

LEGISLATIVE HISTORY OF
HISTORIC PRESERVATION ACT
OF 1966



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CHRONOLOGY

1964

November 18 - Task Force on the Preservation of Natural Beauty submitted recommendations to President. Section on "Urban Design" recommended action on historic preservation.

1965

- February 8 - President's message to the Congress on Natural Beauty.
- May 7 - Letter from Lewis A. Sigler, Assistant Legislative Counsel, to Robert Carvey, Executive Director of National Trust, transmitting proposed letter to Speaker and draft bill to authorize grants to National Trust.
- May 24-25 - White House Conference on Natural Beauty.
- September 17 - Letter from Secretary Udall to Charles Schultze, Director, Bureau of the Budget, transmitting proposed letter to Speaker and draft bill, requesting Administration advice.
- October 7 - Special Committee on Historic Preservation, U. S. Conference of Mayors, prepared Prospectus of Work Program and Report.
- October 18 - Memorandum of Director Hartzog appointed 6-man Task Force to work with Special Committee on Historic Preservation.
- October 19 - Letter from Director Hartzog to Albert Rains informing him of Task Force to assist in providing information from National Park Service files.
- November 12 - Letter from Director Hartzog to Albert Rains in Rome, transmitting thoughts on a new program of historic preservation.

1966

- February - "With Heritage So Rich" published by Special Committee on Historic Preservation, recommending legislative action.
- February 23 - President's message to the Congress on Quality of the Environment.
- March 2 - Letter from Secretary Udall transmitting draft bill to establish grant program.
- March 4 - Letter from Acting Legislative Counsel Lewis Sigler to Mr. Laurence Henderson, Director, Special Committee on Historic Preservation, U. S. Conference of Mayors, transmitting draft bill to implement committee recommendations as applied to Interior.
- March 7 - S. 3035 introduced and referred to Senate Committee on Interior and Insular Affairs, identical to H.R. 13491.
- March 17 - S. 3097 introduced and referred to Senate Committee on Banking and Currency, identical to H.R. 13790.
- March 17 - S. 3098 introduced and referred to Senate Committee on Interior and Insular Affairs, identical to H.R. 13792.
- March 21 - Subcommittee on Housing, House Committee on Banking and Currency, held hearings on housing legislation, including H.R. 13790, identical to S. 3097.
- April 19-29 - Subcommittee on Housing, Senate Committee on Banking and Currency, held hearings on proposed housing legislation, including S. 3097.
- April 27 - Letter from Max Edwards, Assistant to the Secretary and Legislative Counsel, to Senator Robertson, Chairman of Committee on Banking and Currency, stating need for amendments of S. 3097.
- May 25 - Letter from Deputy Assistant Secretary Clarence Pautzke to Charles Schultze, Director, Bureau of the Budget, transmitting proposed departmental report on S. 3097.
- May 31 - Memorandum opinion from Acting Associate Solicitor Bernard Meyer to Director Hartzog, affirming authority under 1935 Historic Sites Act to accumulate data in the form of a national register.

- June 7 - Letter from Deputy Assistant Secretary Clarence Pautzke to Senator Jackson, Chairman of Committee on Interior and Insular Affairs, recommending enactment of S. 3035, amended, in lieu of S. 3098.
- June 8 - Subcommittee on Parks and Recreation, Senate Committee on Interior and Insular Affairs, held hearing on S. 3035 and S. 3098.
- June 10 - Letter from Deputy Assistant Secretary Clarence Pautzke to Representative Aspinall, Chairman of Committee on Interior and Insular Affairs, recommending enactment of H.R. 13491 (identical to S. 3035), amended.
- June 11 - Senate Committee print of S. 3035.
- July 1 - Letter from Wilfred H. Rommel, Assistant Director for Legislative Reference, Bureau of the Budget to Senator Jackson, Chairman of Committee on Interior and Insular Affairs, recommending amendments to committee print of S. 3035.
- July 7 - S. 3035 reported with amendments by Senate Committee on Interior and Insular Affairs.
- July 11 - S. 3035 considered and passed Senate.
- July 15 - Subcommittee on National Parks and Recreation, House Committee on Interior and Insular Affairs, held hearing on S. 3035 and H.R. 13491 and related bills.
- July 21 - Letter from Assistant Legislative Counsel Lewis Sigler to T. Richard Witmer, Counsel of House Committee on Interior and Insular Affairs, transmitting amendments to section 106 of S. 3035 as drafting service.
- July 29 - Letter from Assistant Secretary Cain to Senator Robertson, Chairman of Committee on Banking and Currency, recommending enactment of S. 3097, with amendments.
- July 29 - Letter from Secretary, Department of Housing and Urban Development to Senator Robertson, recommending enactment of S. 3097, with amendments.
- July 29 - Letter from Wilfred Rommel, Assistant Director for Legislative Reference, Bureau of the Budget, to Senator Robertson, stating Administration position on reports of Interior and HUD on S. 3097, and recommending that aided projects under S. 3097 be required to meet the same criteria as those under S. 3035.

- August 4 - S. 3035 considered by full House Committee on Interior and Insular Affairs.
- August 9 - Senate Committee on Banking and Currency reported new Demonstration Cities bill, S. 3708, with no historic preservation title.
- August 10 - Senate Committee on Banking and Currency reported new Housing and Urban Development bill, S. 3711, containing Title IV, Historic Preservation, in lieu of S. 3097.
- August 12 - S. 3711 passed Senate as reported.
- August 19 - S. 3708 passed Senate as reported.
- August 30 - S. 3035 reported with amendments by House Committee on Interior and Insular Affairs.
- September 1 - S. 3708 reported by House Committee on Banking and Currency, containing historic preservation title of S. 3711, with amendments.
- September 19 - S. 3035 considered in House.
- September 28 - H. Res. 1032, a 1-hour rule for consideration of S. 3035, adopted by House Committee on Rules.
- October 10 - S. 3035 considered and passed House, amended.
- October 11 - Senate concurred in House amendment.
- October 13 - Letter from Deputy Assistant Secretary Clarence Pautzke to Charles Schultze, Director, Bureau of the Budget, recommending the approval of S. 3035.
- October 14 - S. 3708 passed House as reported.
- October 15 - President approved S. 3035, with remarks.
- October 18 - Conference report filed on S. 3708.
- October 18 - Senate agreed to conference report on S. 3708.
- October 20 - House agreed to conference report on S. 3708.
- November 3 - President approved S. 3708.

LEGISLATIVE HISTORY

PART I - Pre-legislative action

A. White House level

On November 18, 1954, the Report of the Task Force on the Preservation of Natural Beauty was submitted to the President. Among the recommendations on "Urban Design" were the following:

The National Park Service should be required to prepare a comprehensive inventory of the Nation's historic sites and areas, and it should be completed within five years.

* * *

Federal loans and matching grants should be used by State and local governments for the historic preservation task.

* * *

The FHA should revise its regulations so that private efforts for preservation will be encouraged.

* * *

Machinery should be set up so that Federally financed building projects do not conflict with historic preservation.

* * *

The National Trust should be given a fresh legislative lease on life.

* * *

The Federal Admissions Tax should be amended to exclude admissions charged to privately-operated non-profit historic sites.

* * *

The owner of any site or area included in the inventory should be entitled to deduct from the Federal Income Tax any expenses necessary for historic preservation.

* * *

In city areas of particular significance, HHFA demonstration grants should be used for conservation studies. Special loans should be available to people who own historically or architecturally significant properties.

This report also specifically recommended that Congress appropriate \$2 million annually to be used by the National Trust for Historic Preservation to match private donations.

The report recommended that the President call a White House Conference on "America the Beautiful." In his Message to the Congress on Natural Beauty, delivered February 8, 1965, the President said:

I intend to call a White House Conference on Natural Beauty to meet in mid-May of this year. . . . It will look for ways to help and encourage State and local governments, institutions, and private citizens in their own efforts.

Concerning historic preservation, the President made the following statement:

In almost every part of the country citizens are rallying to save landmarks of beauty and history. The government must also do its share to assist these local efforts which have an important national purpose. We will encourage and support the National Trust for Historic Preservation in the United States, chartered by Congress in 1949. I shall propose legislation to authorize supplementary grants to help local authorities acquire, develop, and manage private properties for such purposes.

The Registry of National Historic Landmarks is a fine Federal program with virtually no Federal cost. I commend its work and the new wave of interest it has evoked in historical preservation.

The White House Conference on Natural Beauty convened on May 24, 1965. Historic preservation was referred to in the proceedings in connection with "The Townscape." Gordon Gray, Chairman of the National Trust for Historic Preservation in the United States, stated in the panel discussion:

Let me suggest a few specifics variously involving government at all levels as well as private organizations and citizens.

Let us have a national survey to inventory landmarks of all types and grades of historic, architectural, and unique community value. Certify these with accompanying

legal protection for those so certified. We should continue to develop and protect historic districts in our urban areas. Compensation should be paid to private owners for losses incurred in preserving certified landmarks. Other devices should include tax relief (inheritance, income, personal and corporate, property, admissions) and scenic easements. Restraining covenants should be placed on historic properties; and an increasing number of them should be brought into public ownership. The FHA bank loan system should be revised. Zoning ordinances need strengthening. Machinery to veto government expenditures which would result in destroying landmarks is essential; and I know of no government agency with money to spend which has not been destructive in this way.

State and local governments should be assisted by State and Federal loans or matching grants. Eminent domain should be evoked for protection rather than destruction. Favorable governmental administrative policies should be codified and enacted into legislation. Better communication and coordination should be established within branches of the Federal Government and with private groups. Federal support and assistance should be given the National Trust as recommended by the President in his Message on Natural Beauty and unanimously approved by its Board of Trustees. A program is needed to guide adaptive uses, and to stimulate private philanthropy. (Beauty for America, Proceedings of the White House Conference on Natural Beauty, May 24-25, 1965, U. S. Govt. Printing Office, Washington, D. C., pp. 79-80.)

In the report of its Chairman (Edmund N. Bacon of the Philadelphia City Planning Commission) at the Conference, the Panel on "The Townscape" made specific "action proposals for historic preservation" as follows:

1. An inventory, throughout the Nation, of major landmarks, taking into account a wide range of historic, architectural, and unique community values. The National Park Service program for classifying and identifying historic buildings is inadequate to do this broader task.

2. A program of certification of historic and landmark structures or areas, with accompanying legal protection.
3. The creation of historic districts, wherever appropriate, including the whole of some historic towns.
4. A special program of compensation to private owners for losses suffered or for damages accruing from delay or deprivation in legal protection cases.
5. Special FHA mortgage insurance for improving landmark structures.
6. Expanded public programs of ownership of historic structures and areas.
7. Machinery should be developed for a coordinated private-public program of preservation. The Federal Government should take the lead in this endeavor.
8. The panel underscores the President's call for more funds for the work of the Federally chartered National Trust for Historic Preservation.

The panel recommends a thorough going overhaul of Federal, State, and local tax policies to encourage the implementation of natural beauty policies. Specific areas for further study would include possible revision of tax policies to encourage greater private investment in the preservation of approved historic and landmark structures and areas, through revision of income, inheritance, property, and admission taxes. Local taxing bodies should also review policies which penalize property owners who maintain their properties in a decent fashion. (Beauty for America, supra, pp. 636-7.)

B. Departmental and bureau level

1. Grants to the National Trust.

Following the President's February 8, 1965, Message to the Congress on Natural Beauty the Secretary of the Interior designated the National Park Service, with the Bureau of Outdoor Recreation, to "draft legislation to authorize supplementary grants to help local authorities acquire, develop, and manage private landmarks of beauty and history."

On March 9, 1965, the Executive Committee of the National Trust for Historic Preservation adopted the following motion:

That the Executive Director be authorized to communicate to officials in the Department of the Interior the National Trust attitude of general support for the principle of government support of preservation projects; the insistence of the Trust that nothing be done to affect its independence, especially by way of legislation that would impose upon the Trust government audit and budget procedures or the regulations of the Government Corporation Act; and, finally, that if there is to be enlargement of the role of the National Trust, it must be understood that present staff resources would be inadequate.

Mr. Robert R. Garvey, Jr., Executive Director of the National Trust, conveyed the foregoing to the Department by letter of March 10, 1965, to Assistant Secretary Carver. There followed several meetings between National Trust, Solicitor's Office, and National Park Service staff members, during which a first draft of bill was discussed. The draft read:

That, in order to further the policy of historic preservation in the United States as enunciated in the Act of October 26, 1949 (63 Stat. 927), funds are hereby authorized to be appropriated in an amount not to exceed _____ for any one fiscal year. Such funds shall be available to the Secretary of the Interior for transfer to the National Trust for Historic Preservation in such amounts as the Secretary deems necessary and the amounts so transferred shall be used by the Trust solely for the acquisition, administration or preservation of historic properties of national significance and interest.

Following further informal discussion, a revised draft bill was prepared and formally transmitted to the Executive Director of the National Trust on May 7, 1965, by Acting Legislative Counsel Lewis A. Sigler, and the suggestions of the Trust were solicited. The bill was accompanied by a draft transmittal letter to the Speaker of the House. The draft bill read as follows:

That in order to further the work of the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 26, 1949 (63 Stat. 927), as amended, in preserving and administering

sites, buildings, and objects significant in American History and Culture, the Secretary of the Interior is authorized to make periodic grants to the National Trust for use in accordance with the Act approved October 26, 1949, as amended, except that the grants shall not be used to purchase real property.

SEC. 2. There are authorized to be appropriated to the Secretary of the Interior not to exceed \$2,000,000 in any one fiscal year for the purposes of this Act.

In transmitting the draft to the Trust, Mr. Sigler's letter stated: "The draft was prepared on the basis of a discussion, in your office, and represents the approach which I understand you favor." At its spring meeting at Tarrytown, New York, on May 10-11, 1965, the Board of Trustees of the National Trust voted to authorize the Chairman and the Executive Committee to pursue the possibility of enactment of the foregoing bill with the Secretary of the Interior.

On July 7, 1965, at a meeting between the Assistant Legislative Counsel, the Executive Director of the National Trust, and National Park Service staff, a revised bill was discussed, which would provide for grants to the Trust on a matching basis. The following is an excerpt from a report of that meeting:

Mr. Sigler indicated that the matching fund provision could be written broad enough so as to provide for matching Federal dollars with (1) real property donated to the National Trust, (2) private cash donations to the Trust, and (3) income which the National Trust may receive from an endowment fund it may set up. With this flexibility, Mr. Garvey expressed the view that the Board would most likely support the matching fund provision.

On July 29, 1965, Under Secretary Carver sent a revised draft bill and transmittal letter to Mr. Garvey, with the following statement:

The revised version has been prepared after discussions with you, and we understand that it represents the position of the National Trust. It is also agreeable to this Department.

The revised bill read as follows:

That in order to further the work of the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 26, 1949 (63 Stat. 927), as amended, in preserving and administering sites, buildings, and objects significant in American history and culture, the Secretary of the Interior is authorized to make periodic grants to the National Trust for use in accordance with the Act approved October 26, 1949, as amended, except that the grants shall not be used to purchase real property. Any grant pursuant to this Act shall not be used to finance more than 50% of the cost of any project undertaken by the National Trust. The remaining cost of the project shall be borne by the National Trust from funds, services, real or personal property, or any combination thereof obtained from other sources, the value of which shall be determined by the Secretary and his determination of such value shall be final.

SEC. 2. There are authorized to be appropriated to the Secretary of the Interior not to exceed \$2,000,000 in any one fiscal year for the purposes of this Act.

Note the addition of the last two sentences to the first section.

On September 17, 1965, Secretary Udall submitted a revised bill and transmittal letter to Charles L. Schultze, Director, Bureau of the Budget, for advice. By letter of the same date, copies were also sent to Mr. Garvey, with the statement that, "The changes which you discussed with Mr. Sigler, and the additional change relayed by Mr. Carl Feiss, have been included in the bill and transmittal letter." As submitted to the Bureau of the Budget the bill read:

That in order to further the work of the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 26, 1949 (63 Stat. 927), as amended in preserving and administering sites, buildings, and objects significant in American history and culture, the Secretary of the

Interior is authorized to make periodic grants to the National Trust for use in accordance with the Act approved October 26, 1949, as amended. Any grant pursuant to this Act shall not be used to finance more than 50 percent of the cost of any project undertaken by the National Trust. The remaining cost of the project shall be borne by the National Trust from funds, services, real or personal property, or any combination thereof obtained from other sources, the value of which shall be determined by the Secretary and his determination of such value shall be final.

SEC. 2. There are authorized to be appropriated to the Secretary of the Interior not to exceed \$2,000,000 in any one fiscal year for the purposes of this Act.

Note the absence of requirement that no part of grant could be used for purchase of real property. The bill was cleared by the Bureau of the Budget in the above form on September 30, 1955.

2. Matching grants to States and to the National Trust.

The Department on September 17, 1965, was prepared to support legislation to authorize matching grants only to the National Trust. However, during September and October 1965 a Special Committee on Historic Preservation under the auspices of the U. S. Conference of Mayors, obtained a Ford Foundation grant and an anonymous donation for the purpose of assembling a body of fact on historic preservation and preparing guidelines for action. As ex-officio members of the Committee, the heads of the various Departments having programs that affect historic preservation were invited to participate and assist in the study. The Secretary of the Interior was designated an ex-officio member, and, in turn, the Director of the National Park Service designated a 6-member Task Force to work with the Special Committee and to assist in providing information from National Park Service files. On October 19, 1965, Director Hartzog wrote the Chairman of the Special Committee, Albert Rains, to advise him of the Task Force's formation.

The Special Committee visited several European capitals in its study of preservation techniques and laws of foreign nations. On November 12, 1965, Director Hartzog wrote Chairman Rains in Rome, transmitting a staff paper of the Chairman of the National Park Service Task Force on a "new program of historic preservation." Among the recommendations in the staff paper were the following pertaining to new legislation:

(1) Draft a new historic preservation law for the United States, to implement further the policy and program enacted in the Historic Sites Act of 1936. This legislation—developed after careful study of all existing laws—might include the following features among others:

(a) Give legal recognition to Registered National Historic Landmarks and Registered National Historic Districts. This would include development of a procedure to insure a least minimum protection for these Landmarks (possibly for limited periods even without the consent of the owner). The procedure would involve notice of Registration to owner; requirement of notice to Registry officials if owner contemplates sale, demolition, or alteration; requirement of notice to Registry officials if a Landmark is to be adversely affected by any public construction project financed in whole or in part with Federal appropriations. . . .

(b) Authorize a program of grants and loans to encourage preservation of qualified historic properties continuing in use, in addition to those few set aside as exhibits. Such a program would appear to involve liberalization of some urban renewal legislation to provide special financial encouragement for owners of Registered Landmarks or in Registered National Historic Districts perhaps where normal urban renewal procedures would also involve the continuation of Land and Water Conservation Fund grants to the States for historic preservation as part of statewide recreation plans as well as other State grants. It would also involve a Federal grant to the National Trust to assist it in its work with private and quasi-public preservation organizations. It might also involve grants for survey and conservation of qualified prehistoric antiquities and other archeological sites.

Existing legislation to authorize loans to private property owners for rehabilitation of dwellings should be examined to determine if additional benefits are needed and desirable in the case of owners of qualified historic property considered part of the national heritage.

(c) Existing tax legislation should be examined to determine if deductions are justified in regard to income expended in maintenance of Registered National Historic Landmarks or Districts; and also whether inheritance tax benefits are justified, as in Great Britain, when an owner leaves his historic property to the National Trust.

(d) The possibility should be explored of amendments to urban renewal authority to permit local communities to purchase historic structures outside a renewal area as part of the local non-cash contribution under the Urban Renewal program. . . .

(e) The possibility of authorizing exchanges of surplus Federal historic property for non-historic property should be considered. This might permit GSA to exchange public buildings deserving preservation for new sites for future Federal construction.

(f) The acquisition and administration of historic easements that might be acquired by the Federal Government under various programs deserves careful consideration.

