHICH CAN BE DELEGATED BY THE CONGRESS TO THE EXECUTIVE BRANCH WITHOUT FEAR THAT IT WILL AFFECT OVERALL POLICY DETERMINATIONS ON PRIORITIES MADE BY THE CONGRESS; INDEED, IT IS DIFFICULT TO SEE HOW THIS FUNCTION COULD BE EXERCISED EXCEPT BY AUTHORITY DELEGATED TO THE EXECUTIVE. WHEN

CONGRESS DOESN'T TELL US WHAT TO WITHHOLD BUT TELLS US WE HAVE TO WITHHOLD, WE OBVIOUSLY HAVE TO MAKE SOME POLICY DECISIONS.

IT IS THE HABIT OF DECISIONS IN THE BUDGET AREA TO GET MADE. IF THE CONGRESS WILL NOT MAKE THEM, AS IN ITS PRESENT APPROPRIATIONS PROCESS IT DOES NOT, IT IS HARDLY SURPRISING TO FIND THAT THEY ARE MADE SOMEWHERE ELSE. I FIND THAT WHEN THE OMB DOES NOT MAKE A DECISION, A NAMELESS BUREAUCRAT, RESPONSIBLE TO NO ONE, DOES. THE PROCESS MUST GO FORWARD THE GOVERNMENT CONTINUES, AND TO AVOID A DECISION IS TO LEAVE IT UP TO SOMEBODY ELSE. THIS IS ESSENTIALLY WHAT HAS HAPPENED IN THE IMPLEMENTATION OF FISCAL POLICY IN THE LAST YEAR. THE CONGRESS HAS SAID TO THE EXECUTIVE BRANCH THAT IT MUST NOT SPEND MORE THAN A CERTAIN AMOUNT IN A GIVEN FISCAL YEAR, THAT THE LIMIT ON BORROWING IS SUCH AND SUCH. HOW TO GET DOWN TO THE EXPENDITURE CEILING, HOW TO LIVE WITHIN THE DEBT LIMIT -- THESE QUESTIONS HAVE BEEN LEFT TO THE EXECUTIVE BRANCH. IN ANSWERING THEM, IT IS HARDLY TO BE EXPECTED THAT THE PRESIDENT WOULD FORGET WHAT PROGRAMS HE THOUGHT COULD MOST EASILY BE FOREGONE OR DEFERRED (A \$10 MILLION AQUARIUM, PERHAPS?), AND IN FACT HE HAS COMPLIED WITH THE CONGRESSIONAL DIRECTION IN THE WAY IN WHICH HE FELT WOULD BEST BENEFIT THE COUNTRY. THIS IS CONSISTENT WITH HIS CONSTITUTIONAL RESPONSIBILITY.



IT IS DESIRABLE THAT THE PRESIDENT SHOULD MAKE THESE DECISIONS? PERHAPS NOT. MANY ARE POLICY DECISIONS, LEGISLATIVE IN CHARACTER. MANY ARE REQUIRED TO BE MADE TO PREVENT ANOTHER WAVE OF INFLATION. BUT THE LEGISLATURE HAS NOT MADE THEM, WHILE THE PRESIDENT IS FORCED TO. MANY CAN BE MADE ONLY BY THE PRESIDENT BECAUSE FREQUENTLY CONDITIONS CHANGE AFTER CONGRESSIONAL ACTION. WHAT IS NEEDED HERE IS NO CRITICISM OF THE EXECUTIVE BRANCH FOR "USURPING THE ROLE OF THE CONGRESS", WHEN IN FACT IT HAS BEEN REQUIRED BY LAW TO FILL A VACUUM CREATED BY THE ABDICATION FROM RESPONSIBILITY BY THE CONGRESS AND HAS USED THE ONLY MEANS AVAILABLE TO IT, WHICH THE CONGRESS KNEW WAS THE ONLY MEANS. WHAT WE NEED, AND WHAT THIS ADMINISTRATION HAS BEEN CONSISTENTLY ASKING FOR, IS A RE-EXAMINATION BY THE CONGRESS OF THE APPROPRIATIONS PROCESS AND THE PROCESS OF MANDATING SPENDING THRU OPEN-ENDED SUBSTANTIVE LEGISLATION.