(g) The authority of the Small Business Administration to encourage the perpetuation of traditional crafts should be explored, with a view to strengthening such authorization and program if necessary.

(h) Strengthen legislation to help preserve traditional open space, such as town squares and early parks, local meadows and woods and so on, possibly through a non-profit organization for this purpose similar to the National Trust.

* * *

Among recommendations entitled "Stage Three: Private Section," there were the following:

* * *

(2) Federal Grants

The proposed Federal grants to the National Trust should be on a matching basis as a further inducement for private donations of funds.

* * *

(4) Educational Program

The educational and information programs of the National Trust, with its grass roots connections, should be encouraged and subsidized in some appropriate way either through private philanthropy or through government subsidies or agreements so that adequate publications, workshops, and conferences, are regularly available to those who need them.

The paper also recommended strongly that private philanthropy be encouraged and that an agreement be entered into between the National Trust and the National Park Service clarifying and confirming their inter-relationships.

On November 30, 1965, the Secretary of the Interior submitted to the Bureau of the Budget a draft bill containing several titles, which would implement a Presidential conservation program. Title II of the draft pertained to historic preservation.

In early February 1966 the Special Committee published its report, "With Heritage So Rich." In a foreword to the report, Mrs. Lyndon Johnson said, in part:

I was dismayed to learn from reading this report that almost half of the twelve thousand structures listed in the Historic American Buildings Survey of the National Park Service have already been destroyed. This is a serious loss and it underlies the necessity for prompt action if we are not to shirk our duty to the future.

We must preserve and we must preserve wisely. As the report emphasizes, in its best sense preservation does not mean merely the setting aside of thousands of buildings as museum pieces. It means retaining the culturally valuable structures as useful objects. . . .

The recommendations in the report of the Special Committee were inserted in the Congressional Record on February 9, 1966, by Senator Muskie, one of the Special Committee members, (112 Cong. Rec. 2515). The detailed recommendations for Federal action were:

1. Enact legislation to: (a) affirm a strong national historic preservation policy, recognizing its enlarged dimensions, (b) coordinate

and consolidate existing historic preservation programs, (c) authorize annual appropriations for the Department of the Interior to acquire historic structures and sites of major national importance, (d) consolidate the Federal inventory and survey programs in a national register and to authorize additional appropriations for the National Park Service to administer this register, (e) authorize grants to State and local governments to carry out similar inventory and survey programs in coordination with the National Park Service.

2. Enact legislation authorizing preparation, administration, publication, and distribution by the National Park Service of a national register, in accordance with carefully prepared standards and criteria, of structures and sites, whether publicly or privately owned, of national importance because of historic, architectural, archaeological, or other cultural values. Such a register should include several categories of buildings: The first category should include our prime national monuments and Congress should pass legislation which would protect them from demolition, mutilation, or alteration without approval of the advisory body which this committee proposes. This group would include structures such as the Capitol, the White House, Mount Vernon, and Monticello. Many of the buildings are at present in public hands and most of those in private ownership are in no danger. But there should be an orderly evaluation of the structures belonging in this small class which should be protected with every legal safeguard.

A second category of buildings should include structures of lesser rank which have merit and should be eligible for the broad range of assistance programs proposed in this report. Provision should be made for the Government to have the right of first refusal should the owner decide to sell or demolish the structure.

A third category should include those structures of local concern whose preservation should be a matter of local decision and initiative.

3. Establish an adequately staffed advisory council on historic preservation, with membership representing the major Federal departments and agencies involved in preservation matters, as well as State and local governments and public and private organizations interested in historic preservation and urban development. The functions of such a council should include: (a) advising the President and the Congress on historic preservation as it affects the national welfare and providing inspiration and leadership for the implementation of the national policy; (b) the development of policies, guidelines, and studies for the review and resolution of conflicts between different Federal and federally aided programs affecting historic preservation; (c) the encouragement, in cooperation with appropriate private organizations, of public interest and participation in historic preservation; (d) supporting the national register as an instrument of national historic preservation policy and insuring the coordination of the register with activities of other agencies of Government; (e) making and publishing studies in such areas as adequacy of legislative and administrative statutes and regulations pertaining to preservation activities of State and local governments, and effects of tax policies at all levels of government on historic preservation, and (f) preparation of guidelines for assistance of State and local governments in drafting preservation legislation.

4. Provide by Internal Revenue Code amendment or clarify by regulation or published ruling the status of: (a) historic preservation as a public, exempt charitable activity, deductibility of gifts of historic easements or restrictive covenants to governmental units or exempt organizations engaged in preservation, and permissibility of revenue-producing adaptive or incidental uses; (b) acceptance of a registered historic property for conveyance to the national trust in lieu of an equivalent estate tax payment; (c) income tax deductibility to private owners of registered historic properties for preservation and restoration expenditures within appropriate

limitations; (d) recognition of conveyances of registered historic properties to governmental units or exempt preservation organizations as present gifts, despite reserved life interests, provided the property is open to the public on a reasonable basis.

5. Make mandatory a preliminary review of the location and status of historic sites and buildings in relevant areas prior to the undertaking of Federal or federally aided programs or projects affecting plans for physical development. Where the review produces evidence of the existence of historic sites and buildings and that surveys made in accordance with the standards of the national registry are lacking, make mandatory a historic survey prepared in accordance with such standards. Where necessary, provide funds for the preparation of such surveys through the Department of the Interior, Department of Housing and Urban Development, Department of Commerce, or other concerned Federal agencies. Plans prepared for such development projects must take all such historic surveys into consideration, and must show evidence thereof.

6. Authorize the use of Federal matching grants for acquisition by an appropriate public agency of historic structures, rehabilitation loans and grants for restoration of such structures, and recognition of public expenditures for such acquisitions as eligible noncash contributions under urban renewal programs. Under the urban renewal program, communities must match the Federal grants with local contributions. In most cases, communities must put up \$1 for every \$2 of Federal aid, although in the case of cities under 50,000 and cities in economically distressed areas, the formula is \$1 for every \$3 of Federal assistance. However, the community has the option to make in lieu of cash, a noncash contribution of a community benefit such as a school or sewer and water services within the project area. A little less than two-thirds of these local

matching contributions are in this form. Under the 1965 Housing Act, \$2.9 billion of Federal grants are authorized which will be matched by between \$966 million and \$1.45 billion of local matching contributions. Expansion of eligible noncash contributions to include acquisition of historic structures on the national register both within and outside the project area would enable local communities to play a far more effective role in preservation.

7. Establish new and liberalized loan programs for private groups or individuals for acquisition and rehabilitation of historic structures and districts.

8. Enactment of a scholarship and training program for architects and technicians in the field of historic preservation, similar to the program enacted by Congress in 1964 for the field of housing and urban planning. An adequate program is of vital importance to the effective implementation of the other proposals of the committee.

The general recommendations of the Special Committee were also of interest to the Department of the Interior in that they pertained in part to the grants to the National Trust program which was the subject of Interior-sponsored legislation then pending clearance at the Bureau of the Budget. The general recommendations are set forth in full below:

1. Historic and cultural sites, structures, and objects acquired with the use of Federal funds and not retained by the acquiring department or agency, or not otherwise directly disposed of, should be transferable under the surplus property disposal program to the national trust in fee simple. The national trust should be empowered to lodge operational responsibility for such property with local preservation groups wherever possible.

2. In order that representatives of the Department of Housing and Urban Development, the Department of Commerce, the General Services Administration, and other appropriate

agencies may be allowed to sit with the board of trustees, the national trust charter should be amended to provide that the trustees, at their discretion, be allowed to appoint additional ex officio trustees from among heads of Federal departments and agencies.

3. Federal authorization should be provided for matching grants to the national trust on a two-thirds Federal one-third national trust formula for the following purposes: (a) to provide educational and clearinghouse services and financial assistance to individuals and organizations in preservation and related fields; (b) to prepare information and educational publications, conduct meetings and conferences, finance scholarships, develop library resources, provide technical consultation and establish award programs; (c) to acquire, restore, and maintain registered structures of national historic or architectural importance.

4. To assure that public funds for private historic preservation are used only for authentic needs and in accordance with established criteria, such funds should be transmitted to nongovernmental organizations and private individuals only with the approval of an appropriate authority.

5. Private corporations, trade associations, and labor organizations should be encouraged to identify and preserve the locations, structures and objects on which the development of their enterprise or craft has been based.

6. The great national philanthropic foundations should be urged to stimulate and assist programs for the training of architects, landscape architects, engineers, historians, designers and decorators in careers in historic preservation. In addition, they are urged to assist historic preservation research projects, publications and conference and communication media programs.

International Cooperation

The United States should provide financial support to the UNESCO historic preservation programs including the Rome Centre, and the International Council on Monuments and Sites. In addition, Federal funds should be used to support international conferences and scholarships and fellowships for international study of historic preservations.

A comparison of (a) the recommendations in the report of the 1964 Task Force on the Preservation of Natural Beauty (see p. 1), (b) the "action proposals" of the panel on The Townscape at the May 1966 White House Conference on Natural Beauty, and (c) the suggestions in the National Park Service staff paper sent to the Special Committee in November 1965, with (d) the general and detailed recommendations of the Special Committee shows that several ideas and recommendations for action were common to or pervading all four. For example:

(a) <u>Task Force</u>	(b) <u>White House Conference</u>	(c) <u>NPS Suggestions</u>	(d) <u>Special Committee</u>
1. NPS inventory	National survey and inventory	---	Consolidate inventory and maintain national register
2. Federal loans and grants to States and local governments	---	Federal grants and loans	Federal grants to State and local governments for surveys; matching grants for public acquisition and restoration locally.
3. Machinery to protect historic buildings where Federal funds are used in construction	Certification, with accompanying legal protection	Protection for Landmarks, with notice required if construction is financed with Federal appropriations	Protection of prime national monuments with approval of advisory board, and mandatory historic survey before undertaking federally financed construction

<u>Task Force</u>	<u>White House Conference</u>	<u>NPS Suggestions</u>	<u>Special Committee</u>
4. Grants to the National Trust	More funds for the work of the National Trust	Matching Federal grants to the National Trust	Matching Federal grants to the National Trust on a 2/3 Federal, 1/3 National Trust basis.
5. Income and admissions tax deductions for historic properties	Thoroughgoing overhaul of Federal, State, and local tax policies	Existing tax legislation should be examined	Amend Internal Revenue Code or otherwise clarify deductibility status regarding income and estate purposes.
6. FIA should encourage private efforts; HHFA should provide loans to private persons	Special FIA mortgage insurance for improving landmark structures	Liberalize urban renewal legislation; additional benefits for loans to owners of qualified historic properties	Revise urban renewal legislation; liberalize loan programs.

On February 23, 1966, President Johnson sent to Congress a Message on the Quality of the Environment. In it he stated:

Historic preservation is the goal of citizen groups in every part of the country. To help preserve buildings and sites of historic significance, I will recommend a program of matching grants to States and to the National Trust for Historic Preservation.

Revised legislation was prepared and submitted to the Bureau of the Budget on February 28 by the Department's office of Legislative Counsel and, following resolution of the relation of historic preservation grants to the Land and Water Conservation Fund grants, the legislation was submitted to the President of the Senate and the Speaker of the House on March 2, 1966. In connection with the Land and Water Conservation Fund in a memorandum dated March 1, 1966, Max N. Edwards, Assistant to the Secretary and Legislative Counsel, advised the Secretary of the Interior as follows:

* * *

We understand that you have agreed with Director Hartzog to separate the planning and financing of the program of grants to States for historic preservation from the planning and financing of the program of grants to States for outdoor recreation under the Land and Water Conservation Fund Act, and the enclosed bill does so.

Director Crafts, however, wants a provision inserted in the enclosed bill prohibiting a historic preservation grant for a project that is not consistent with the statewide outdoor recreation plan. Director Hartzog objects to such provision on the ground that you agreed to let the historic preservation program stand on its own feet and be separated from the outdoor recreation program. Mr. Craft's amendment would tie them together at the grant state.

We have not included such provision in the enclosed bill because of Mr. Hartzog's statement of your decision. Incidentally, it should be noted that coordination of the two programs can be accomplished within the Department, if there is a will to do so.

* * *

As submitted to the Secretary with Mr. Edwards' memorandum of March 1, 1966, section 2(a) of the draft bill read, in part:

Sec. 2. (a) No grant for a project may be made under this Act - -

* * *

(2) unless the application is in accordance with the comprehensive statewide historic preservation plan approved by the Secretary;

As submitted to the Congress on March 2, by the Secretary, however, section 2(a) (2) of the draft bill read:

(a) unless the application is in accordance with the comprehensive statewide historic preservation plan which has been approved by the Secretary after considering its relationship to the comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897);

This compromise language was agreed upon by both bureaus.

PART II - LEGISLATIVE ACTION

A. Content of bills

In general, three sets of bills were introduced in March 1966, which would in some manner assist historic preservation. The first was the Department of the Interior's recommended bill; the second was a bill which would carry out those parts of the Special Committee's recommendations applicable to Interior; the third would carry out the Special Committee's recommendations applicable to the Department of Housing and Urban Development. The first two sets of bills were referred to the Committees on Interior and Insular Affairs; the third set was referred to the Committees on Banking and Currency.

1. Interior proposal.

The draft bill submitted to the Congress by the Secretary of the Interior on March 2, 1966, was introduced on March 7, in the Senate as S. 3035, by Senator Jackson, Chairman of the Senate Committee on Interior and Insular Affairs, and in the House of Representatives as H.R. 13491, by Representative Aspinall, Chairman of the House Committee on Interior and Insular Affairs. The program authorized in these bills provided for —

(a) Maintenance by the Secretary of the Interior of a National Register of sites, buildings, and objects significant in American history and culture;

(b) Grants to States for 100 percent of the cost of preparing comprehensive statewide historic surveys and plans, apportioned on the basis of need;

(c) Grants to States for 50 percent of the cost of acquiring and restoring properties included in the statewide plan approved by the Secretary, apportioned on the basis of needs as disclosed in the statewide plan; and

(d) Grants to the National Trust for 50 percent of the cost of acquiring, restoring, maintenance, and repair of historic properties, not necessarily identified in the statewide historic preservation plan.

By way of explanation of the bill's major provisions, the March 2 transmittal letter of the Secretary read in part as follows:

* * *

The program of grants-in-aid to States will begin with a statewide historic sites survey financed by the Federal Government and conducted according to standards and procedures

reflecting those of the National Survey of Historic Sites and Buildings which the Department is presently conducting. The statewide survey will include sites already determined to be of national significance by the Secretary of the Interior, but it will be aimed primarily at identifying and evaluating other properties that are significant in American history and culture.

On the basis of such survey, the State will prepare a comprehensive statewide historic preservation plan which, when approved by the Secretary of the Interior after considering its relationship to the statewide outdoor recreation plan, will form the basis for matching grants-in-aid to States for the acquisition and development of historical properties in non-Federal public or private ownership. Properties of national, regional, State, or local historical significance will be eligible for inclusion in the statewide plan, whether they are operated by a public agency or private organization or individual.

Due to rapidly increasing development in urban centers of population, the Secretary of the Interior will require assurances that preservation of historic areas in our cities figure materially in the preparation of any statewide plan. For this reason also, apportionment of the grants will take into account the many historical properties located in urban centers.

* * *

The National Trust is empowered to accept and administer gifts of real and personal property absolutely or in trust and to contract with Federal, State, or municipal agencies, or individuals for the preservation and maintenance of historic properties owned by other agencies or individuals.

Under its program the National Trust has acquired historical properties of great significance, and has assisted in the preservation and maintenance of other properties in private ownership.

* * *

As part of its educational program the National Trust conducts workshops, seminars, and conferences, and it is especially active in giving moral support and, upon request, expert technical advice to preservation organizations for their local projects.

* * *

The functions of the National Trust are carried out solely with donated funds. Grants to the National Trust under the proposed bill will enable the Trust to proceed to encourage on an accelerated basis the local initiative and support that is needed for preservation of our historic heritage.

* * *

The bill also provides that no grant may be made under this Act for or on account of any survey or project with respect to which financial assistance has been given or promised under any other Federal program activity, and vice versa. This provision will avoid any overlap with other related Federal programs and activities such as the Department of Housing and Urban Development's open-space programs conducted pursuant to title VII of the Housing Act of 1961 (75 Stat. 183, as amended; 42 U.S.C. 1500 et seq.).

* * *

2. Special committee proposal applicable to Interior.

Pursuant to an informal request from Mr. Laurence G. Henderson, Director, Special Committee on Historic Preservation, the Department's office of Legislative Counsel prepared a draft of a bill and sent it to Mr. Henderson on March 4, 1966. Acting Legislative Counsel Sigler's letter of that date to Mr. Henderson read in part:

* * *

As you requested, the enclosed draft bill is designed to implement the recommendations contained in the report of your Committee, "With Heritage So Rich," insofar as the recommendations in this report relate to the Department of the Interior.

This draft has been prepared as a service to you. Since it has not been cleared by the Bureau of the Budget, you will understand, I am sure, that we can make no commitment at this time concerning the position of the Department on the measure.

* * *

The draft bill prepared for Mr. Henderson contained a "Declaration of Purpose" plus seven substantive titles, briefly outlined as follows:

(a) Strong congressional finding and declaration in support of Federal assistance for historic preservation.

(b) Authorized Secretary of the Interior to establish and maintain a national register of sites, buildings, and objects significant in American history, architecture, archeology, and culture, with three general categories of properties: (1) nationally significant, identified in the surveys conducted pursuant to the 1935 Historic Sites Act; (2) national, regional, or State significance, identified in statewide historic preservation surveys; and (3) local significance, identified in statewide plans.

(c) Directed Secretary of the Interior to prepare, publish, and distribute the national register, and specifically authorized the appropriation of funds for the national register program;

(d) Authorized appropriation of funds for 10 years to accelerate historic preservation programs authorized in the 1935 Historic Sites Act;

(e) Required Federal agencies to take into account effect of Federal or federally assisted project on any property included in the national register;

(f) Authorized grants to States for 100 percent of the cost of preparing comprehensive statewide historic surveys and plans, apportioned on the basis of need;

(g) Authorized grants to States for 50 percent of the cost of acquiring and restoring properties included in the statewide plan approved by the Secretary, apportioned on the basis of needs as disclosed in the statewide plan;

(h) Authorized grants to the National Trust for 75 percent of the cost of any project undertaken by it pursuant to its character;

(i) Established a 15-member National Advisory Council on Historic Preservation, including 6 cabinet members and other appointed by the President, to advise the President and Congress, develop guidelines, encourage public interest, make and publish studies on legislative and tax matters, and prepare guidelines for state and local governments.

(j) Authorized the Secretary of the Interior to make matching grants to States to assist in providing special training for architects and technicians employed by a public body responsible for historic preservation programs, in accordance with an approved state plan (limited to a 4-year program); and

(k) Authorized the Secretary of the Interior to award scholarships for study as architects and technicians in the field of historic preservation, selected upon the recommendation of the Advisory Council (limited to a 4-year program).

A modified version of the foregoing draft bill was introduced on March 17, in the Senate as S. 3098, by Senator Muskie (for himself and Senators Hart, Hartke, Kennedy of Massachusetts, Long of Missouri, Mansfield, Metcalf, Morse, Nelson, and Sparkman), and in the House of Representatives by Representative Widnall and others, as H.R. 13792. As introduced, the bill was identical to the draft furnished Mr. Henderson except that (1) S. 3098 authorized grants of two-thirds the cost of a project to the National Trust, rather than 75 percent of the cost as in the draft, and (2) S. 3098 did not contain the Advisory Council, grants to States for scholarships, or Interior scholarship provisions referred to in items (i), (j), and (k), above.

3. Special committee proposal applicable to HUD.

On March 17, simultaneously with the introduction of S. 3098, Senator Muskie also introduced S. 3097 (for himself and Senators Hart, Hartke, Kennedy of Massachusetts, Long of Missouri, Mansfield, Metcalf, Morse, Nelson, Sparkman, and Yarborough) entitled "To provide financial and other aid, under the Housing Act of 1949 and related Federal programs, to encourage and assist in the preservation and maintenance of historic structures." An identical bill, H.R. 13790, was introduced the same day by Representative Widnall. The bills were referred to the Committees on Banking and Currency.