THERE IS A PLACE FOR THE WITHHOLDING PRACTICE IN SECURING SOUND MANAGEMENT OF THE GOVERNMENT'S FUNDS. WE SHOULD REMEMBER THAT, AND ALSO THAT THIS IS LARGELY THE USE TO WHICH IT IS BEING PUT. THE PRACTICE CAN ALSO BE USED TO SECURE OTHER OBJECTIVES WHERE THE CONGRESS GIVES LESS DETAILED INSTRUCTIONS ON WHAT ACTIONS IT WISHES THE EXECUTIVE BRANCH TO TAKE TO MEET THESE OBJECTIVES; WE HAVE FOUND IT NECESSARY TO WITHHOLD FUNDS

TO STAY WITHIN THE EXPENDITURE CEILING AND THE DEBT LIMIT. BUT IN THIS LAST FUNCTION, THE PRACTICE IS MAKE-SHIFT AT BEST. WE MUST NOT DELUDE OURSELVES, HOWEVER, INTO THINKING THAT THE PROBLEM HERE IS SOMETHING DIFFERENT FROM WHAT IT IS. AT THE ROOT OF IT IS IMPRECISION AND GREAT DELAYS IN THE LEGISLATIVE PROCESS AND A FAILURE TO LOOK AT THE WHOLE PICTURE -- REALLY AN ABDICATION OF RESPONSIBILITY BY ONE BRANCH OF THE GOVERNMENT TO FACE THE DIFFICULT ISSUES INVOLVED IN RESOLVING INCONSISTENT DESIRES WHICH HAVE BECOME LAWS -- NOT ONE BRANCH OF GOVERNMENT PLOTTING TO DISPLACE ANOTHER. WE MUST WORK TO RESOLVE THESE IMPRECISIONS, TO IMPROVE THE PROCESSES IN THE CONGRESS. THEREIN LIES THE ONLY LASTING SOLUTION TO THE TRULY IMPORTANT DIFFICULTIES RAISED BY THE ISSUE OF IMPOUNDMENT OF FUNDS.



STATEMENT OF WITHHOLDING OF FUNDS

A factual summary concerning withheld funds is enclosed.

The outlay of funds has been delayed for a variety of basic reasons including the requirements of the Congressional Antideficiency Act (31 U.S.C. 665), which seeks to limit outlays for fiscal year 1971 as required by provisions of the second Supplemental Appropriations Act of 1971. Further limits were imposed by Congress in establishing a limit for the national debt on March 17, 1971. The Administration, additionally, has had to examine the inflationary forces in particular segments of the economy, especially in the construction industry, before releasing large amounts for construction.

Present and Past Withholding of Funds

1. The amount being withheld. In February of this year, the Administration published a tabulation of the amounts then withheld from obligation through the normal apportionment process, including amounts held routinely for future use, which totaled \$12.8 billion. As of May 14, 1971, the total of such reserves was \$12.2 billion. This figure does not include balances of revolving funds reported on an accrual basis. A breakdown of the \$12.2 billion figure accompanies this statement.

2. The character of the withheld funds. Nearly \$10.2 billion, or over 80%, is not being held in any restrictive sense. Of this amount, nearly \$2.8 billion is being reserved either to comply with specific Congressional limitations or for use in the event contingencies arise, as required by law. Just over \$7.3 billion is withheld from obligation because programs or projects are not yet ready for funding. These funds are scheduled for release as soon as the projects are ready. Current plans contemplate release of \$6.3 billion by the end of the next fiscal year.

The remaining \$2 billion has had to be withheld to meet general restrictions established by the Congress and to fulfill the President's responsibilities including his duty to combat inflation.



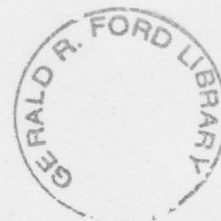
3. Past practice. The charge has been made that the amount being withheld this year is far more than in the past. This is not true. In fact, there was less money in reserve in February of this year, when we were at our high-water mark for fiscal 1971, than a year earlier, when \$12.9 billion was being held up. Furthermore, as a percentage of total budget outlays, the current figure is only 5.7%. This is smaller than the percentage of the budget withheld in seven of the twelve preceding years. 8.7% of the budget was withheld in 1960.

Specific Program Issues

4. Urban development programs. It is incorrect to say that the release of reserved funds would relieve the fiscal plight of the cities, or to imply that the funds concern principally urban programs. Over \$7 billion of the \$12.2 billion is in the Department of Transportation, mostly for highway programs. Over \$1 billion is for the Department of Defense. Less than \$1 billion of the funds on the list would be of direct assistance in urban development programs.

5. Low-rent public housing. There is a total of \$925 million in the Department of Housing and Urban Development reserved for possible contingencies that might arise if credit conditions prevent local public housing authorities from obtaining private financing or from privately refinancing existing loans. In such a contingency, reserved funds would be released to enable the Federal Government to provide temporary loans to the local bodies as contemplated in law.

The fact that the funds are not needed at this time reflects the relatively good conditions presently prevailing in the credit markets. These conditions permit local housing authorities to borrow from private lenders, rather than from the Federal Government. Thus Federal direct lending authority is largely unneeded, despite the exceptionally high level of public housing production now being supported. We estimate that \$160 million of this reserve will be needed by the end of fiscal 1972.

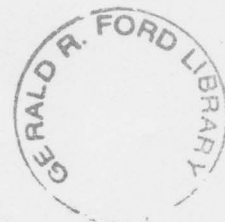


In fiscal 1971 the Administration plans to raise the volume of new low-rent annual contribution contracts by almost \$50 million, from \$154 to \$201 million. Existing law authorizes an additional \$150 million which the Administration plans to use as part of a \$207 million program for 1972. (This additional \$150 million is not included in total funds being withheld or reserved, because no appropriation has been made for it.) It is not scheduled for use in 1971 because Federally assisted housing in 1971 is already scheduled to account for over 600,000 units, which is nearly one-third of all currently projected housing starts, public and private. This number is also more than four times the number of all Federally assisted starts in 1968.

6. Model cities, water and sewer grants, urban renewal funds, and urban community special revenue sharing. \$575 million is reserved in the model cities program; \$200 million for urban water and sewer facilities has been reserved; and there is \$200 million of unused grant authority in the urban renewal revolving fund. The Administration intends to release all of these funds during fiscal 1972. Most of these funds will be used under the program for which they were originally appropriated; the balance under urban community development revenue sharing.

7. Appalachian Regional Development. The claim has been made that the Administration has withheld \$191 million. Of this total, \$175 million is FY 1972 highway contract authority. This contract authority is made available a year in advance so that definitive plans can be developed. The Congress has established a limitation on 1971 obligations which prohibits use of these funds this year.

8. Farm Credit Administration. \$260 million has been withheld for the Farm Credit Administration. This amount is reserved at the request of the Governor of the Farm Credit Administration. It is available to the Governor if a credit contingency arises that requires investment of the Government in the stock of the Federal Intermediate Credit Banks, the Production Credit Association or the Banks for Cooperatives.



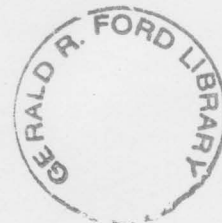
9. Mass Transit. The Administration proposes to spend, in fiscal 1971, a total of \$400 million. Congress, by action taken in January 1971, set a limit of \$600 million on obligations in fiscal 1971.

However, until January 1971, i.e. half-way through the fiscal year, the Congress itself restricted the program level to a mere \$214 million per annum. The \$400 million level is the result of spending at the presently approved rate of \$600 million for half the year and only at \$214 million per annum rate for the first half, as required by the Congress.

The \$600 million does not represent the amount provided by the Congress for fiscal year 1971. Rather, it is an upper limit established by the Congress on operations for the year. For this reason, the \$200 million difference between that upper limit and the actual program level is not reflected in the tabulation of reserves.