Senator Muskie, in introducing S. 3097 (applicable to HUD) and S. 3098 (applicable to Interior), stated in part as follows (112 Cong. Rec. 5822):

Mr. President, on behalf of myself and the Senator from Montana [Mr. Mansfield], the Senator from Massachusetts [Mr. Kennedy], and the Senator from Oregon [Mr. Morse] I introduce for appropriate reference two bills to accelerate our national program of historic preservation.

* * *

This legislation will find, survey and register significant structures. A top level national advisory council would be created to give leadership to the program. There would be grants and loans for acquisition and restoration of registered buildings. Cities would receive credit for such work toward their noncash contributions for urban renewal. Architects and technicians would be trained to fill the critical shortage of professional personnel in this field.

In short, the energies and resources of both private and public organizations would be marshalled to save our heritage of stone and mortar.

We ask for \$2 million for fiscal year 1967 to get this program underway.'

The proposals in the legislation are based on recommendations by the Special Committee on Historic Preservation. The recommendations are the result of a long and thorough study of the preservation needs of our Nation. The special committee is sponsored by the U. S. Conference of Mayors, and it has been my privilege to serve on that committee.

Companion legislation is being introduced in the House by Congressman William B. Widnall, of New Jersey. He is also a member of the special committee.

As introduced, S. 3097 contained the following provisions:

(a) Amends the Housing Act of 1949 to provide that an urban renewal plan may include the acquisition, sale, and relocation of historic structures as determined by the local public agency;

(b) Amends the Housing Act of 1949 to provide that the cost of acquiring and rehabilitating structures locally determined to be historically significant may be credited to the local share required to match capital grants for urban renewal (credited to the local noncash contribution);

(c) Amends the Housing Act of 1949 to authorize the Secretary of Housing and Urban Development to make grants of up to \$90,000 per structure to the National Trust to cover restoration of properties determined by the Trust to be of historical or architectural value;

(d) Amends the Housing Act of 1954 to authorize the Secretary of Housing and Urban Development to make grants to cities of 2/3 of the cost of making surveys of structures determined by the city to be of historic or architectural value;

(e) Amends the Housing Act of 1964 to authorize the Secretary of Housing and Urban Development to make loans to owners and tenants of property for restoration of structures determined by HUD to be of historic or architectural value;

(f) Amends the Housing Act of 1961 to authorize the Secretary of Housing and Urban Development to make grants to States and local public agencies of 50 percent of the cost of acquisition and rehabilitation of properties determined by the local agency to be of historical or architectural value;

(g) Authorizes a 3-year, \$500,000 fellowship program to be administered by the Secretary of Housing and Urban Development for graduate training in the historic preservation field; selection of persons for fellowships shall be on recommendation of a specially created "Historic Preservation Fellowship Advisory Board," composed of 9 members appointed by the Secretary of HUD; and

(h) Establishes a 15-member National Advisory Council on Historic Preservation, composed of 6 cabinet officers and 9 members appointed by the President, having the same duties as those enumerated in the draft bill furnished to Mr. Henderson on March 4, 1966, except that the Council established under S. 3097 is given the authority to hold hearings and to subpoena witnesses and materials.

Thus the provisions for fellowships and the establishment of a National Advisory Council on Historic Preservation which were included in the draft bill furnished Mr. Henderson, and for which the Secretary of the Interior would have responsibility, were not included in the bills applicable to Interior (S. 3098 and H.R. 13792), but were included, in modified form, in the bills applicable to HUD (S. 3097 and H.R. 13790).

B. Committee consideration - Banking and Currency Committees.

On March 21, 1966, the Subcommittee on Housing, House Committee on Banking and Currency, held hearings on pending housing legislation including the Administration's proposed Demonstration Cities Act, Housing and Urban Development Act, other Housing Act amendments, and related bills. The subcommittee also considered H.R. 13790 (identical to S. 3097), which pertained to historic preservation in the context of housing legislation. Historic preservation was not discussed in the testimony of Secretary Weaver or other Department of Housing and Urban Development witnesses (see Hearings, Part I, pp. 31-151). During the hearings, however, former Congressman (and former chairman of the Subcommittee on Housing) Albert Rains, Chairman of the Special Committee on Historic Preservation, and Gordon Gray, Chairman of the Board of Trustees of the National Trust, testified in support of H.R. 13790 (identical to S. 3097). See Hearings, Part II, pp. 958 - 997. Pertinent excerpts from their testimony are set forth below:

* * *

Mr. Rains: I used to grieve greatly over the fact that we are pulling down buildings, some of which ought to have been preserved, but I always believe that what we needed was a great and wider national policy on historic preservation than we have had in the past, and that we should do it not by patchwork, but we should have a general overall piece of legislation.

So I was delighted when my friend, Larry Henderson, who is with the Joint Council on Housing, an entity of the United States Conference on Mayors, and the National League of Cities, suggested that we seek a Ford Foundation grant whereby we could do a real study.

I am pleased to tell you that in the very beginning of that study we were encouraged by Secretary of the Interior Udall, by

certain distinguished people down Pennsylvania Avenue, but this study was done absolutely and completely aside from any governmental entity at all. This was done by a nonprofit group, by private citizens with the help of the distinguished gentleman from New Jersey, Mr. Widnall, and with the Senator from Maine, Senator Muskie.

* * *

Among the people who contributed greatly to the whole idea was our esteemed friend, Gordon Gray, who is the Chairman of the National Trust.

* * *

We did this study in about 3 months which was a record so far as time was concerned, and you will find the book With Heritage So Rich, if I do say it, a very fascinating book.

I would like, Mr. Chairman, to include in the record, the findings and recommendations of the special committee

* * *

The legislation introduced by Congressman Widnall carries out much of the program recommended by the special committee. Identical legislation has also been introduced in the Senate by Senator Muskie who has as cosponsors a large number of Senators including Majority Leader Mike Mansfield.

* * *

The Widnall - Muskie legislation before your committee has companion legislation now before the Interior Committee which would —
A part of this program, because of the jurisdiction, had to go before the Interior Committee; I don't mind telling you we put everything we could in this particular one because we are willing to risk our fate on this bill but certain things has to go to the Interior Committee —
A brief explanation of the bills pending in the Committees on Interior and Insular Affairs followed.

* * *

Mr. Gray: The National Trust has cooperated with the successful Federal program of the Department of the Interior in its protection of parks, scenic wonders, wilderness areas, and historic buildings, predominantly in rural areas. The great problems of our urban society today make it necessary for the Federal Government to broaden substantially its leadership and contributions to preservation. The traditional role of private leadership in preservation in the United States will be intensified and bolstered with the programs made possible by this legislation. The National Trust, as the only private nonprofit organization chartered by the Congress to lead the private preservation program, is prepared to assume the additional responsibilities which the legislation will confer upon it.

* * *

The proposed legislation provides the means to accumulate the necessary information to locate and certify historic places; it provides assistance for preservation and interpretation to States and municipalities; it strengthens the National Trust's program of education, service, and financing of projects. It will be possible for the Trust through public education to broaden the awareness of the great mass of American people to values of their landmarks and to create the citizen participation required for the success of this endeavor.

It will not only permit the trust to meet needs with tangible assistance, but it will enable this public service institution to expand its program intelligently, moving ahead of day-to-day crises, so that in time the preservation movement will be one of planning and orderly action, rather than frantic, last minute effort, which too often results in failure.

* * *

The Subcommittee members then proceeded to question Mr. Rains and Mr. Gray. Pertinent excerpts follow:

Mr. Widnall: The bills that have been introduced by Senator Muskie and by me are only part of the package that are trying to achieve something very much affirmative in the field.

You mention in the testimony the legislation that is now before the Interior Committee of the House. Is it not true, though, that the other legislation that is presently being prepared goes to the Ways and Means Committee?

Mr. Rains: Yes; it is our hope that there will be because some of the recommendations which the committee made had to do with taxation—with tax credits, tax inducements of various kinds to people individually, to restore historic places. Of course that particular bill since it does affect taxation would go before the Ways and Means Committee. There is a bill now pending in the Interior Committee and there will be, we hope, legislation having to do with taxes and its relation to the preservation of historic sites and structures.

* * *

Mr. Widnall: What are the apparent needs, and one of the things we are trying to do is to have a National Registry so we can inventory what we have.

Mr. Gray (answering): In my judgment, that is the first step, Mr. Chairman, because thereafter anything you try to do has a measure. It will be possible, then, to make legislation which involves housing, urban renewal, highways, General Services Administration—these places will have been identified and they will know in advance when some Federal project threatens destruction.

* * *

Mr. Widnall: As I understand the needs and objectives of historic preservation, there are areas of help, and rehabilitation is one, registration and also reconstruction. It was envisaged that all of these areas will be covered and may be helped by this legislation. Is that not true?

Mr. Gray: I believe that is right, sir.

* * *

Mrs. Sullivan: Mr. Gray, does not the United States now have a National Register for historic buildings?

Mr. Gray: Yes.

Mrs. Sullivan: For the record, tell us where it is located.

Mr. Gray: The Park Service maintains it.

Mrs. Sullivan: The Registry for Historic American Buildings?

Mr. Gray: There are two programs, Historic American Buildings Survey and the Register of Historic Landmarks Program, which actually involves certifying the property or a case in putting up a plaque and so forth. But these touch only on a limited number of cases that should be saved in this country.

Mrs. Sullivan: Tell us how the property or the house or the object or whatever it is gets on the Register maintained by the Park Service.

Mr. Gray: As far as the Registry of Landmarks is concerned, the Park Service has a body—I think it is called an advisory group which has compiled in different categories in American history those places and sites which should be marked. It would be those related to the Indians, for example, and to the Revolutionary War Movement. And also to phases and periods in our history. I am unable to speak precisely to the extent to which that has been completed and it is a fine program but

it doesn't go far enough to accomplish what we think should be done to put the imprint—to put the Good Housekeeping Seal of Approval on all the structures that need to be saved.

Mrs. Sullivan: In other words, this Committee looks into the historical background, rather than the architectural value of the property?

Mr. Gray: Well, the emphasis in that particular program has been historic and I might say, Mrs. Sullivan, my experience in this city has been that it is better to say when you don't know something, to say you don't know. I think it is based primarily on histories. I doubt that they pay too much attention to architecture, although in the Historic American Buildings Survey, it is architectural. Mr. Garvey serves on the Committee.

Mr. Barrett: Will you be kind enough to introduce yourself for the record?

Mr. Garvey: I am Robert Garvey, Jr., Executive Director for the National Trust for Historic Preservation. The theme of architecture within the registered landmark program is under study as is the theme on education. This program will also mark sites of culture as well as history and there are, I believe, about 25 different themes and the program is roughly three-fourths finished. It is anticipated that as time goes on, other sites, structures will be found and added to each theme and the program is now limited to the finding or marking the sites rather than giving them permanent protection.

Mrs. Sullivan: My knowledge on this subject is limited to the experience we have had with a building in the central part of downtown St. Louis that you may be familiar with. This is the old U. S. Court House and Custom House. An effort was made to have the building registered, but it was not considered historic.

Mr. Rains: You have a champion here on that building.

Mr. Gray: I hope that Mrs. Sullivan views that in the same light.

Mrs. Sullivan: The thing that I wanted the group who were interested in saving the building to do—when the decision has been made to tear the building down and build a new building on that site—the first thing that I advised them was to go to the Interior Department to see if the building could be registered as a historic site or as one whose architectural designs should be preserved. Interior told them that they did not qualify for admission on the register for historical sites which is, to my knowledge, the top register, but they did say that the building had some architectural value. There was a great deal of confusion in St. Louis about that.

Mr. Gray: I speak as one interested—may I speak to that? I am quite familiar with the Old Post Office Building, and I desperately hope that there will be a way found to save it.

The problem here in this case, Mrs. Sullivan, is that the national registered landmarks program has not listed any Government-owned buildings as a registered landmark. Independence Hall is not a registered landmark. In some time, as a result of this legislation which will be before the various committees and I hope before the Congress and Senate, House and Senate—such a situation could not take place. Now, it is arguable whether the old post office is historically an architecturally important enough building to be registered. I believe it is but the opponents of saving the old post office don't always point out that it isn't on the register, or is Independence Hall, or any other federally operated building. There ought to be a federally owned register—a register of federally owned buildings and if this legislation is adopted across the board I think there will be. I don't know whether this answers your question. You

have seen the report of the Advisory Committee to the Secretary of the Interior which says the building ought to be saved, but it doesn't qualify sufficiently as a national landmark. The Committee which makes up the list of registered national landmarks has not addressed itself yet to Federal buildings.

Mr. Rains: May I interrupt here to say that the bill which is H.R. 13792, which is before the Committee on Interior and Insular Affairs, does provide that Government buildings will be on the register and the register that Mr. Gray is talking about, of course, is in the legislation, Interior, instead of in this bill. There is a provision in this particular bill by Mr. Widnall before the Interior Committee that would put those buildings on the national register.

Mrs. Sullivan: I know this bill that you mention on page 4 of your testimony, Mr. Rains, would establish a National Register of Historic Sites, but there is much confusion about what the registers are, and what they mean, and what one has to do to get certain buildings or objects listed. I wonder, at this point, Mr. Chairman, if something could be submitted for the record so that we know what the various registers are and how they differ.

Mr. Rains: That register now, and the people who make it up, are only advisory. But under this law it would become more specific because they are only advisory now.

Mrs. Sullivan: It would need legislation?

Mr. Rains: Correct.

Mrs. Sullivan: I wish you could, Mr. Gray, with the chairman's permission, let us know what the Historic American Buildings Survey of the National Park Service represents, and what the National Register of Historic Buildings covers, and what the register is that you have under the National Trust for Historic Preservation.

Mr. Gray: I would be very glad to.

* * *

At this point in the record there is inserted a letter dated March 22, 1966, from Mr. Gray to the Chairman of the Subcommittee, Mr. Barrett. In pertinent part, the letter reads—

In response to the question Mrs. Sullivan raised concerning registration and identification of historic places, I attach three documents—two from the National Park Service and one from our own reprint series. In the reprint, 'State Participation in American Landmark Preservation,' there are two paragraphs on page 211 that explain programs now in operation. It seems to me that these paragraphs are sufficient for your record unless you prefer to include the more complete description contained in the Park Service folders.

The quoted article in Mr. Gray's letter was reprinted in full in the hearing record. ("State Participation in American Landmark Preservation," reprinted from State Government, Summer, 1965, article by Robert R. Garvey, Jr., Executive Director of the National Trust for Historic Preservation.) The paragraphs referred to follow:

Architectural surveys were begun systematically in the United States by the federal government as a Works Progress Administration project during the depression, but few have been completed. Of these, most are not current. The National Park Service, in addition to dealing with its vast preserve of lands and historic sites, conducts the Historic American Buildings Survey, a long-range program for assembling a national archive of historic American architecture. Today it is one of the world's largest collections of its kind—with more than 27,000 measured drawings, 37,000 photographs, and 6,000 pages of architectural and historical data for approximately 10,000 historic buildings throughout the United States.

Another National Park Service program concurrent with the HABS, authorized under the same Historic Sites Act of 1935 which authorized it, is the National Survey of Historic

Sites and Buildings. Under this survey the entire field of American history and prehistory is studied by themes, making possible a comparative evaluation of sites. The criteria relate the importance of the sites in history and analyze their integrity or present conditions. A product of the same national survey, cosponsored by the National Trust for Historic Preservation, is the Registry of National Historic Landmarks. Through the registry the federal government recognizes significant historic sites; their preservation by private, state and local agencies is encouraged.

The questioning by members of the subcommittee continued. Quoted below are significant portions of the testimony:

* * *

Mr. Harvey: I have one question, Mr. Gray. Where historic preservation is already in the hands of good private bodies, what action would you recommend that we take?

Mr. Gray: Not any sir. If they are good, stable, private bodies—I tried to say perhaps not too a little earlier, that most of this work should continue to be done by private individuals and foundations and corporations just as most of our whole society is private. I think the genius of American society has been the partnership of government and the private sector. Where a property is well taken care of in the hands of a stable organization, I wouldn't touch it. It is only those that are threatened that we are concerned with. Does that answer your question?

Mr. Harvey: Yes, sir.

Mr. Rains: In connection with that and supporting Mr. Gray's good statement, it is not the intended purpose of this legislation just to establish museums, but we actually hope to be able to do

what Mr. Gray said with the legislation to encourage private people who ran them to do the things necessary to rehabilitate and restore only those that would be in danger, as Gordon said a while ago, from being destroyed I think you will find a great deal of encouragement in the legislation to the person who owns one of these establishments to do something about it himself once it is named as a landmark.

* * *

Mr. Reuss: I would have just one question of you gentlemen and that concerns the relationship between the Widnall - Muskie legislation [H.R. 13790, S. 3097] and the companion bill now before the House Interior Committee.

Actually there were pending two bills before the House Committee on Interior and Insular Affairs, as has been previously noted: H.R. 13491 (submitted by Interior and introduced by Chairman Aspinall) and H.R. 13792 (by Mr. Widnall, similar to drafting service furnished Mr. Henderson) both of which contained provisions for grants to States and to the National Trust.

Is there overlapping in the grant provisions to local governments of those bills, particularly in respect to local governments for projects for historical preservation and grants to the National Trust for Historic Preservation to provide financial assistance for preservation projects? How do these gear into the urban renewal features of the Widnall bill?

Mr. Rains: There is nothing, Henry, in the bill that is pending before the Interior Committee that would give any grants that come under the urban renewal program. While I have not examined it with the fine-tooth comb, there is not any overlapping. The grants provided in each of the bills will only apply to whatever the program is in that particular bill. They are companion measures.

Mr. Reuss: Mr. Widnall, the grant section of your bill uses the urban renewal technique which I take it means 66 2/3 percent Federal and one-third local, is that not right?

Mr. Widnall: The intent - that is the intent.

Mr. Reuss: What percentage are the Interior bill grants?

Mr. Gray: There is a - I should say there is an inconsistency between the two bills in one respect. In the bill before this committee, any grants to the National Trust for matching purposes would be a two-thirds—one-third basis and the Interior bill has a similar provision—I beg your pardon. There are two bills pending before the other committee, the Interior and Insular Affairs Committee. One introduced by Mr. Widnall and one introduced by a request by Mr. Aspinall. There are some divergencies I might say in these bills. In particular, in one case, the grants are proposed in a 50-50 basis /H.R. 13491/ and the other two-thirds one-third /H.R. 13792/. There will have to be some reconciliation between those. I am not an expert in these matters but I would guess from reading the three pieces of legislation already pending that there must be some meshing.

In specific answer to your question to overlapping, there is a provision in the bill before the other committee which makes it impossible for a project to receive Federal funds from one agency when it has received Federal funds from another. In other words, no State could go to the Interior and get part of the money and then to HED and get the remainder of the money. They are mutually exclusive by provision in that bill and should be, of course.

Mr. Reuss: I am concerned that there should be uniformity of treatment and it would not make sense for example for a historic building that happened to be in an urban renewal area to get two thirds matching and one that happened to be out in the country to get 50 percent. I would

hope that perhaps this committee and the Interior Committee, Mr. Chairman, could work these bills out together. After all, we have done that in matters like the area redevelopment program of the House Committee on Public Works. And it might even be sound to combine the two bills somehow into one, I would hope with the approval of both these committees.

* * *

During the period April 19 - 29, 1966, the Subcommittee on Housing of the Senate Committee on Banking and Currency held hearings on the many housing bills then pending before the committee, including S. 3097 (identical to H.R. 13790). The first witness appearing in behalf of the historic preservation legislation was Senator Edward M. Kennedy of Massachusetts. Excerpts from that testimony follow (Housing Legislation of 1966, Hearings, Part 2, pp. 629 - 637):

* * *

Senator Kennedy: There is no need to repeat what the testimony this morning will undoubtedly demonstrate. The need for this legislation is obvious. Indeed, it is only a modest beginning if we are to be able to save for the future the best of our past. But I would like to offer for the consideration of the subcommittee an amendment to this legislation.

the amendment, in substance, would have added a special title III to S. 3097 which would have provided special authorization for grants and inventorying of "historic districts."/

* * *

I believe, Mr. Chairman, that the creation of historic districts should be an important part of our national policy toward historic preservation. And I believe that the Federal Government should offer financial support and assistance to those historic districts already in existence and incentive and encouragement to other States and communities which want to set up historic districts.