The Congress, the Executive and Withholding

10. Congressional assumptions in setting the debt limit. In February, the Administration asked that the debt limit be raised to \$435 billion, the amount it calculated as necessary if spending pursued the pattern recommended in the President's budget. The request assumed also that the budget plans for withholding funds would be realized. If the Congress wished these funds to be released, it might have granted a higher increase in the debt limit than requested. On the contrary, the Congress raised the ceiling to only \$430 billion, apparently assuming that these funds would be withheld and in fact making it impossible to release them and stay within the debt limit.



11. The fiscal 1971 expenditure ceiling. The Congress relies on withholding to comply with the ceiling it has imposed on expenditures. The ceiling is a legal requirement, and there is no other means of complying with it. If the funds now being withheld had been released at the beginning of the fiscal year, we would undoubtedly have exceeded the ceiling by several billion dollars. That would be against the law and the specific direction of the Congress.

12. Withholding and management. Withholding is essential to prudent management of the Government's funds. Perhaps this management aspect of the withholding practice can be illustrated as follows: We might think of all Congressional appropriations as pouring large bulk sums of money into a single tank from which hundreds of pipes lead out, representing various different projects and programs. Money is released from the tank into the various pipes when projects are ready, designs are approved, disputes over locations are resolved, and all the conditions which distinguish one of the pipes from another are met. Naturally, there is always some money in the tank -- probably a rather consistent percentage of the total going through it, as the figures for the past dozen years suggest, -- and always some money going out the pipes. Quite the opposite of a freeze, what we have here is a flow, and the regulation of the flow, which is the prudent management of the funds made available by the Congress, creates the reservoir in the tank about which there is so much complaint. But obviously to let go of the reservoir completely would mean an abdication of our management responsibilities. Thus it is a continuous process of funds coming into the tank and funds going out.

13. Reform of the legislative process. The basic problem, of which the public debate over withholding is only a symptom, is that the Congress has relied on the Executive Branch to use withholding for more than the essential management purposes for which it was designed. The Congress has required its use to resolve inconsistent legislative directives concerning total Government spending and individual appropriations bills. The place to resolve these policy issues in the first place is in the Congress. For some time now the Administration has been recommending reform of the legislative process as it concerns the budget. Withholding, though an indispensable management tool, is a makeshift method at best for resolving policy issues which the Congress has not faced. It is time to reform Congressional procedures and take improper pressure from the withholding mechanism.



May 17, 1971

TABLE I
CLASSIFICATION OF RESERVES BY DEGREE
OF RESTRICTIVENESS AS OF MAY 14, 1971

(In millions of dollars)

	<u>Amount</u>
A. Non-restrictive Reserves	
1. To comply with latest Congressional action.....	1,367
2. To use for contingencies as they occur.....	1,386
3. Release in the following amounts is now estimated to occur --	
°By 6/30/72 a/.....	6,299
°After 6/30/72.....	<u>1,129</u>
Total, non-restrictive reserves.....	10,181
B. Restrictive Reserves	
Current plan contemplates release and use in:	
1. Remainder of FY 1971.....	50
2. FY 1972.....	786
3. No release by 6/30/72.....	<u>1,198</u>
Total, restrictive reserves.....	2,034 <u>b/</u>
Total, all reserves.....	12,215

a/ In a few cases releases are planned prior to 6/30/71.

b/ This total excludes certain restrictions on the use of balances of public enterprise funds that are not reported as part of the apportionment actions on appropriated funds. These restrictions total \$596 million and cover the following agencies: Department of Housing and Urban Development (\$264 million), Department of Transportation (\$200 million), Federal Home Loan Bank Board (\$9 million), Small Business Administration (\$116 million), and Tennessee Valley Authority (\$7 million).