Under this proposal, States and communities would be encouraged to create historic districts, and to develop comprehensive plans for their preservation. From these districts, the National Advisory Council on Historic Preservation would

designate as eligible for Federal assistance those which the Council determined have particular historic, architectural, social, or cultural significance to the United States. These districts could then offer plans for approval by the Secretary, and upon approval they would qualify for Federal assistance.

The plans might include the acquisition and restoration of certain buildings, structures and objects within a district, and the acquisition of specific scenic easements or other restrictions on private property used by a public agency. They might also include plans for site improvements such as the resurfacing of streets, the placement of street lamps, the relocation of certain structures and the landscaping of the area. Finally, these plans might provide for special tax relief by the local public agency to cover the costs of approved property improvements made by private owners, and the continuation of appropriate and compatible private uses and the elimination of incompatible private uses.

To see that these activities were coordinated with other preservation programs carried on by the Federal Government, the Secretary of Housing and Urban Development would be required to consult with the Secretary of the Interior and other agencies in the administration of the legislation.

* * *

Senator Proxmire: Have you had a chance to talk with Senator Muskie about this?

Senator Kennedy: I have, and also we have had a chance to talk with the staff members of the committee. They are aware of what we are proposing.

The Interior Department and HUD have been acquainted with the purposes of the amendment. Although I am certainly not authorized to speak for them, I have been encouraged by their reaction.

Senator Proxmire: You follow a somewhat different approach, as I understand it, in your amendment than the bill does. The bill is an urban renewal approach and yours is a 60-percent grant. What is the reason for the distinction?

Senator Kennedy: It is just an additional incentive to encourage communities to act in this area of historic preservation.

As always, whether it is 50- or 60-percent grants, it is an arbitrary schedule. But I do feel there should be an additional incentive.

* * *

Authorizing the National Advisory Council to designate the eligible areas for Federal assistance is some departure from the pending bill.

Senator Douglas: You would have a check against hasty local action then?

Senator Kennedy: Yes; we feel that is important, particularly in light of the experiences we have had in Salem and Plymouth, Mass.

* * *

Senator Muskie: I might say in response to a comment by Senator Douglas that there is a companion bill, Senator Douglas, S. 3098, that has been referred to the Committee on Interior, which would establish a national register of historic building sites and objects.

We agree with you that this should be centralized, this business of identifying appropriate historic objects for preservation.

* * *

At the time I introduced S. 3097, I also introduced a companion bill, S. 3098. It will establish and maintain a National Register of historic buildings, sites, and objects; authorize funds over the next decade to preserve all listings on the National Register; provide grants to States and communities to carry out surveys, plans, and projects for historic preservation; and provide

grants to the National Trust for Historic Preservation to support their work.

Together, S. 3097 and S. 3098 will accelerate our national historic preservation program while there is still time for success.

* * *

The bills are the result of recommendations made by the Special Committee on Historic Preservation, an independent group sponsored by the U. S. conference of mayors. The recommendations followed a lengthy and thorough study by the Special Committee of the historic preservation needs of our Nation. I was privileged to serve on the Special Committee.

Following the statement of Senator Muskie, above, and after a short statement by Senator Inouye concerning other pending bills, Mr. Albert Rains, accompanied by Governor Phillip Hoff of Vermont and Mr. Gordon Gray testified in support of S. 3097. Following are excerpts from their testimony (Hearings, p. 637-656):

* * *

Mr. Rains: I might say parenthetically, in addition to this brief statement, that my interest in this particular legislation grew over all of the many years I was the chairman of the Housing Subcommittee on the House side. I don't want to go back and name the number of buildings that I saw torn down in the wake of the bulldozer. But I grew increasingly disturbed, as I know the chairman and the members of this committee have, as I realized we were losing in the wake of so-called progress a great many of the tie-ins with our historical heritage, that I thought then and I believe now should be preserved.

* * *

The Widnall-Muskie legislation before your committee has companion legislation now before the Interior Committee which would—

(1) Establish a national register of sites, buildings, and objects significant in

American history, architecture, archeology, and culture. There would be three categories in the register, the first of which, covering such buildings as the Capitol, Mount Vernon, and Monticello, would be 'inviolable';

(2) Make grants to states and local governments for surveys, plans, and projects for historic preservation; and

(3) Make grants to the National Trust for Historic Preservation to assist in education, service, and financial assistance to preservation projects.

* * *

The Special Committee's findings and recommendations were inserted in the hearing record following Mr. Rains' opening remarks. The testimony contained:

* * *

Mr. Gray: The great problems of our urban society today make it necessary for the Federal Government to broaden substantially its leadership and contributions to preservation. The Urban Renewal Administration under the old Housing and Home Finance Agency has participated to the maximum degree possible under existing laws, having 119 urban renewal projects which include preservation of historic structures.

This proposed legislation will lift many restrictions and make it possible to explore thoroughly all urban renewal projects for preservation values before the point of no return is reached. In a 2-month period the Urban Renewal Administration of the new Department of Housing and Urban Development has announced the awarding of grants for urban planning assistance programs to 300 cities and towns and to 90 counties which must be reviewed and under this legislation can be evaluated for their potential worth.

The traditional role of private leadership in preservation in the United States will be intensified and bolstered with the programs

I am aware this sounds somewhat self-serving, and I am speaking only by instruction of my trustees.

Senator Proxmire: I appreciate that very much, Mr. Gray. That sounds logical and sensible to me.

I would like to ask you gentlemen one or two questions. You have in title I preservation of historic structures, as part of your urban renewal projects.

Then on page 2, lines 21 to 25, it reads: 'of structures located in the urban renewal area, which are to be repaired or rehabilitated for dwelling use or related facilities, or which are determined by the local or public agency to be of historic value.'

Does this mean that it would apply to historic structures in the urban renewal area only, or would it also apply to historic structures that are in and outside or both?

Mr. Rains: It would apply to both. As we studied it more, we were concerned that it might be just outside and as such would be completely ignored. So the Senator knows the purpose of that is to try to include even those structures that might be immediately adjacent to the area.

Senator Proxmire: Then you would confine it to those within or immediately adjacent?

Mr. Rains: I don't know I would use the word 'immediately' but I would say those within or adjacent to the urban renewal area.

Senator Proxmire: I see. What is your attitude on the Kennedy amendment?

* * *

Mr. Rains: Of course as far as I am personally concerned, I would like to see the expansion of the bill with the Kennedy amendment if the committee in its wisdom thinks that type of legislation would go through.

Senator Proxmire: I wonder if you could tell me how in your judgment, Mr. Gray, this advisory council would fit in? Would it replace the organization you represent here this morning?

Mr. Gray: No sir. I don't visualize it as such. I would hope, as I suggested, that we would be in one way or another represented on it. The advisory council, as I see it, would coordinate the activities of the various Federal agencies concerned in physical development. There is no mechanism today which provides such a coordination. . . .

* * *

But may I comment on the historic district question for a moment?

I would see a reason for not putting this entirely under the urban renewal approach, when you consider the nature of some historic districts.

We have one right in the District of Columbia, and that is historic Georgetown. It is very important that it continues to be considered a historic district, but it has never involved urban renewal and those of us who live there hope it would never have to involve urban renewal.

So this is not always a question of renewing an area; it is a question sometimes of protecting an area as it is.

Senator Proxmire: Then you are suggesting that we ought to consider broadening the language in the bill? Because there seems to be some difference between you and Mr. Rains and I think ordinary reading of the bill would confine it to either urban renewal areas or immediately adjacent.

Mr. Gray: I am expressing an individual opinion, if I may.

* * *

Mr. Rains: There is no intention to confine it to urban renewal in itself.

* * *

There is some other legislation, Mr. Chairman, that because of jurisdiction, comes before the Interior Committees. It complements this particular legislation, adds to it in the way of establishing the landmark programs throughout the country. It comes under the National Park Service.

So those two pieces of legislation together would wrap up generally the entire recommendations of this special committee, with the exception of some tax revision proposals. . . .

* * *

Senator Muskie: Insofar as Senator Kennedy's suggestion is concerned, it is worth much more consideration than we have been able to give it in the few minutes since he presented it.

It strikes me, however, this may go beyond what is politically realistic at this point. And it may be an idea that the National Advisory Committee could consider and digest and present subsequently.

* * *

Senator Proxmire: Can you give us any advice on whether or not there should be a dollar limitation here and what kind of dollar limitation would be realistic and sensible?

Mr. Rains: Of course it is obvious that we can't set out a dollar limitation. . . . So I emphasize the fact that I think it should not be too expensive a program to begin with, and I am unable to say exactly what it should be. I really don't think you should set a specific figure on it.

* * *

Senator Muskie: It was very difficult to try to develop a dollar limit for the authorization bill. Justification, as the Senator knows, would have to be made before the Appropriations Committees. We hope by that time we may be able to develop some figure.

* * *

Representative Widnall's statement was inserted in the record at this point, a short statement in favor of S. 3097, and witnesses on other bills were called. No other statements concerning the pending historic preservation bills appear in the hearing record.

The Senate Committee on Banking and Currency continued its consideration of the housing legislation. The Committee requested the views of the Department of the Interior and of Housing and Urban Development on S. 3097. On April 27, Max N. Edwards, Assistant to the Secretary of the Interior and Legislative Counsel, wrote Senator Robertson, Chairman of the Senate Committee on Banking and Currency, as follows:

Perfecting amendments are needed to bring S. 3097 into conformity with existing law and to coordinate its provisions with other pending legislation.

We are undertaking the staff discussions necessary to assure that these amendments are prepared in concert with those interested in S. 3097. In these circumstances we expect to submit a complete report to the Committee at an early date.

Discussions between Departmental officials of Interior and HUD and the congressional sponsors followed. On May 25, 1966, an 11-page proposed Departmental report on S. 3097 was submitted to the Bureau of the Budget with a request for advice concerning its relationship to the Administration's program. That proposed report recommended a total of 16 substantive amendments to S. 3097. The amendments would, primarily, reaffirm the "traditional responsibility" of the Department of the Interior "for preserving and identifying sites of historic significance", and they would, accordingly, authorize the Secretary of the Interior to prescribe criteria for identifying sites and buildings of historic significance that would be eligible for Federal assistance. Other amendments would have clarified the functions of the proposed National Advisory Council in title II of S. 3097 as being coordinating and advisory only, and prohibited duplication of assistance under various Federal programs.

The amendments originally proposed by the Department would have tied all grants or financial assistance for historic preservation to the National Register. In this connection, it was made clear in the proposed report that the mechanisms for a national register already existed in the National Survey of Historic Sites and Buildings and the Historic

American Buildings Survey "now being conducted by this Department," and that "the register could be expanded with additional funding of these programs." An oral request was made of the Office of the Solicitor as to the authority of the National Park Service to establish a "national register" under existing law. In reply, the memorandum opinion (E-66-2169.18) of May 31, 1966, from Acting Associate Solicitor Meyer stated:

* * *

It is our opinion that the Act of August 21, 1935, places an affirmative duty on the National Park Service to make a definitive compilation of such information and to establish criteria necessary for selection of those properties contained in that compilation having sufficient value for national recognition.

* * *

In order to carry out these responsibilities, it is entirely appropriate, in our view, to accumulate all, or a portion of, this information in the form of a national register.

On June 27, 1966, the Department of Housing and Urban Development submitted its proposed report on S. 3097 to the Bureau of the Budget for advice. The proposed report recommended several amendments. Concerning the establishment of criteria to control historic preservation, the proposed report stated:

* * *

We agree fully that this must be primarily a local determination. However, it should be made clear that the Secretary of HUD is to establish criteria to guide this local determination, the same as for the many other local determinations involved in establishment of urban renewal areas and or urban renewal plans.

In establishing such criteria we would, of course, hope and expect to work closely with the Department of the Interior, which has within the Executive Branch the primary resources of technical knowledge and experience with reference to preservation of historic structures and sites. We would, similarly, endorse a provision such as that proposed in section 202 of S. 3098, a companion bill to S. 3097, to require Federal agency

heads to take into account the effect of projects on objects, buildings, or sites included in the National Register.

On the other hand, we would object strongly to any arrangement giving the Department of the Interior the power, through reference to a National Register or otherwise, to determine what local activities adequately met historic and architectural preservation criteria, or to establish and enforce criteria which were so detailed as to have this same effect. Since the National Register will be primarily oriented to structures which have individual historic or architectural value, other structures may be omitted which are locally significant in a historic environment for maintaining density or architectural continuity. Even with reference to separate properties, the question of what is a structure or site of local historic or architectural value is one on which reasonable men will undoubtedly differ—and sometimes fiercely so.

We would consider it both practically and logically necessary for the National Register either to remain advisory in nature, so far as it may concern itself with properties of local importance, or automatically to include properties approved for assistance under the proposed historic-assistance programs of this Department. To restrict historic preservation assistance only to properties designated in advance by Federal officials would take from the localities their proper initiative and basic policy control for local action.

Concerning the provisions of S. 3097 authorizing grants to the National Trust for Historic Preservation, the proposed report of HUD stated:

* * *

Such grants could be for up to \$90,000 per structure and would apparently not be restricted to structures within urban renewal areas.

Although we strongly favor Federal grants to the National Trust to assist in its historic preservation activities we do not consider

it appropriate to authorize such grants as part of the section 115 program.

* * *

The proposed historic preservation grants have nothing in common with this type of urban renewal project activity [assistance to low-income families for repairs]. We would consider it far more appropriate to furnish such grants to the National Trust through a separate program, with separate funding. Such a program would be authorized by title IV of S. 3098, the companion bill to S. 3097. We support the enactment of that title.

Concerning the loan provisions of S. 3097, the proposed report of HUD stated:

We have considerable doubt as to the desirability of a subsidy-type loan program for historic preservation. Where a Federal subsidy for acquisition or rehabilitation of historic properties is justified, a Federal grant or land writedown would appear to be the better method. On the other hand, we do not have sufficient information to judge the need for a non-subsidy loan program.

In any case, we feel strongly that no such loan program should be incorporated in the housing rehabilitation loan program authorized under section 312.

* * *

We do not believe it justified to use the same funding for historic restoration, which may have no relation to housing standards or code enforcement activity.

Also, we do not believe it justified to provide subsidy loans, as apparently authorized by section 108 [of S. 3097], for private restoration projects which would not be controlled to insure provision of public benefit. For example, a loan could apparently be made to restore the interior of a building not open to the public.

Following further discussion and review between the two Departments and the Bureau of the Budget, the Department of the Interior submitted on July 27, 1966, a revised proposed report on S. 3097 to the Bureau of the Budget. The revised report numbered 3 pages and contained no line-and-page amendments. It referred to the fact that similar legislation, S. 3035, had passed the Senate on July 11, 1966, containing provisions for a National Advisory Council on Historic Preservation similar to title II of S. 3097. Concerning criteria and the national register, the proposed report stated as follows:

* * *

If legislation along the lines of S. 3097 is to be considered favorably by your Committee, we believe that the inclusion of sites of historic significance in urban renewal, urban planning, rehabilitation grant and loan, and open space programs of the Department of Housing and Urban Development should not be left to the discretion of the various local agencies. If Federal funds are to be used to assist in historic preservation as part of such programs, we believe that the structures eligible for such assistance should be those listed on the national register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture which will be expanded and maintained by the Secretary of the Interior under S. 3035.

A national register is vital to the efficient and economical conduct of Federal aid programs for historic preservation. The register will be a comprehensive catalogue of historic properties worthy of preservation to serve as the basic framework within which Federal, State, urban and nonurban needs and responsibilities may be defined. To be eligible for Federal assistance, whether under programs of the Department of the Interior or other agencies, the property would have to be identified on the national register as worthy of preservation. Mechanisms for identifying such properties are the National Survey of Historic Sites and Buildings and the Historic American Building Survey now being

conducted by this Department. The register could be expanded with additional funding of these programs. Moreover, the register could be strengthened through the participation of others as contemplated in the statewide historic site surveys proposed in S. 3035 and H.R. 13491, and the citywide surveys proposed in S. 3097. The Department of the Interior will work closely with other Federal agencies and with appropriate State and local agencies to complete the national register as quickly as possible.

With respect to the remaining provisions of S. 3097 the proposed report deferred to the views of HUD, except for the fellowship provisions. Concerning these provisions, the report stated:

The need for more highly trained experts in the field of historic preservation is recognized and the fellowship program proposed by section 109 would be beneficial. Because of the general need in this respect, we believe that any fellowship program should be aimed at historic preservation generally, rather than tied to the program of any particular agency.

The proposed report of HUD had stated, with respect to the fellowship provisions of S. 3097:

We would have no objections to enactment of this legislation. There is certainly a shortage of architects, land planners, and others professionally trained in the field of historic preservation. However, since the Federal involvement in this field extends considerably beyond this Department, we would consider it more appropriate for the fellowships to be awarded on the basis of the recommendation of the National Advisory Council on Historic Preservation proposed to be established under title II of S. 3097.

The proposed reports on S. 3097 of the Departments of the Interior and Housing and Urban Development were submitted to Senator Robertson, Chairman of the Senate Committee on Banking and Currency on July 29, 1966, without change from the foregoing. At the same time, the Bureau

of the Budget submitted its report to the committee, signed by Wilfred H. Rommel, Assistant Director for Legislative Reference, as follows:

The Departments of Housing and Urban Development and the Interior are submitting reports on S. 3097, a bill 'To provide financial and other aid, under the Housing Act of 1949 and related Federal programs, to encourage and assist in the preservation and maintenance of historic structures.' We would appreciate it if your Committee would give consideration to the following comments on that and a related bill, S. 3035, which has passed the Senate.

We believe that title I of S. 3035 authorizes a substantial and sound enlargement of Federal activities relating to historic preservation and that it would not be timely or desirable to authorize most of the competing and separate programs that S. 3097 proposes. We would not, however, object to those provisions of S. 3097 which relate to the urban renewal program, if they were amended along the lines proposed in the report of the Department of Housing and Urban Development.

In the event your committee decides to take favorable action on other provisions of S. 3097, we would urge that aided projects be required to meet the same criteria as projects which would be assisted under S. 3035, i.e., inclusion of the aided projects on a national register.

The Senate Committee on Banking and Currency considered further the housing legislation that was before it. On August 9 the Committee reported S. 3708, the proposed "Demonstration Cities and Metropolitan Development Act of 1966," as one of four original committee bills pertaining to housing. The bill contained three titles: Title I - Comprehensive City Demonstration Programs; title II - Planned Metropolitan Development; and title III - Urban Information and Technical Assistance Services. In its report on S. 3708, the Committee stated (S. Rept. 1439, 89th Cong., 2d Sess., pp. 19, 20, 21):

* * *

Section 205 through 207 of the bill would authorize, within the Department of Housing and Urban Development, a new program of supplementary grants to localities and other public bodies in metropolitan areas as an additional Federal incentive for effective metropolitan planning and development, as recommended by the President in his recent message on city demonstration programs.

The proposed grants would supplement existing Federal assistance programs for transportation facilities (including mass transit, roads, and airports), water and sewer facilities, recreation and other open space areas, historic preservation, specialized library facilities, and hospital and medical facilities. Grants would be up for 20 percent of the cost of such projects. [Emphasis supplied.]

* * *

Applicants under 10 Federal grant programs would be eligible to receive supplemental assistance under the new program:

* * *

(8) Grants for acquisition and development of open space, for beautification and improvement or for historic preservation administered by the Department of Housing and Urban Development under the Housing Act of 1961 (the historic preservation provisions would be added to the 1961 act by the housing and urban development bill of 1966, a companion to this bill);

* * *

The companion legislation referred to in its report on S. 3708 by the committee was S. 3711, another one of the four original committee bills. The committee reported S. 3711, the proposed "Housing and Urban Development Act of 1966," on August 10, 1966. The bill contained five titles: Title I - FHA Insurance Operations; title II - Mortgage Insurance for Group Practive Facilities; title III - Urban Renewal; title IV - Preservation of Historic Structures; and title V - Miscellaneous.

Basically, title IV of S. 3711 contained the following provisions:

- (a) Urban renewal plan may include acquisition and sale and relocation of historic structures;
- (b) Cost of acquiring and rehabilitating historically or architecturally significant structures may be credited to local share required to match capital grants for urban renewal;
- (c) Grants to cities of 50,000 population or more of up to 2/3 cost of making survey of properties of historical or architectural value;
- (d) Grants to states and local public bodies for 50 percent of the cost of acquisition, restoration, and improvement of areas, sites, and structures of historic or architectural significance in urban areas; and
- (e) Fellowships for graduate training in historic preservation, authorized for three years at a level of \$500,000 per year, with appointment based on advice of National Advisory Council on Historic Preservation established under S. 3035.

Of the foregoing, all provisions were included in the original HUD bill, S. 3097. However, that bill also contained the provisions for (1) grants of up to \$90,000 per structure to the National Trust; (2) loans to owners and tenants for restoration; and (3) creation of the National Advisory Council on Historic Preservation. These provisions were omitted in the legislation reported out by the Senate Committee on Banking and Currency, as was the requirement that fellowships for graduate study be approved by a separate advisory board.

Following are pertinent excerpts from the Senate Committee on Banking and Currency's discussion of title IV in its report on S. 3711 (S. Rept. 1455, 89th Cong., 2d Sess., pp. 12-16):

The recent report of that committee [the Special Committee on Historic Preservation], endorsed by its members from both Houses of the Congress, convincingly details both the extent and the urgency of need for more Federal assistance to localities for historic and architectural preservation. The legislative proposals in this title of the bill are based on the recommendations in that report.

The Senate recently approved S. 3035, an administration-sponsored bill which would carry out some of the recommendations of the Special Committee, including new programs of grants to the States and the National Trust for Historic Preservation, and new authority for Federal and State surveys of historic and architecturally significant properties. The programs proposed herein, which would have primarily a local orientation, would effectively complement and support those in S. 3035.

* * *

Under section 401 a local urban renewal agency (LPA) could, as part of an urban renewal project, relocate historic or architecturally significant structures within or outside the project, whether or not the structures were owned by the LPA.

* * *

Thus, local public agencies could acquire historic structures, restore them and sell them to purchasers agreeing to maintain them. On the other hand, LPA's could acquire historic structures and sell them to purchasers who agree both to restore and maintain them.

* * *

As in the case of other urban renewal activities and purposes, the question of what historic or architectural preservation activities should be carried on is an issue of judgment which must be determined primarily by the localities themselves, subject to general Federal guidelines. The Department of Housing and Urban Development will be expected to establish general criteria, working closely with the National Council on Historic Preservation, to guide these local determinations. However, the committee does not intend that inclusion on any Federal (or State) compilation of historic and architecturally important properties be a prerequisite for eligibility.

* * *

The Secretary of Housing and Urban Development would establish general criteria to guide local determinations with respect to proposed historic preservation projects. However, it is not intended that these criteria be so detailed as to substitute national for local judgment.

* * *

It is intended, of course, that the Department /of HUD/ work closely with the proposed National Advisory Council on Historic Preservation to coordinate this program with the activities of other agencies concerned with historic preservation, particularly those of the Department of the Interior. However, for the reasons outlined above, the committee considers that the National Register proposed to be compiled by the Department of the Interior and the States remain advisory so far as these proposed local programs are concerned.

* * *

The committee urges, in order to minimize the Federal and local public cost of assisted activities, that development easements or other less-than-fee-simple interests be acquired whenever appropriate.

Similarly, compatible continuing private or public use of properties should be encouraged. For example, it may be both most appropriate and most economical to provide for permanent protection only of the facade of a building or group of buildings, while they continue in private ownership and use.

Historic areas, as well as specific structures, would be eligible for acquisition, restoration, and improvement.

* * *

However, it is contemplated that extensive areawide projects be conducted only in slum and blighted areas, where the necessary large expenditures can be better justified by serving a double purpose.

In areawide projects, maximum use should also be made of other Federal urban assistance programs— including, in addition to urban renewal, the code

enforcement, open space and urban beautification programs.

The bill does not provide any separate authorization of funds for the proposed historic and architectural preservation grants. The authorization for this new program will be derived from the existing authorization for activities under title VII of the Housing Act of 1961, which also includes open space and urban beautification activities.

* * *

A start can be made on this new program without additional funding. This committee expects to recommend appropriate program levels for the proposed new activities as soon as experience can be gained as to the extent of need through actual program operations.

* * *

With respect to historic preservation the new authority /90-percent grants for demonstration projects under title VII of the Housing Act of 1961/ could, for example, assist in developing new techniques for financing preservation activities, establishing historic zoning, or undertaking areawide historic rehabilitation programs.

* * *

The fellowships would be granted solely on the basis of ability and taking into consideration the recommendations of the National Advisory Council on Historic Preservation proposed to be established under S. 3035, the administration - sponsored bill referred to above. It is intended that the programs of study give particular emphasis to historic and architectural preservation in the broader context of urban planning and development.

Not discussed in detail in the committee's report except in the section analysis of the bill, was a provision which, in the words of that analysis:

amends section 702(e) of the 1961 Act to require consultation and exchange of information between the Secretary of

Housing and Urban Development and the Secretary of Interior on historic preservation grants.

S. 3711 passed the Senate August 12, 1966, with the provisions of title IV unchanged as reported by the Committee on Banking and Currency.

In the House of Representatives, the proposed Housing and Urban Development Act of 1966, H.R. 15890, was reported by the Committee on Banking and Currency on July 15, 1966, containing no provisions regarding historic preservation. However, the House Committee on Banking and Currency considered the Senate-passed Demonstration Cities and Metropolitan Development Act of 1966, S. 3708, which passed the Senate on August 19 without an historic preservation title, and on September 1 reported a revised version of S. 3708 containing provisions for historic preservation similar to H.R. 13790. The House Committee on Banking and Currency Report (H. Rept. 1931, 89th Cong., 2d Sess., p. 4) stated, by way of background:

The Subcommittee on Housing met in executive session on August 25 and recommended a draft omnibus bill to the full committee by a rollcall vote of 9 to 1. The draft bill which emerged from the subcommittee incorporated the main features of the administration proposed bills (H.R. 12341, H.R. 12946, H.R. 13064, and H.R. 9256); as well as improving and perfecting amendments.

The subcommittee recommended bill was in the form of an amendment to S. 3708 which passed the Senate on August 19. The subcommittee bill included provisions from S. 3708 as well as S. 3711, a general housing bill, and various House bills. /Note that S. 3711, which contained title IV on historic preservation, passed the Senate on August 12, before the House subcommittee reported a bill./ The full committee on Banking and Currency met on the bill in executive session on August 30 and 31 and September 1 and adopted the subcommittee recommendations with several amendments and substituted the recommendations

as a committee amendment to S. 3708.
The bill was then ordered reported by a
rollcall vote of 23 to 8.

As reported by the House Committee on Banking and Currency on September 1, 1966, S. 3708 contained nine titles, of which title VI - Preservation of Historic Structures, provided as follows:

- (a) Urban renewal plan may include acquisition, sale, and relocation of historic or architectural structures;
- (b) Cost of acquiring and rehabilitating structures of historic or architectural value may be credited to local share required to match capital grants for urban renewal;
- (c) Grants of up to \$90,000 per structure to the National Trust for Historic Preservation for renovation or restoration of structures which Trust has accepted and will maintain;
- (d) Grants to cities or counties of 2/3 the cost of making an historic and architectural survey;
- (e) Loans to owners and tenants for restoration of structures determined to be of historic or architectural value; and
- (f) Grants to States and local public bodies of 50 percent of cost of acquiring and rehabilitating properties of historic or architectural value.

Note that the House committee version of the historic preservation title differed from that approved by the Senate in S. 3711, in that the House committee version did not contain the 3-year fellowship program in S. 3711, and it added the provisions for \$90,000 grants to the National Trust and for loans to owners and tenants of historic properties, which were contained in the original HUD historic preservation bills, S. 3097 and H.R. 13790. Another minor difference between the House committee version and the Senate-passed bill was the former's approach to the grants for historic surveys. The House committee version treated these grants as separate and apart from other urban planning grants, while the Senate version included historic preservation as one of several purposes for which urban planning grants could be made.

As noted earlier under the discussion of the Senate committee report, the Senate committee wrote a directive to coordinate the development

of criteria by HUD into the legislative history, while requiring only an exchange of information between Interior and HUD in the language of the bill. The House committee was more explicit. Concerning the grants for surveys, the bill (sec. 604 of S. 3703) provided:

The aspects of any such survey which relate to the identification of historic and architectural values shall be conducted in accordance with criteria found by the Secretary /of HUD/ to be comparable to those used in establishing the National Register maintained by the Secretary of the Interior under other provisions of law; and the results of such survey shall be made available to the Secretary of the Interior.

Concerning grants to the National Trust, the bill provided that the Trust would determine whether the aided project is of historical or architectural value.

However, concerning grants to the States and local public bodies for 50 percent of the cost of acquisition, restoration, and improvement of properties of historic or architectural value (sec. 606), the bill provided as follows:

The Secretary /of HUD/ shall consult with the Secretary of the Interior on the general policies to be followed in reviewing applications for grants under this title /title VII of the Housing Act of 1961./ To assist the Secretary in such review, the Secretary of the Interior shall furnish him (1) appropriate information on the status of national and statewide recreation and historic preservation planning as it affects the areas to be assisted with such grants, and (2) the current listing of any districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture which may be contained on a National Register maintained by the Secretary of the Interior pursuant to other provisions of law. The Secretary shall provide current information to the Secretary of the Interior from time to time on significant program developments.

* * *

Section 606(h) of the bill, applicable to the entire title, provided as follows:

Commencing three years after the date of the enactment of this Act, no grant shall be made (except pursuant to a contract or commitment entered into less than three years after such date) under section 709 of the Housing Act of 1961 [the new 50-percent grants authority] or section 701(h) of the Housing Act of 1954 [the new 2/3 urban planning grants for historic preservation], or under section 103 of the Housing Act of 1949 [urban renewal grants] to the extent that it is to be used for historic or architectural preservation, except with respect to districts, sites, buildings, structures, and objects which the Secretary of Housing and Urban Development finds meet criteria comparable to those used in establishing the National Register maintained by the Secretary of the Interior pursuant to other provisions of law.

From the foregoing, it will be noted that only grants to the National Trust and loans to owners and tenants of historic buildings are excluded from the scope of section 606.

With respect to the provisions of title VI of S. 3703, the report of the House Committee on Banking and Currency on the bill stated in pertinent part as follows (H. Rept. 1931, 89th Cong., 2d Sess., pp. 31-36). The Committee's explanation of provisions identical to the Senate-passed language is the same as that used by the Senate Committee on Banking and Currency in its report, and is not repeated here.

* * *

The recent report of that Committee [the Special Committee on Historic Preservation], endorsed by its members from both Houses of the Congress, convincingly details both the extent and the urgency of need for more Federal assistance to localities for historic and architectural preservation. The legislative proposals in this title of the bill are based on the recommendations in that report.

* * *

Section 603 of the bill would establish a separate program of grants to the National Trust for Historic Preservation for restoration of structures of historic or architectural value. These grants would be in addition to the proposed grants to the National Trust under S. 3035, as now under consideration by the House. Unlike those grants, they would not be limited to 50 percent of project cost, but on the other hand, they could not be used for acquisition or maintenance. It is intended that they provide assistance only for properties which the National Trust has obtained without Federal assistance and which it agrees to maintain, after restoration, for historic purposes.

Grants under this section could not exceed \$90,000 per structure; appropriations as necessary would be authorized for the program.

* * *

The loans would generally cover the cost of rehabilitation, with a \$10,000 per unit limit in the case of residential property and a \$50,000 per unit limit in the case of nonresidential property.

The committee feels the need to assure that adequate loan assistance, as well as grant assistance, is available for historic and architectural preservation. The proposed loan program is an experimental one, many details of which will need to be worked out as experience is gained. It is intended, particularly, that the Secretary of HUD be given wide discretion as to the availability of these loans to private individuals, as well as to nonprofit and public bodies.

However, the Secretary should establish certain guidelines to assure that structures receive loan assistance only to the extent that they are made available for public benefit and enjoyment after restoration. This does not mean that structures must, in every case, be fully open to the public. It may be

desirable, for example, to provide some loan assistance for acquisition and restoration of properties where the main public purpose is preservation of the facade of a building. In such cases, however, the loan assistance should not exceed that necessary to assure preservation of the facade, and should not, for example, finance extensive interior remodeling unless a public purpose is manifest.

* * *

In this program new 50-percent grant authority, and in its other historic preservation activities, the Department of HUD must, of course, coordinate its activities closely with those of other agencies concerned with historic preservation, particularly those of the Department of the Interior. For this purpose, the National Register proposed to be compiled by the Department of the Interior would be of considerable assistance.

Accordingly, subsection (h) of section 606 would require that the Secretary of HUD make grants under the proposed new historic preservation grant program, the proposed section 701 grants for detailed historic surveys, or the proposed special historic preservation authority in connection with urban renewal projects only in accord with criteria comparable to those used in establishing the National Register. Since the National Register will be greatly expanded under the provisions of S. 3035, this requirement will take effect only after 3 years from enactment of this bill.

The committee does not at this time, however, intend that inclusion on the National Register be a prerequisite for assistance under these programs. The question of what historic or architectural preservation activities localities should carry on is an issue of judgment which must be determined primarily by the localities themselves, subject to general Federal guidelines.

How successfully a federally established list of specific sites and properties can assist in such local determinations will largely depend on the assistance given by the localities concerned to the Department of the Interior.

In establishing comparable criteria for these local assistance programs, the Secretary of HUD should, therefore, take into account whatever objective standards of historic and architectural importance are established for purposes of the National Register. He should also take into account the need to leave to the localities the final determination of values and priorities and the assistance that can and should be extended to the localities.

* * *

Historic areas, as well as specific structures, would be eligible for acquisition, restoration, and improvement.

* * *

A start can be made on this new program [grants to states and local public bodies] without additional funding. This committee expects to recommend appropriate program levels for the proposed new activities as soon as experience can be gained as to the extent of need through actual program operations.

A 6-hour closed rule was adopted by the House Committee on Rules for the consideration of S. 3908 as reported by the House Committee on Banking and Currency on September 23, 1966, (H. Rept. 2070, 89th Cong., 2d Sess., H. Res. 1023), and adopted by the House on October 13. The debate on S. 3708 was carried on through October 14, when the committee amendment passed the House without amendment of title VI. In passing the bill, however, the House rejected an amendment offered by Representative Multer, who explained its effect as follows (112 Cong. Rec. 25904):

My amendment would strike sections 603, 604, and 605 of the bill. These would authorize grants to the National Trust for Historic Preservation; special grants for historic

surveys; under the section 701 comprehensive urban planning program; and the use of the limited funds for low interest-rate loans for acquisition and rehabilitation of historic structures. I believe all three of these provisions are either duplications or undesirable.

The first of these, which authorizes the Secretary of Housing and Urban Development to make grants to the National Trust for Historic Preservation, completely duplicates legislation contained in S. 3035, which has already passed both the Senate and the House.

* * *

Further, I believe it is more appropriate for the grants to be made by the Secretary of the Interior rather than the Secretary of Housing and Urban Development. Most of the activities of the national trust relate to properties of nationwide importance. This type of historic preservation activity is closely related to the activities of the Secretary of the Interior.

* * *

Such historic surveys and planning activities are certainly desirable, and can be useful if carried out separately from a general planning program. However, the section 701 program is simply unable to carry any extra burden of this sort at this time.

* * *

The funds for this program low-income rehabilitation loans should not be diverted for historic preservation purposes.

That, also, raises the question of whether a separate loan program should be proposed instead. I think that would be premature.

* * *

Representative Widnall rose in opposition to the amendment, and pointed out that Representative Multer had voted to report the bill in its

entirety from the committee. He was joined in opposition to the amendment, generally on the basis that the provisions proposed to be stricken were needed to protect the historic heritage, by Representative Reuss. Mr. Multer continued:

The only reason for offering this amendment at this time is that I think this does not belong in this bill.

I do not have any doubt that when the appropriate bill comes before this House covering this matter, I will be happy to join with the gentleman in urging its enactment. But we ought not to take out of this bill the small amount of funds that we have available here and divert them to this purpose when we have another fund that is available for them. Mind you, I am not touching the grants but only touching the loan provisions here.

On the question, the amendment was rejected, and the bill was passed on October 14, 1966. The Senate disagreed to the House version of S. 3708, and the bill was referred to a conference committee that same day. The report of the Committee of Conference on the disagreeing votes of the two Houses on S. 3708, was filed on October 18. It recommended that the Senate agree to a version of title VI which was identical to the House-passed version, except that in the conference report the section authorizing loans to owners and tenants for rehabilitation of historic buildings was deleted. The conference report (H. Rept. 2301, 89th Cong., 2d Sess, pp. 46, and 48,) states only:

The House amendment contained a provision authorizing the use of below-market interest rate loans under section 312 of the Housing Act of 1964 for historic preservation purposes. There was no such provision in the Senate bill and none is contained in the conference report.

The Senate conferees strongly urged the adoption of five provisions approved by the Senate. These were . . . fellowships for graduate training in historic preservation . . . While the House conferees were impressed with the merits of these provisions, it was felt that they could not be accepted at this time, but there was agreement

that the House Committee on Banking and Currency would take prompt action on them early next year.

In light of the proposed amendment to title VI offered on the floor of the House, it is worth noting that Representatives Multer, Reuss, and Widnall were all among the seven House conferees. The deletion of the loan provision was explained further by Representative Patman when the conference report was considered and agreed to by the House on October 20 (112 Cong. Rec. 26999):

The House version would also have authorized the use of low interest rehabilitation loans, but in view of the strong objection by the Senate conferees, and by the Department, the loan provision was eliminated.

The conference report was agreed to by the Senate on October 18. No reference was made to title VI on the Senate floor other than the substance of the statement in the conference report quoted above.

On November 11, 1966, the President approved S. 3703, the Demonstration Cities and Metropolitan Development Act of 1966 (P.L. 89-754), without special reference to title VI.

C. Committee Consideration—Interior and Insular Affairs Committees.

SENATE

The two major historic preservation bills which were referred to the Committees on Interior and Insular Affairs were S. 3098 (H.R. 13792) and S. 3035 (H.R. 13491), whose origin and contents were covered earlier. Inasmuch as these bills did not involve existing and new housing legislation or other matters of a more controversial nature, their progress through the legislative committees was not as complicated or difficult as the historic preservation legislation applicable to the Department of Housing and Urban Development, which was tied to general housing legislation.

The proposed legislation submitted by the Department of Interior to the Congress by letter of March 2, 1966, was introduced on March 7, as S. 3035 and H.R. 13491. The draft furnished Mr. Henderson on March 4, was introduced in modified form on March 17, as S. 3098 and H.R. 13792. The bills were referred to the Committees on Interior and Insular Affairs whose chairmen requested reports of the Department of the Interior on S. 3098 and H.R. 13792.

On June 7 and June 10, respectively, the Department of the Interior submitted reports to the Chairmen of the Senate and House Committees on Interior and Insular Affairs on S. 3098 and H.R. 13792, recommending the enactment of the bills submitted by the Department, with two modifications, in lieu of the other bills. The Department's recommendations are explained in the letters to the chairmen as follows (keyed to the report on the Senate bill):

The principal differences between the two bills are:

1. S. 3098 contains a declaration of purpose. . . . S. 3035 contains no similar declaration. We believe, however, that the declaration is desirable, and we recommend that it be included in the administration bill. . . .