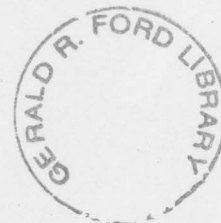


TABLE II. CLASSIFICATION OF RESERVES AS OF MAY 14, 1971, BY DEGREE OF RESTRICTIVENESS
(In millions of dollars)

May 14, 1971

Agency	Non-restrictive reserves				Restrictive reserves					
	Withheld to conform to legal intent		Release in the following amounts is now estimated to occur:		Total non-restrictive reserves	Current plan contemplates release and use in:			Total restrictive reserves	Total all reserves
	To Comply with latest Congressional action	To use for contingencies as they occur	By 6/30/72 ^{a/}	After 6/30/72		Remainder of FY 1971		No release by 6/30/72		
						FY 1972				
Funds Appropriated to the President:										
Appalachian Regional Dev. Program.....	175	--	--	--	175	--	16	--	16	191
Military Assistance.....	--	--	122	--	122	--	--	--	--	122
Economic Assistance.....	--	110	--	20	130	23	--	--	23	153
Inter-American Soc. Dev. Institute.....	--	--	24	--	24	--	--	--	--	24
Economic Opportunity Prog.....	--	--	--	--	--	--	--	18	18	18
Peace Corps.....	--	5	--	--	5	2	--	--	2	7
Department of Agriculture.....	--	65	164	72	301	--	61	67	128	429
Department of Commerce.....	--	*	5	--	6	--	11	--	11	17
Department of Defense-Military..	--	--	628	531	1,159	--	--	--	--	1,159
Department of Defense-Civil:										
Corps of Engineers.....	--	--	--	--	--	--	41	2	43	43
Other.....	--	4	*	--	4	--	--	--	--	4
Department of Health, Education and Welfare.....	19	--	20	11	50	15	66	--	81	131
Department of Housing and Urban Development.....	6	750	447	15	1,219	--	489	--	489	1,708
Department of Interior.....	144	34	11	*	190	--	26	11	37	226
Department of Justice.....	--	--	16	--	16	--	--	--	--	16

* Less than \$500,000.

^{a/} In a few cases releases are planned prior to 6/30/71.



TABLE II. CLASSIFICATION OF RESERVES AS OF MAY 14, 1971, BY DEGREE OF RESTRICTIVENESS
(In millions of dollars)

Agency	Non-restrictive reserves				Restrictive reserves					
	Withheld to conform to legal intent				Total non-restrictive reserves	Current plan contemplates release and use in:			Total restrictive reserves	Total all reserves
	To Comply with latest Congressional action	To use for contingencies as they occur	Release in the following amounts is now estimated to occur:							
			By 6/30/72 ^{a/}	After 6/30/72		Remainder of FY 1971	FY 1972	No release by 6/30/72		
Department of Transportation..	1,022	--	4,735 ^{b/}	457	6,214	5	50	1,080	1,135	7,349
Atomic Energy Comm.	1	110	23	6	139	5	23	1	29	168
Environmental Protection Agency.....	--	--	5	--	5	--	--	--	--	5
General Services Admin.	--	13	42	17	71	--	--	--	--	71
NASA.....	--	--	--	--	--	--	3	9	12	12
Veterans Administration.....	--	--	2	--	2	--	--	--	--	2
Atlantic-Pacific Inter-oceanic canal study commission.....	--	1	--	--	1	--	--	--	--	1
District of Columbia.....	--	34	53	--	87	--	--	--	--	87
Farm Credit Administration....	--	260	--	--	260	--	--	--	--	260
National Science Foundation.....	--	--	--	--	--	--	*	10	10	10
U.S.I.A.....	--	--	1	--	1	--	--	--	--	1
Other.....	--	*	1	--	1	*	*	--	*	1
Total.....	1,367	1,386	6,299	1,129	10,181	50	786	1,198	2,034 ^{c/}	12,215 ^{c/}

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* Less than \$500,000.

a/ In a few cases releases are planned prior to 6/30/71.

b/ Includes \$4.6 billion of highway funds that are planned to be used in FY 1972. Excludes contract authority provided by the Congress to become available in FY 1972.

c/ This excludes certain restrictions on the use of balances of public enterprise funds that are not reported as part of the apportionment actions on appropriated funds. These restrictions total \$596 million and cover the Department of Housing and Urban Development (\$264 million), Department of Transportation (\$200 million), Federal Home Loan Bank Board (\$9 million), Small Business Administration (\$116 million), and Tennessee Valley Authority (\$7 million).