2. S. 3098 specifies in section 101(a) that the national register shall be broken down into three general categories. S. 3035 does not so specify. We would make such breakdown, however, under the general language of S. 3035. We see, therefore, no need for the special provision in the administration bill.

3. S. 3098 requires in section 101(b) that the national register be given certain specific distribution. This would also be accomplished under the

general language of S. 3035, and we see no need for specific provision in the administration bill.

4. S. 3098 authorizes in section 201 a special appropriation of funds for a 10-year period to 'accelerate' historic preservation programs under the Historic Sites, Buildings, and Antiquities Act of 1935. There is an undoubted need to move more quickly with these programs. There is, however, no need for additional appropriation authorization. We therefore see no need for this provision.

5. S. 3098 requires in section 202 that the Federal agency heads having direct or indirect jurisdiction over a proposed Federal or federally assisted project must take into account the effect of the project on sites of national significance included in the national register prior to the approval of the expenditure of any Federal funds on the project. S. 3035 contains no similar provision. We favor the objective of this provision, and we recommend that it be included in the administration bill and that it be expanded to include all sites, buildings, and objects of historical significance which are included in the national register.

6. S. 3098 authorizes in section 401 grants to the National Trust for Historic Preservation for not more than two-thirds of the cost of a project. S. 3035 differs in that it restricts grants to the National Trust for not more than 50 percent of the total cost of the project. We believe the provision in the administration bill is more in line with the President's message of February 23, 1966, when he called for a program of 'matching grants to States and to the National Trust for Historic Preservation.'

In summary, we recommend the enactment of S. 3035 in lieu of S. 3098, with the perfecting amendments which we have recommended in this report. (Emphasis supplied.)

A similar recommendation was submitted to the Senate Committee by the Bureau of the Budget on June 8, as follows:

The Department of the Interior, in the report which it is transmitting to the committee on this bill, points out the significant differences between S. 3098 and S. 3035, the Administration's bill on this subject, and recommends certain perfecting amendments to S. 3035.

The Bureau of the Budget recommends enactment of S. 3035, the Administration's bill, in lieu of S. 3098.

On June 8, the Subcommittee on Parks and Recreation of the Senate Committee on Interior and Insular Affairs held a hearing on S. 3035 and S. 3098. Director George B. Hartzog, Jr., of the National Park Service, appeared for S. 3035 on behalf of the Department of the Interior. Following are pertinent excerpts from the testimony (Preservation of Historic Properties, Hearing, U. S. Government Printing Office, Washington, 1966):

* * *

Senator Jackson: /part of his opening statement/ The proposed legislation would supplement the Historic Sites, Buildings, and Antiquities Act of 1935 by extending the cataloging responsibility of the Interior Department to all significant historic properties, not just those that meet the 1935 definition of national significance. By providing for aid to the States, a historic preservation program of much broader scope would be made possible.

* * *

Senator Muskie: /from his prepared statement submitted for the record/ A comparison of these bills /S. 3035 and S. 3098/ would serve no purpose at this time. The Subcommittee and its staff are familiar with the details. But I would like to say that both have attractive features. I am confident that the most effective provisions can be brought together into a single piece of legislation which will achieve the objectives all of us seek.

* * *

Senator Jackson: The clamor at the local level to preserve everything is going to be great, especially when they find out about a program of this kind, even though they would not qualify as historic sites. Could you indicate what kind of study will be made and what standards will be used to make sure that truly qualified projects will be recommended?

Mr. Hartzog: [answering] Mr. Chairman, we believe that the program envisaged by S. 3035 and the same objective to be achieved by S. 3098, as well as the programs contemplated under S. 3097, can be measured creatively in historic preservation through the mechanism of the maintenance of a national register for historic sites, buildings, and objects, which would have three breakdowns in it.

Those of national significance, we have the criteria for selecting nationally significant landmarks in this publication—and I would be pleased to provide copies for the committee—and the promulgation of comparable criteria for sites that have State significance, for inclusion in the national register, and then the promulgation of comparable criteria for sites that have local significance.

Now, the key, it seems to me, for making sure that these programs do not overlap, and that we do not get in properties that are not worth the expenditure in terms of the preservation and presentation of our history, is this register's responsibility.

* * *

Senator Jackson: It is something that will have to be, I think, watched very closely, both from the State and national point of view. The State would be entitled to 100-percent grants for the purpose of preparing these comprehensive surveys, would they not?

Mr. Hartzog: Yes, sir.

Senator Jackson: That is to be done in accordance with Federal standards, however?

Mr. Hartzog: That is right.

Senator Jackson: This they must adhere to.
Is that correct?

Mr. Hartzog: That is correct, sir. Furthermore, the information which they develop as a part of their statewide survey will be passed through the Secretary's Advisory Board on National Parks, Historic Sites, Buildings, and Monuments for its evaluation, so that you have the Advisory Board functioning in an evaluating capacity, on the State and local sites, just as you have the Advisory Board functioning on the national sites. I believe that the program, as it has been carried out by these consulting committees, and by the Advisory Board, has maintained a very high standard of integrity and excellence in the national landmark program. I think it is possible to do the same thing at the State and local level.

Senator Jackson: In connection with the acquisition of historically significant properties there would be a matching arrangement between the States and also a matching arrangement with the National Trust for Historic Preservation.

Mr. Hartzog: Yes, sir.

The Chairman: How would this be divided?

Mr. Hartzog: Well, very frankly, there are no criteria yet developed for the division of this money. The recommendation is for an appropriation of \$2 million in the first year following authorization, and we propose that in the breakdown, cost projections, which we have filed with the committee, I think it is a million—\$1,750,000—of that \$2 million that would go in the first year to the National Trust.

Senator Jackson: How much?

Mr. Hartzog: \$1,750,000.

* * *

Senator Jackson: And then what would the balance be used for?

In other words, the great historic heritage of this country is associated with the mainstream of human movement, as opposed to the geographical location and distribution of the physical features that lend themselves to outdoor recreation, so that we think the overriding criterion in historic preservation is need, and we would propose a definition of need in the context of the financial ability of the State, the significance of the properties, and these kinds of criteria.

Senator Jackson: What overlap would there be with S. 3097, a bill to provide financial and other aid under the Housing Act of 1949?

Mr. Hartzog: Well, sir, at the moment, as the bills are now pending, there is possibility of overlap, because S. 3097 would authorize the local community, in effect, to set its own standards of historic preservation, which would then be incorporated in the urban renewal program.

We believe, although an administration report on S. 3097 has not yet come up in response to the request, but in answer to your specific question, I believe this is a serious point of overlap that needs to be clarified, between S. 3035, 3097, and 3098, because the setting of criteria, it seems to me, is the instrument through which you insure the integrity of historic preservation at all levels of government.

The urban renewal plan is the instrument through which you provide the money for qualified historic properties, just as the statewide plan in S. 3035 is the instrument through which you provide money for preservation of qualified properties. But unless there is central control of the national register and the criteria and the standards of historic preservation, I think that we stand to lose the basic integrity of historic preservation as we have known it. We are studying the situation.

Senator Jackson: I think this is a very important point, because if we get into a city versus state program, where different standards are being followed, we could be in a lot of trouble. It seems to me that, while there are certain special situations that relate to urban renewal the standards and criteria and policy should be the same in all cases insofar as the Federal Government is concerned.

Mr. Hartzog: I believe that very deeply, 'sir, and I think that it is important that the urban renewal funds be available for historic preservation. I think we have lost a great deal of the historic heritage of our Nation in the urban renewal programs, and the Bureau of Public Roads program which have not been geared and oriented toward this facet of our heritage. But the plans and the funds can still be channeled through the local governmental agency and administered by HUD, with the criteria and standards being set under the Historic Sites Act of 1935.

* * *

Senator Jordan: Would it not be somewhat more responsive, on the part of the States, if they were required to make some small participation in this planning fund; for instance, acquisition of funds on a 50-50 matching basis?

Wouldn't it be desirable to have some kind of matching basis for the overall study part?

* * *

Mr. Hartzog: [answering] We believe that the 1935 act charges the Secretary with the responsibility of conducting the national survey for each of these great homes of history, one copy of which we have sent to the committee table.

Now, we look on the statewide survey as being an extension of the work which the Secretary would otherwise be required to do under the

1935 act. Right now, for example, as you will see in these registers that are before you there, we are identifying sites of state or local significance, as well as sites of national significance, but because of the limitation of funds that we have had so far, we have not carried the study of these thomes of history beyond the recognition of the nationally significant properties, except as one of State or local significance may seem on its face to have had national significance. Therefore, we evaluated it, and determined that it did not have national significance so that we think the grant of 100 percent is appropriate; otherwise, the Secretary should be given the money to extend the survey right down into the state and local levels.

* * *

Senator Jordan: Do I understand you to say that this planning money will be awarded to the several States on the basis of need as determined by the Secretary?

Mr. Hartzog: Yes, sir.

Senator Jordan: That is all I have.

* * *

At this point, the Committee called Gordon Gray, Chairman of the National Trust for Historic Preservation, accompanied by Mr. Robert Carvey, executive director of the Trust, to the witness table. Director Hartzog had left the hearing room and Chief, Division of Legislation, Frank E. Harrison was called upon to answer certain questions which were raised by the National Trust witnesses. Following are pertinent parts of the ensuing colloquy:

* * *

Mr. Gray: We find, Mr. Chairman, and thought the administration agreed, that the declaration of purpose which appears in S. 3098 is desirable as a preamble to the bill, with one little amendment we had suggested to that preamble....

This reaffirms a national policy of historic preservation and the amendment to S. 3035 that we would suggest would be that the declaration of purpose as it appears in S. 3098 be incorporated

in the bill which you introduced, with a new 1(d), which would read as follows. . .
'whereas the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and should continue to be, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, and to assist State and local governments.' . . .

* * *

It is just an insert to have a congressional recognition that the private sector of the economy has a major concern with this, because we fear, as I am sure you do, Mr. Chairman, that some people are going to say, 'All right, Uncle is going to take all this over.' We don't think Uncle should, and I don't believe the Interior Department thinks so.

* * *

Mr. Harrison: The Department's report of June 7 on S. 3098 recommends that S. 3035 be amended to include a statement of purpose, and while it did not offer the additional language that Mr. Gray has just offered, that additional language imposed on top of what is already in S. 3098 would be acceptable to the Department.

* * *

Mr. Gray: Now, Mr. Chairman, speaking again as the Chairman of the National Trust, we find that S. 3098 contains preferable language concerning the grants to the National Trust in title IV, inasmuch as this language identifies the education, service, financial assistance, and property ownership obligations of the trust.

It spells out these functions in a little clearer manner. I had understood that this was acceptable also. . .

Mr. Harrison: This language would be acceptable to us. The Director has raised the question of the word 'education' as to what that might be

construed to mean. If it involved the informational type of activity of the trust, you may not want it to be interpreted in that manner. . . .

Senator Jackson: In other words, on line 24 of page 9 of S. 3098, the reference 'furthering the work of the National Trust in education service,' you feel might raise some question as to extending and broadening the nature of the grant as to its purpose? Is that it?

Mr. Harrison: This is right. . . .

Senator Jackson: I wonder if that couldn't be restricted a little. I think we understand that obviously these historic sites per se have an educational value. It is a question of whether or not you are going to go beyond the site and get into an educational program that is not directly related to the explanation of what you have in the site.

I think maybe we could cover it in a report, and restrict it, and we could work that out. . . .
Would you agree with that, Mr. Gray?

* * *

Mr. Gray: There should be /a comma/ after 'education'. I am sure that is the intent of the drafters, it is not an 'education service.' It is 'education, service, financial assistance, and in preserving. . . .'
. . . the act under which the national trust was chartered, the act, I think, of 1949, Mr. Chairman, enjoined us to facilitate public participation in the preservation movement. It seems to me that that requires educating the public so that it can participate. We are deeply involved in what I consider to be educational activities today. . . .

* * *

Mr. Harrison: I was simply going to say it was not the intent to rule out that type of educational service. We were simply raising the question of the breadth of the word. . . .

* * *

Senator Jackson: I would think that possibly we could expand on this a little bit in the report, to indicate at least by way of illustration what we had in mind. I am sure Mr. Gray is not suggesting that this be so broad that we can undertake to grant a broad educational program, almost separated and apart from the work of the trust. It is all related, I take it, to the historical site. . . .

Mr. Gray: Well, they are historical site related, generally speaking. For example, we have relationships now with certain universities in graduate programs which relate to historic preservation as an undertaking, as a movement, some of the techniques, but not necessarily related to a national trust property. . . .

Senator Jackson: Would this be utilized to further explain or to help assist the public in understanding what you are doing in connection with the property that is in your trust and care?

Mr. Gray: Well, we have interpretive programs at each of our properties. But we consider that the various seminars that we have, we have regional conferences on preservation, a device through which we seek to assist local groups in carrying on their own preservation activities. Now, I consider this education.

Mr. Gray subsequently submitted a letter dated June 8 to the Committee in which he called attention to the word "educational" in the 1949 Act of Congress which chartered the National Trust. This letter was made a part of the printed record.

* * *

Mr. Gray: [continuing] Under the administration bill, it is 50-50 [grants to the National Trust]. That study group report [Special Committee on Historic Preservation report, "With Heritage So Rich"] recommended two-thirds Federal and one-third national trust. We don't feel that we are in a position to make that determination, but there is that discrepancy [between S. 3035 and S. 3093].

Then if I may make two comments about a bill that is not before you, which is S. 3097, because they relate to other elements of the Administration's position, section 109 establishes a graduate training program in the field of historic preservation. . . . I don't know yet whether the Administration supports that or not, and our suggestion is that the Congress might wish to consider putting this program under the responsibility of the National Trust for Historic Preservation, because we are the only educational institution chartered by the Congress in the field of preservation, and we are chartered as an educational institution.'

This is a suggestion, Mr. Chairman, which you may wish to consider, if you consider any portions of S. 3097.

Senator Jackson: Well, I think that suggestion is a sensible one. I have a real reservation as to whether or not we ought to get into this sort of thing at this point in time.

I say if we do, I would think it would be reasonable to place such an undertaking under your trust, rather than some Federal agency. I think you could probably do a better job.

Mr. Gray: Then finally, with respect to the reconciliation of these three bills, on page 10 of S. 3097, title II, there is called for 'the establishment of a National Advisory Council on Historic Preservation.

I am aware that the Administration has trouble with this legislation, Mr. Chairman, and our concern would be that in accordance with the recommendations of this Special Study Committee, there be some mechanism in Government to coordinate the preservation activities of the various interested and concerned departments such as Interior, HEW, Commerce, and by that I mean the Bureau of Public Roads; GSA, which owns and administers historic Federal buildings, and sometimes tears them down. They are threatening now one building in St. Louis, the Old Post Office, which was designed by the same man who designed the State, War, and Navy Buildings.

We feel that there is a lack of coordination within the Federal Government itself, and we would hope that there would be, either using, beefing up the Secretary's advisory board by some representation from other Federal agencies, or through some other device, an advisory council which would promote the cause of historic preservation among Federal agencies, would coordinate their activities, and would be in a position to advise the Congress and the President on matters of historic preservation. . . .

* * *

Senator Jackson: I wonder, Mr. Harrison, have you any comments to make about interagency coordination on this? . . .

Mr. Harrison: Mr. Chairman, the Department does not have a cleared report on S. 3097. It is still under consideration in the Bureau of the Budget. Therefore, the most I could do would be to give you a personal expression, based on discussion that we have had up to this point. . . . /continuing/ The observation that we have made is that this fellowship program should really be under the control of the National Advisory Council, and that the Chairman of the National Trust should be made a member of this Council. . . . In other words, we feel there is a need for some coordination. We think it can be accomplished through a high-level council of this type.

* * *

Mr. Gray: . . . In the report of this special study committee. . . it was specifically recommended that there be a first category of structures and sites which should include our prime national monuments, and that Congress should pass legislation which would protect them from demolition, mutilation, or alteration without approval of the advisory /council/. . . This group would include structures such as the Capitol, the White House, Mount Vernon, and Monticello.

* * *

Senator Jackson: Mr. Harrison, is that going to be proposed in separate legislation?

Mr. Harrison: Mr. Chairman, that is proposed in the Department's report on S. 3098, June 7; it is item 5, if I may read it. . . .

At this point the recommendation was read into the record that the requirement in section 202 of S. 3098, that Federal agencies take into account the effect of projects on sites of national significance, be included in S. 3035 and expanded to include all sites listed on the national register. The dialogue continued:

Mr. Gray: Mr. Chairman, I think that Mr. Harrison has probably taken care of my point that I first made, about what I would call the prime category sites, and he has also taken care of the final point I wished to make, I believe, because the committee recommended that before a Federal agency expends funds for physical improvement, whether it be urban renewal or GSA, or public roads, there must be some survey to make sure there isn't a historic site which is threatened or destroyed in this activity, and I believe that the amendment Mr. Harrison is suggesting takes care of this.

* * *

Mr. Harrison: Mr. Chairman, this would apply not only to federally owned property, but to nonfederally owned property which is involved in a Federal assistance program, provided that property is on the national register, whether it be of national significance, local, or State significance only.

And of course—and I should point this out—this does not stop the Federal agency from going ahead with its program, but it simply requires it to consider the historical significance as one aspect of that program. ✓

* * *

Senator Jackson: I would think that makes some sense, that there should be a register of some of these unusual historical sites that could not be disposed of or changed from the purpose for which ✓

they are currently being used, without an opportunity for the Federal Government to take appropriate action. . . . I wonder, Mr. Gray, if it wouldn't make some sense if we had some language in the report, in connection with this legislation, calling upon the Department to identify some of these places. . . . On the basis of that, of course, would have the data, the information, on which we could pass special legislation, dealing with that type of identification. . . .

Mr. Gray: I think it would require legislation. And under any of the proposed bills, as they are now written, this would not be done.

Senator Jackson: But in the report we could indicate that we would like, as a first order of priority, to identify those outstanding and unusual federally identifiable sites, which are privately owned, and which, because of their unusual significance, should be placed on a special register and the problem as to the preservation of these sites, in the event of a change in preservation plans, could be sent to Congress with some recommendation as to what should be done.

Mr. Gray: I would like, if I may suggest, for you to include federally owned buildings on that list also.

* * *

Senator Jackson: Where such sites and historical buildings have been identified, a proposal for change of status should be submitted to the advisory group.

* * *

Mr. Harrison: Mr. Chairman, as a matter of fact, Federal buildings of national significance would be included in the register. . . . We had not been talking about putting them in a separate category as such, but administratively, it could be done, and I am sure we would be happy to do it.

* * *

Senator Jackson: I would include in there some language that would state that he would not be able to go ahead with any change where the building or site has been identified by the Board as having historical importance. . . .

* * *

The next witness was Mr. Ken Smith representing the National Recreation and Park Association, who offered a statement in behalf of Joseph Prendergast, Executive Vice President of the Association, generally in favor of S. 3035. Also made a part of the hearing record was a letter to Chairman Jackson dated June 17, 1966, from Morris Ketcham, Jr., President of the American Institute of Architects, stating, "we support S. 3098 in every respect". Other materials were inserted in the record pertaining to historic preservation generally, and in particular to "Lindenwald", the Kinderhook, N. Y., home of the President Martin Van Buren.

The Senate Subcommittee on Parks and Recreation considered S. 3035 and S. 3098 further. On June 11, the subcommittee ordered the bill reported to the full committee in an amended version, a substitute bill.

On July 7 the full committee reported a substitute bill similar to the subcommittee version to the Senate (S. Rept. 1363, 89th Cong., 2d Session). As reported, the bill provided for these things:

- (a) A declaration of purpose, with a paragraph recognizing the major role of private agencies and individuals;
- (b) Expansion and maintenance of a national register of districts, sites, structures, and objects by the Secretary of the Interior;
- (c) Matching grants to States for 50 percent of the cost of preparing statewide historic preservation surveys;
- (d) Matching grants to the States and to the National Trust for Historic Preservation for acquisition and restoration of properties included in statewide survey;
- (e) Requirement that heads of Federal agencies take into account effect of Federal or federally assisted project on site, district, etc., listed on National Register, and if affected, requirement that he report same to National Advisory Council, and no Federal funds may be expended until 60 days after such report;

(f) Establishment of 17-member National Advisory Council on Historic Preservation, including 6 cabinet officers, the Chairman of the National Trust, 2 governors, 2 mayors, 1 county official, and 5 interested private individuals;

(g) Authorized appropriations of \$2 million for carrying out grant program in fiscal 1967, and \$10 million for each of the three succeeding fiscal years; and

(h) Authorized separate appropriations to carry out provisions of National Advisory Council title.

In discussing the bill, the committee report stated, with respect to certain provisions, as follows:

Content of national register:

Section 101(a)(1) would permit the Department of the Interior to extend its national register program to include historic properties of national, State, regional, or local significance. Priority recognition would be given in this register to our prime national monuments, such as the Capitol, the White House, Mount Vernon, and Monticello. . . . Special attention would be given to significant historic properties in Federal ownership and an interim version of the national register would be published as soon as possible in order to permit Federal agency heads to comply with the review requirements of section 106.

Protection of privately owned landmarks:

If additional legal safeguards seem warranted for those prime national monuments which are in private ownership, or for other highly significant historic properties in private ownership, it is expected that the Secretary of the Interior will prepare legislation requisite for their preservation.

Apportionment of grants:

These surveys and plans would provide the means for assigning priorities for grants for individual historic preservation projects. The amounts

appropriated for these surveys and plans would be apportioned among the States on the basis of need as determined by the Secretary of the Interior, whose decision would be based on such factors as the amount and significance of historic properties remaining to be cataloged and the amount of State resources available for this purpose.

Grants to the National Trust:

Grants to the National Trust would be limited to the acquisition and administration of significant historic properties. These grants should make it possible for the National Trust to expand and improve its programs in these areas, and also should allow increased private support for its important education and service functions. Of the \$2 million appropriation authorization for fiscal year 1967, \$1,750,000 would be expected to be made available for grants to the National Trust. Future grants would be based on an evaluation of need in relation to the need for funds for the other purposes authorized by this measure.

The Senate Committee's version was adopted by the Senate and was the basis for the legislation that was ultimately presented to the President for approval. Its explanation of the amendments in the report are therefore set forth in full below (S. Rept. 1363, 89th Cong., 2d Sess., pp. 7-9):

The bill, as adopted by the committee after hearings, includes two sections, 1 and 106 and title II, which were not in the original measure; a change in the formula for grant aid to the States for surveys; a limitation on the appropriation authorization after the first year; and a few minor clarifying amendments.

Section 1 is a declaration of purposes, which is an amended version of the declaration of purposes in S. 3098, a bill to promote and coordinate historic preservation activities of the Federal State, and local governments, other public bodies, and private organizations and individuals. Addition of this declaration to S. 3035 was recommended by

the Department of the Interior in its report on S. 3098. It serves to emphasize the urgency and importance of taking positive action to preserve the physical evidences of our historic and cultural heritage for the enrichment of present and future generations. It also emphasizes the vital role which private agencies and individuals must continue to play in the historic preservation movement, while noting that governmental efforts must be expanded and accelerated, as well.

With regard to accelerating historic preservation programs and activities, it is the judgment of the committee that the executive branch should be guided by this declaration not only as it applies to this bill, but also as it applies to earlier, closely related legislation, such as the Historic Sites, Buildings, and Antiquities Act of 1935.

Section 106 is also based on a provision in S. 3098 and its inclusion in S. 3035 was recommended in the Department of the Interior report on that bill. It is intended to insure that the Federal agencies will not work at cross purposes with the goals of historic preservation and provides for a meaningful review of Federal or federally assisted projects which affect historic properties identified on the national register. ✓

Title II provides for a National Advisory Council on Historic Preservation which would be composed of appropriate cabinet members, the Chairman of the National Trust for Historic Preservation, two Governors, two mayors, a county official, and five interested or experienced private individuals. This Council was originally proposed in S. 3097, a bill to provide financial and other aid, under the Housing Act of 1949 and related Federal programs, to encourage and assist in the preservation and maintenance of historic structures. S. 3097 was also sponsored by Senator Muskie and the other sponsors of S. 3098. The committee concluded that such a Council would be of such fundamental importance in coordinating Federal programs affecting historic preservation and in furthering historic preservation activities that it should be included in this bill.

To provide administrative simplicity, the Secretary of the Interior or his designee would serve as the Executive Director of the Advisory Council. However, the committee recognizes that the Council, to be fully effective, must act independently and not be considered the voice of any one agency of the Federal Government. The Advisory Council would not attempt to duplicate services or programs already being carried out by individual agencies, but would stimulate additional effort in historic preservation programs in some instances. Provision is made for agencies represented on the Council to provide services to the Council on a reimbursable basis. Particular recognition is given in the bill to the role of the National Trust for Historic Preservation in encouraging public interest and participation in historic preservation, and it is expected that the experience and expertise to be found in the National Trust would also be utilized in other ways also, including the encouragement of training and education in the historic preservation field.

The original bill did not specify a limitation on the amount that could be granted to individual States for the purpose of preparing a statewide historic preservation survey and historic preservation plan. The provision added to section 103(a) makes it clear that no more than 50 percent of the total cost of the survey and plan could be financed by the Federal Government.

Section 107 has been amended to provide that not more than \$10 million is authorized to be appropriated for each of the three succeeding fiscal years after 1967. This amount reflects the level of appropriations which had been under consideration by the administration and in the judgment of the Committee is not excessive in light of the scope of the program. It is impossible to forecast with precision what the eventual need for appropriations will be until the statewide surveys have

been completed. The 3-year limitation on the authorization should provide the Secretary of the Interior ample time to evaluate the level of appropriations needed and to request further authorization.

The remaining changes are technical or are intended to clarify the scope of the original bill.

The addition of "expand and" to section 101(a)(1) makes it clear that the bill authorizes a national register program of greater scope than that contemplated in the Historic Sites, Buildings, and Antiquities Act of 1935.

The addition of "districts" and "structures" in Section 101(a)(1) to the properties to be included in the national register recognizes types of historic properties which should be included in the register, but which might be excluded by a narrow interpretation of "sites, buildings, and objects."

The addition of "architecture" and "archeology" in section 101(a)(1) is intended to make it clear that the scope of the national register would extend to properties significant in American architecture and archeology, as well as more obvious aspects of history and culture, such as social or political history or objects of art.

The addition of "in accordance with criteria established by the Secretary" to section 101(a)(1) clarifies the role of the Secretary of the Interior in prescribing standards for the comprehensive statewide historic surveys and plans.

The minor rewording of the definition of "project" in section 101(b)(2) makes it clear that grants could be made to the States to assist in the preservation and development of historic properties already in public ownership.

A definition of "historic preservation" is added in section 101(b)(3) to clarify the scope of the responsibilities of the National Advisory Council on Historic Preservation proposed in title II.

The June 11 committee print of S. 3035, which was substantially the same as the reported version, was studied by the Bureau of the Budget and a report on this print was submitted by the Bureau to the Committee on July 1. The Bureau's report recommended against the enactment of the 60-day waiting period requirement, saying,

A 60-day waiting period in these circumstances could seriously interfere with the execution of important Federal programs. We think notice could serve a useful purpose and would not object, therefore, to a requirement that Federal program administrators seek the advice of the Advisory Council with regard to projects which affect historical properties.

And it reaffirmed its preference for the absence of appropriation limitation after the first fiscal year contained in the Administration's bill. The Bureau also informed the committee, concerning the Advisory Council:

With regard to title II of the committee print, which establishes a National Advisory Council on Historic Preservation, we have serious reservations. First, we have some question about the need for such a Council, and in particular we are concerned with the potential overlap and duplication with the Secretary of the Interior's existing Advisory Board on National Parks, Historic Sites, Buildings, and Monuments. Should your committee conclude, however, that a new advisory body is necessary and desirable, we would strongly recommend amendments to title II which would (1) make it clear that the new Council is solely an advisory body and not an administrative agency performing operating functions, and (2) make other significant changes in the organization and powers of the Council. These recommended amendments are set forth in detail in attachment.

The Bureau's letter of July 1 and the attachment were printed in the Senate Committee's report. The detailed amendments that the Bureau recommended to title II would:

(1) Require the President to appoint the 10 non-Federal members at large, giving due consideration to officers of State and local governments, rather than from recommendations submitted by the Governors Conference, U. S. Conference of Mayors, National League of Cities, and National Association of Counties;

- (2) Change "assist in coordination", and "disseminate information" to "recommend measures to coordinate," and "advise on the dissemination of information;"
- (3) Change "make and publish studies" to "recommend the conduct of studies;"
- (4) Change "prepare guidelines" to "advise as to guidelines;"
- (5) Delete authority of the Council to hold hearings, issue subpoenas, and administer oaths;
- (6) Change the designation of the Executive Director of the Council from "the Secretary of the Interior or his designee" to one appointed by the Chairman of the Council; and
- (7) Increase the rate of per diem authorized for consultants employed by the Council from \$50 to \$100 per day.

Of the foregoing, only the last, increasing the consultants fees, was adopted by the full committee in its report.

On July 11, the Senate considered and passed S. 3035 as reported by the Committee on Interior and Insular Affairs, without further amendment. Senator Muskie's remarks during the floor debate included the following:

Senator Muskie: The legislation reported by the Interior Committee combines features of the bill submitted by the Department of the Interior to implement President Johnson's message on preserving our national heritage and two bills, S. 3097 and S. 3098, which I introduced with other Members of the Senate to implement the recommendations of the Special Committee on Historic Preservation of the U. S. Conference of Mayors.

* * *

The legislation we are considering today, coupled with S. 3097, which is being considered by the Committee on Banking and Currency, will help us achieve this kind of preservation. I hope both measures will receive speedy approval. (112 Cong. Rec. 11491).

Senators Cooper, Javits, Morse, and Yarborough also generally endorsed the bill at the time of its passage.

HOUSE

On June 10, 1966, Deputy Assistant Secretary Clarence Pautzke submitted the Department of the Interior's report on H.R. 13491 (identical to S. 3035 as introduced) and H.R. 13792 (identical to S. 3098 as introduced), to the House Committee on Interior and Insular Affairs. The substance of the Department's report was identical to the report on the bills before the Senate Committee, i.e., it recommended the enactment of the Administration's bill, H.R. 13491, with amendments to add the declaration of purpose and requirement for consideration of historic sites on the national register by Federal agencies, which were contained in H.R. 13792.

On July 15, 1966, the Subcommittee on National Parks and Recreation, House Committee on Interior and Insular Affairs, held hearings on the Senate-passed bill, S. 3035, and H.R. 13491 and related bills. The hearing transcript was not printed, and, therefore, not edited. The hearing was conducted, however, in open session, and the following are excerpts which bear on significant parts of the legislative history. Director Hartzog was the Department of the Interior's witness. He was followed by Mr. Gordon Gray and Mr. Robert Garvey, Chairman and Executive Director, respectively, of the National Trust. Mr. Hartzog presented a formal statement, which included the following:

Mr. Hartzog: The objectives we all seek in these several bills can, in our view, be achieved best in the coordinated approach of S. 3035, which we now recommend for enactment. In recommending enactment of S. 3035 however, I have been asked by the Bureau of the Budget to offer for your consideration a submission made by that Bureau to the Senate Committee on Interior and Insular Affairs when it was considering S. 3035 and S. 3098, which had objectives similar to those in H.R. 13491, H.R. 13716, H.R. 13790, H.R. 13792, and H.R. 14018. These consolidated Senate bills are now reflected in S. 3035 before you today. The Bureau of the Budget's submission is attached to my statement, and we recommend that the committee give it careful consideration.

* * *

Continuing, in response to question from Mr. Morton. The work we would be doing at Fort Scott comes to us as a direct appropriation apart from this. The reason for the limitation of three years is that we were not able, and we still are not until you get this overall survey

finished, to say what amount of money you need for this program. So four years from now we will be back before this committee and before the Congress seeking a broader charter for grants in response to the need that develops as a result of the survey.

* * *

Mr. White (Texas): I presume that these grants-in-aid are not to profit any individual or private association.

Mr. Hartzog: No, sir. They will be made to the State just like the land and water conservation fund.

Mr. White (Texas): May I examine this possibility with you for a second and see if there is not some way to cover a loophole, if there is any. The grant-in-aid is given to a State or National Trust for a project. On page 3, subsection 2, defining project, it means a program and then it names State and local individuals for the acquisition of title and interest in and for the development. . . . An individual has something of historical significance on his own private property. He acquires a grant-in-aid, half in matching. Then after getting the grant and restoring it and therefore raising the value, then he decides to sell to a concessionaire or historical society. He gets the full value as it is in the condition of sale. What is to prevent him from making a profit at that point? If there is nothing, shouldn't there be some provision for a reimbursement of the half matching grant somewhere along the line?

* * *

Mr. White (Texas): . . .but insofar as we have the bill and we could correct this, if this is a loophole, what is there in a bill to prevent him, after a year or two after restoration, selling it to a private concessionaire?

Mr. Hartzog: The regulations that would be promulgated.

Mr. White (Texas): Wouldn't it be easier to put it in here to be sure?

Mr. Hartzog: There are so many facets to this thing aside from the possibility of sale that it has been our thought that if you established the Council and charged it and the Secretary together with the responsibility of filling out the details, that you would probably have a much more viable piece of legislation once the Congress had enunciated and outlined the dimensions of the policy that it wanted implemented.

For example, it is not only a question does he sell the building to another, but what if he decides that he is going to open it up to the public with a use that is incompatible with what, in the judgment of the Council and the Secretary, the historical emphasis of the building is. What if he is going to turn it into a casino? All of these things, it seems to us, are involved here, that could be better handled by regulation. I have never been one to object to any detail that the Congress wants to spell out in its policy because I am in total agreement with the concept of Congress setting the policy.

Mr. White (Texas): In setting these regulations suppose you say he shall not sell to anyone else. How would that fit the Supreme Court, if they had to pass on this, on a restraint in alienation of property?

Mr. Hartzog: I do not think it would be reasonable for the Congress to say that a man, once he got one of these grants, could never alienate his property. I think the policy ought to be that he could not profit personally from the public expenditure of funds that may have gone into his private property.

Mr. White: Do you feel your regulations, in the absence of authority in the bill, could provide for reimbursement of any profit?

Mr. Hartzog: Indeed I do.

* * *

Mr. Witmer [Committee Counsel]: Mr. Hartzog, for my edification and clarification, I am referring to section 106 on page 7 of the Senate passed bill, in that section does the word project have the meaning which is given in the definitions? . . . The head of any Federal agency having direct jurisdiction over a proposed federal or federally assisted project and so on and so forth. My understanding, and correct me if I am wrong, that the thrust of that was addressed to WFEA and such organizations as that.

Mr. Hartzog: That is right, Bureau of Public Roads.

Mr. Witmer: This is being technical, but I wanted to be sure that I am correct. That, therefore, is not the word project as defined in the Act.

Mr. Hartzog: No, sir, it is not.

Mr. Witmer: The second question is this: Will that section apply to any project, using its word, and I really think that ought to be changed in view of the definition, to undertaking or something like that—would that apply to any undertaking which has been directly and immediately authorized by Congress. Let me give you an illustration. Military construction—there are omnibus acts that go through regularly every 2 years. Is it the intent before any money is spent for that, this survey has to be made and it has to lay over for 60 days.

Mr. Hartzog: That question has never come up in that precise context. My thought on that would be, however, that the consideration by the Congress of an issue in which the historical property would be evaluated. Along with the new project to be authorized would be a superior consideration /to that of the/ Council and in effect would override it. What we were really getting at in this section was a situation in which the Congress authorized an interstate system and then the States and the Bureau of Public Roads lay out the system and the evaluation of the system by the Congress is then by the Appropriations Committee in terms of funding or authorizing expenditures from

the interstate funds in pursuance of plans that have already been approved. In other words, nobody has passed on whether or not you are going to put this highway right through the view between Independence National Historic Park and the river except the State Highway people and the Bureau of Public Roads. Our point was that this should be a decision that would be evaluated by this Council.

Mr. Witmer: In other words, those cases where the administrative agencies have real discretion to say yea or nay.

Mr. Hartzog: That is right. Rather than a situation in which the Congress would authorize the construction of a post office. Let us take the St. Louis situation because I am familiar with it, in which there is real controversy. While we have never recognized it as a national landmark we have not yet done the theme on architecture either. There is real merit to the argument by the historical architects but we agree that it does not have national landmark status because of the historical associations with it. It is entitled to it because of its significance as an architectural landmark of national significance. We have not gotten to that theme of history yet. So we have not made that judgment. But if the Congress, aware of this, were to consider this and authorize the construction of a new post office on the site of the present old post office and say it would be razed and a new one built, I do not think that the Council would have anything to do with it, because I think this would be a superior consideration.

Mr. Witmer: Reading section 106 literally it does. That was really the question I was raising, whether it was intended and if it is not intended, whether that ought not to be made clear. The third question I have is this: The definitions make it pretty clear that you are covering not only historical or strictly historical, but you are talking of structures of architectural, archeological and cultural value. I am now addressing myself to archeology. Suppose the Federal Power Commission

licenses a project which is going to flood out Indian remains, for instance—something near and dear to this committee's heart—that would not be covered by this, am I correct? And if not, ought it not to be for this review?

Mr. Hartzog: I think it would be covered only if it were a nationally significant landmark. I think this language here is broad enough to permit it as a national landmark. If it is one of state or local significance, I think you are right.

Mr. Witmer: It is anything that is included in the National Register.

Mr. Hartzog: Yes.

Mr. Witmer: I am getting at it from the other point. The cases which go to the Advisory Commission even where it is on the National Register are those where it is a federal or federally-assisted project. I took that to mean monetarily assisted by grants-in-aid and that sort of thing, and not by way of what you can call the licensing authority of the Federal Power Commission.

Mr. Hartzog: I think you raised a very good question. I would appreciate the opportunity of considering it and discussing it and if necessary file a written memorandum on it with you. . . . I think they Mr. Witmer's three questions are very excellent and we would like an opportunity to evaluate them and respond for the record, if we may.

* * *

On July 21, the Assistant Legislative Counsel of the Department of the Interior, Lewis Sigler, wrote Mr. Witmer in response to his questions set forth above. The letter reads in pertinent part as follows:

During the July 15 hearing. . . . You requested that we furnish as a drafting service certain amendments to section 106 of the bill, which deals with the effect of other Federal projects on historic sites identified in the national register. Enclosed is the language requested in the form of three amendments.

The first amendment substitutes the word 'undertaking' for 'project,' which is defined elsewhere in the bill. This is a perfecting amendment. The second amendment makes applicable to federally licensed undertakings the requirements of section 106, and the third amendment makes inapplicable the requirements of section 106 where the requirements are expressly waived by an act of Congress.

The Subcommittee hearing continued, with the testimony of Messrs. Gordon Gray and Robert Garvey of the National Trust for Historic Preservation. Excerpts from their testimony follow:

Mr. Gray: We join the Department of Interior and the Park Service in supporting the bill as reported out in the Senate Committee and as passed by the Senate as a solution to the question of reconciling the various other bills in the same area which are before the Committee.

I have one suggestion that I feel I must make in my official capacity about this bill and I would make it for your consideration.

I think it is fair to say this represents some little disagreement with the Department of Interior and the Park Service. This has to do with limiting the grants which you have been discussing to the National Trust entirely to use with properties. And the reason we hope you would broaden this really starts with the Historic Sites Act of 1935 which called for an educational program and service for the purpose of making available to the public facts and information pertaining to American historic and archaeological sites, buildings, and properties of national significance.

In the Act of 1949 which created the National Trust for Historic Preservation, it was stated that in order to further the policy enunciated in the 1955 Act and to facilitate public participation in the preservation of sites, buildings, and objects of national significance and interests, there is hereby created a charitable, educational, and nonprofit corporation to be known as the National Trust for Historic Preservation in the United States. . .

So I feel we have been given something of a congressional mandate to be involved in the process of education and service. We work very closely, of course, by congressional direction, with the Park Service. We have a traditional relationship with them and indeed there was an agreement between our organization and the National Park Service which was entered into October 1957, which calls upon each of these two institutions to aid each other, especially in the survey program of the Park Service, and we are called upon to give assistance, which does not relate specifically to properties which the National Trust owns.

We conduct seminars, we conduct regional conferences, we are in relationships with educational institutions in graduate programs in the field of techniques of historic preservation.

We must render service to our member organizations, of which there are more than 600 all around the country, and indeed in recent months and years, Mr. Chairman, we find ourselves being increasingly called upon by members of Congress to give information to constituents about problems of historic preservation.

Finally, there was an Administration bill providing for these matching grants last year which never came to the Congress as I understand it, but which at that time, if my information is correct, did not limit these grants for project expenditures which, as defined in this bill, are confined solely to properties. [See Part I, B.]

As chairman of the National Trust and in recognition of the responsibilities that we have in the activities we carry on, we ask your consideration of some way to give us some help in carrying on activities which are not specifically tied to the nine properties which we now own or to properties of other organizations which under this legislation we might be able to assist.

I would like before I finish to respond to the second question put to Mr. Hartzog. I do not agree with him in the response he gave.

In my own interpretation of this bill, requiring the heads of Federal agencies to notify the advisory council before they start spending Federal funds would specifically apply to the St. Louis Post office. I would hope it would. I think it should. It would apply to the San Francisco Mint or such similar sites of national significance.

I recognize that the Congress has the power to make any decision in these matters it chooses, but sometimes the Congress is not informed. When GSA, for example, decides to build a new post office, Congress is not informed it may in the process be destroying a building which should be preserved, and the council could call this to the attention of the appropriate congressional committees.

* * *

As to the other question, I would hope the interpretation of 'federally assisted' would extend to power licenses. As to military installations, I would hope this provision would also extend to them. If it is important to save a historic site or structure, it does not make any difference whether it is done by GSA or Defense Department or a private power company.

* * *

Mr. Taylor: Thank you very much. You recommend a certain amendment to the bill. Has the amendment been prepared?

Mr. Gray: I do not have anything but I can give it to you in eight or ten words.

This would amend section 101(a)(2) by adding a clause at the end thereof reading 'and to facilitate public participation in the preservation of sites, buildings, and objects of national significance or interest.'

This simply is picking up language from the Act which created the National Trust and adding it to the section which provides for matching grants here. I do not think it broadens the charter of trust because it takes out of the 1949 Act. But I believe it would be better to permit us to use

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some of these Federal funds for programs of service to a member organization and to improve our service to the Members of the Congress and so forth. This is a simple suggestion.

Mr. Taylor: You might discuss further with counsel.

* * *

Mr. Morton: Do the funds that are provided in the authorization before us here, the \$10 million that would provide for grants to your organization—as you see it, do these funds cover the work you have just described, this advisory work?

Mr. Gray: No, it does not, because under the definition in this Act—the point I was making—it is strictly limited to properties. I had a colloquy with Senator Jackson on this point. He talked in terms of education through our properties. I did not seem to make it clear to him we have an educational responsibility which goes far beyond simply interpreting and exhibiting the nine properties we have.

Mr. Hartzog pointed out that under this Act it would make it possible for us to give financial assistance to some of these local organizations. And I would like to pursue with counsel this question of individuals. I think there may be a way to take care of that problem.

Under the authorization as it appears in the Senate bill the only way we would be helped, and this would be some help, I frankly wish to acknowledge it, is that the money we now spend on maintaining our properties might be released for other purposes and Federal funds substituted. But that is sort of a maneuver.

Mr. Morton: How much money do you spend in the advisory service and in consulting service and in the staff services that you do in an educational way outside of just these properties that you own? Is it in the millions?

Mr. Gray: Oh, no. A couple hundred thousand dollars, I think. If you eliminate all of the money we spend on our properties. Subject to correction, which I might want to make, about \$300,000 in nonproperty activities.

Mr. Morton: Do you feel that you are adequately being able to respond to the needs of these organizations and the requests that these organizations are currently making, that you are doing a job, or do you feel that you are really handicapped and curtailed and are passing up the opportunity to do a lot of work in this area that should be done but you just do not have the funds or people to do it?

Mr. Gray: Very definitely the latter. There is much more we could do.

I would like, for example, in addition to setting up this service to our member organizations and to others and to Members of Congress for that matter—I would like to be able to send at the request of a local group, a team consisting of architects, architectural historians, landscape architects, perhaps a lawyer to help a local community meet the problem of saving some structure that is about to go under. We advise them from headquarters by letter, but we do not have lawyers we can send out, we do not have architectural historians or architects, and we would like to have funds to be able to assemble panels of these people on call and make them available without cost to local organizations. This is out of the question now, this kind of thing.

* * *

The Senate Committee pays respect to our educational program and to our service program. It is somewhere in the report. . . .

* * *

Mr. Morton: I have felt that if there is a leadership that can be exercised by such an organization as yours to come in and override the local controversy—and, also, these things seem to get into local controversy—and bring to light to the general public a real feeling of pride and desire for preservation of these things,

that this would be a tremendous service. . . .
I just wonder if you feel that the National Trust is the vehicle through which this leadership should be exercised.

Mr. Gray: I feel it is. We are the only organization chartered by the Congress in this field. We probably have, outside of the Library of Congress a unique archives. We have a great deal of expertise in even our limited staff with a lot of experience. If anybody could do it, I think we could. I would not want to guarantee we could stop Rex Whitten from building the elevated highway across in front of Jackson Square in New Orleans. But we are doing the very best we can with limited means to minimize the effect of it. . . .

Mr. Taylor: I think it would be well to ask the National Parks Director, Mr. Hartzog, to comment on the amendment proposed by Mr. Gray.

Mr. Hartzog: Mr. Chairman and Members of the Committee, we do not recommend the amendment. And the reasons why we do not recommend the amendment are several. . . .

* * *

I do not, however, believe it is as clear as Mr. Gray indicates in his authorizing legislation with respect to these public service activities in the nature of education and sending lawyers and other people to participate in local controversy. . . .

Moreover, section 202(c) of the Senate-passed S. 3035 vests in the council the authority to 'disseminate information pertaining to historic preservation efforts, to encourage, in cooperation with the National Trust and appropriate private agencies, public interest and participation in historic preservation, and to prepare guidelines for the assistance of state and local governments in drafting legislation relating to historic preservation and to encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation.'

In other words, all of the purposes for which such grants would be made to the Trust are in effect functions which under this legislation are, in our opinion, vested in the council.

Thirdly, we do admit this is a very valuable program which the Trust is carrying on and this is why S. 3035 provides that the activities of the council be carried on and encouraged in cooperation with the National Trust. We believe that by making a grant to the Trust for the preservation, restoration, and maintenance of its historical properties, it will release funds it is now devoting to these purposes which, in the judgment of the Board of Directors can be allocated to these other activities if we want to carry them on.

As you know, the policy of the Congress as enunciated in the Land and Water Conservation Fund is that none of these Federal funds can be used for carrying on these information type programs. I believe that this is a wise policy. I just do not believe that we should be making grants under this program for these kinds of activities. I think it is an activity which the Trust should finance otherwise and which the States should finance otherwise and that such educational and other informational programs as are carried on should be done through the auspices of the council which has live representation at all levels of the government, and one of its members of course is the Chairman of the National Trust for Historic Preservation. He is designated in this capacity in order to bring in the Trust here. So for these reasons I submit respectfully we do not recommend the amendment.

* * *

Mr. Morton: I move the bill be reported to the full committee for further consideration and disposition.

Mr. Taylor: You have heard the motion. The full committee will be in session three days next week. Due to the limited membership present it appears it would be better for the full committee to discuss the amendments and decide upon them rather than the subcommittee. . . . It is so ordered.

Following the hearing by the Subcommittee on National Parks and Recreation, the full Committee on Interior and Insular Affairs, Mr. Aspinall presiding, took up the legislation on August 4, 1966. This meeting of the full committee was conducted in executive session, although Director Hartzog and Frank E. Harrison of the National Park Service, and Robert Garvey of the National Trust were invited to attend and present further testimony. Inasmuch as the committee was in executive session, no direct quotation from the transcript is presented here. There follows, however, a summary of the major points that were discussed, and the position that was taken on them by the several participants.

Costs: Mr. Hartzog was asked to present and justify the amount of money needed under section 107 and section 206 of the Senate-passed bill, dealing with appropriations for grants and for the expenses of the National Advisory Council, respectively. Concerning section 107, he stated that \$2 million would be needed in the first year (\$1,750,000 for the Trust, and \$250,000 for administrative costs), and \$10 million per year for each of the three succeeding years, or a total for the four years of \$32 million. He stated that following the last yearly authorization of \$10 million, the National Park Service would probably come back to the Congress for an increase in the ceiling. Concerning section 206, Mr. Hartzog stated that the \$250,000 estimate for administrative costs in the first year included the costs for the National Advisory Council, although the Service had not broken out the precise figures. The Chairman asked whether the costs of the council could be "taken care of" without any difficulty under the \$2 million plus \$10 million per year authorized under section 107 and Director Hartzog stated these costs could be so taken care of together with the funds now appropriated. The Chairman asked Mr. Witmer, committee counsel, whether it would be possible to "relate back the appropriation that is called for in section 206 to be included in those funds which are provided for in 107," to which Mr. Witmer replied in the affirmative.

Staffing: The Chairman asked Director Hartzog for the man-hours of new personnel required to administer title I of the bill during fiscal years 1967, 1968, and 1969. Director Hartzog stated that the increased staff would amount to 32 permanent positions, explaining that some of these would be assigned to the National Survey of Historic Sites and Buildings (7 positions), and others to the Historic American Buildings Survey (8 positions).

Special Committee on Historic Preservation: Director Hartzog outlined the work and membership of the committee, its financing, and referred to its recommendations.

Housing and Urban Development legislation: Director Hartzog mentioned pending legislation before the Committees on Banking and Currency as

a possible effect on future appropriation requests, to the extent that such urban renewal legislation might minimize the funds needed under S. 3035 for private grants. The Chairman asked specifically whether there is any conflict between the two programs, to which Director Hartzog replied that there were no conflicts between the bills before the Banking and Currency and Interior Committees, and there would, furthermore, be no jurisdictional questions when the bill is brought to the floor of the House.

National Trust for Historic Preservation: Testimony concerning and from the National Trust centered primarily around the amendment offered during the subcommittee hearing, which would permit grants for educational purposes. The executive director, Mr. Garvey, was requested to supply for the committee a 5-year breakdown of the income and expenditures of the Trust. Mr. Garvey explained the purpose of the amendment, and Mr. Hartzog restated his objection in the three points quoted earlier in the subcommittee hearing. Mr. Garvey was asked whether, if the amendment were not adopted and the grants were limited to properties, that sufficient funds would be released to carry on the Trust's education program. Mr. Garvey made the point, in response, that much of the Trust's income is limited to properties by the terms of the grants, and for this reason not enough funds would be freed. He stated that the Trust spent several hundred thousand dollars per year to encourage public participation.

Explaining how a grant to the Trust under its amendment would work, Mr. Garvey stated that the Trust would, for example, spell out to the Secretary the purposes of the program, its cost, and give proof of having half the cost of the program underwritten from some other source. He stated that the Trust is anticipating a \$1 million-per-year budget for educational programs of this kind.

Effect on the Capitol: Mr. O'Brien raised the question of the effect of National Advisory Council action on any proposal to change the Capitol, and observed that the Capitol and its grounds should be taken out from the jurisdiction of the council or the legislation would not be passed.

Following this session, the committee met again and considered numerous amendments. This later session was also executive and there is no record in the files concerning further deliberations of the committee.

On August 30, 1966, the Committee filed its report on S. 3035, recommending that the bill pass, amended in the form of a substitute. As reported, the bill would provide for the following:

- (a) Declaration of purpose, with specific recognition of private role;
- (b) Authority to expand and maintain a National Register;

(c) Matching grants to States for preparing historic surveys and plans;

(d) Matching grants to States for projects;

(e) Matching grants to the National Trust "for the purpose of carrying out the responsibilities of the Trust;"

(f) Requirement that heads of Federal agencies or Federal licensing agencies take into account the effect of their "undertaking" on sites listed on National Register, and requirement that the agency afford the National Advisory Council a "reasonable opportunity to comment with regard to such undertaking;"

(g) Exclusion from operation of the Act the White House, Supreme Court, and U. S. Capitol and related buildings and grounds;

(h) Establishment of a 17-member National Advisory Council, with 6 Cabinet officers, the Chairman of the National Trust, and 10 appointed by the President from outside the Federal Government (giving due consideration to the selection of officers of State and local governments and individuals who are significantly interested and experienced); and

(i) Appropriation of \$2 million for fiscal 1967, and not to exceed \$10 million for each of the three succeeding years to carry out the provisions of the Act.

The substitute bill represented the Senate-passed version of S. 3035 plus several amendments. The explanation of the committee amendments is quoted in full below from the report (H. Rept. 1916, 89th Cong., 2d Sess., pp. 7-8):

Numerous individual amendments were approved by the committee. These are incorporated in the rewritten text of S. 3035 which the committee recommends to the House for its consideration. The most important of these will:

(1) Broaden the authority for grants-in-aid program to the National Trust for Historic

Preservation by permitting the Secretary of the Interior, upon suitable application by the National Trust, to provide assistance for the purpose of carrying out its responsibilities under its charter.

(2) Expand the Federal agencies that are required to take into account the effect of their undertakings on places included in the National Register prior to approval of the expenditure of Federal funds to include Federal licensing agencies.

(3) Require the agencies to afford the Advisory Council an adequate and reasonable opportunity, instead of a flat 60 days, as proposed in the original bill, to review proposed undertakings which affect sites included in the National Register and to prepare deliberate and considerable comments on them.

(4) Add a new section 107 making the bill inapplicable to the White House, the Supreme Court Building, and the Capitol and related buildings and grounds. The committee generally agreed that the principal buildings and grounds of the three branches of the Federal Government should not be subject to the provisions of this general legislation.

(5) Revise the method of selecting the 10 public members of the Advisory Council on Historic Preservation in order to allow the President flexibility in selecting persons who are 'significantly interested and experienced in the matters to be considered by the Council' instead of imposing upon non-Federal organizations the responsibility of nominating persons to be selected by the President.

(6) Reduce the duties of the Advisory Council outlined in section 202 to conform to the purposes for which it is being created—namely to perform advisory functions.

(7) Omit provisions authorizing the Advisory Council to hold hearings under oath; to compel

attendance, testimony, or production of records; and to exercise other powers not commonly granted to, and not necessary to the work of an advisory body. The Council will, however, be authorized to secure statistics, suggestions, and similar information directly from any Federal agency.

(8) Designate the Director of the National Park Service as the Executive Director of the Advisory Council, since the Secretary of the Interior is named in section 201 as a member of the Council. It is reasonable, in the light of the long-standing interest of the Park Service in historic preservation, that it continue its endeavors by participating actively in the work of the Advisory Council.

(9) Delete section 206 which is unnecessary since the committee is recommending that section 198 be amended to limit the maximum amount of money authorized to be appropriated under the entire Act.

Note that virtually all of the amendments recommended by the Bureau of the Budget in its letter to the Senate Committee were adopted by the House Committee. The Committee report contained statements on two other aspects of the bill, in addition to setting forth the background and need for the legislation. It referred to the role of the National Park Service and other agencies, to the need for further reporting, and to the level of funding, as follows:

* * *

In accordance with the authority granted by Congress in 1935, the National Park Service was assigned the responsibility for the general supervision of the Nation's historic preservation efforts, a responsibility which it has exercised continuously to the present time.

* * *

By its revisions of S. 3035, with respect to the functions of other agencies of the Federal Government, the committee recognizes the necessity for a high degree of cooperation and coordination of Federal activities if the Nation is to enjoy both the fruits of progress and its heritage from the past.

The committee feels that it has provided a means of avoiding conflicts of administrative jurisdiction. It feels strongly that the national historic preservation effort should continue to be, as it has been in the past, a function of the Department of the Interior and particularly of the National Park Service.

* * *

The committee fully recognizes that, until the National Register is completed, and full information is available as to what amounts will be necessary to fulfill the objectives envisioned by S. 3035, these amounts are tentative. After the preservation programs get underway, it will be possible to ascertain whether smaller or greater amounts will be required. In no event, under the bill as recommended, will appropriations exceed \$32 million during the first 4 years of the program without further consideration and authorization by the Congress, and appropriations beyond these years will be contingent on the enactment of future legislation.

The bill requires the Advisory Council to submit to the Congress each year a comprehensive report of its activities, including its recommendations. The committee expects, in addition to the Council's annual report, to be advised periodically of the activities, expenses, and plans of the Department of the Interior with respect to the powers and responsibilities imposed upon it under the provisions of this Act.

On September 19, 1966, Representative Leo O'Brien moved that the House suspend the rules and pass S. 3035. Representative Taylor, spoke in favor of the motion. However, it was defeated by lack of the two-thirds vote necessary to suspend the rules, the vote being 41 ayes and 31 noes. At that time objections were raised concerning the cost of the bill by several members. Representative Springer of Illinois, however, referred to a specific site in commenting on the bill (112 Cong. Rec. 22030), as follows:

Several months ago, I introduced a bill to designate as a national historic landmark the graves in Shiloh Cemetery, Coles County, Illinois, of Thomas and Sarah Bush Lincoln, the father and stepmother of Abraham Lincoln. In my judgment, the Lincoln graves are of

sufficient historical importance and public interest to receive this designation. However, the present criteria for national historic landmarks rule out graves and birthplaces except in the case of figures of transcendent importance. Lincoln's own tomb in Springfield, Ill., has been designated a national historical landmark but so far no Federal identification of any kind has been given to the resting place of Lincoln's parents who lay not far from the Illinois farm where they spent their last years.

I support S. 3035, Mr. Speaker, in the hope, that it will lead to the development of less restrictive criteria in the future. A review of the present requirements for admission to the Registry of National Historic Landmarks should be the first task of the new Advisory Council on Historic Preservation.

The bill was then referred to the House Committee on Rules. On September 28, 1966, the Committee on Rules favorably reported H. Res. 1032, providing for a 1-hour debate on the passage of S. 3035. The resolution was called up and adopted on October 10, 1966, and the House considered and passed the bill that day. No objections were raised during the short debate. On October 11, the Senate concurred in the House amendment to S. 3035 with no debate.

On October 13 the Department reported to the Bureau of the Budget on enrolled bill S. 3035, by a letter from Deputy Assistant Secretary Clarence F. Pautzke to Director Charles L. Schultze. In noting the differences between the Administration's earlier recommendation and the bill as amended by the Senate and House committees, the Department's report stated:

The more important Committee amendments
(1) revise the provisions of section 101 to provide that matching grants-in-aid to the National Trust for Historic Preservation in the United States may be made for the purpose of carrying out its responsibilities under its congressional charter rather than for certain projects; (2) revise the provisions of section 103 to limit a grant to any one State for the preparation of a comprehensive statewide historic survey and plan to not more than 50 percent of the total cost thereof, as determined by the Secretary;

(3) expand the Federal agencies that are required in section 106 to take into account the effect of their undertakings on anything included in the national register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture to include Federal licensing agencies; (4) add a new section 107 which provides that nothing in the bill may be construed to apply to the White House and its grounds, the Supreme Court building, and its grounds, or the United States Capitol and its related buildings and grounds; (5) revise the provisions of section 108 to limit the amount authorized to be appropriated to carry out the provisions of the Act for each of the three succeeding fiscal years after 1967 to not more than \$10,000,000; and (6) add to the bill a new Title II which establishes a 17-member Advisory Council on Historic Preservation to advise and report to the President and the Congress on matters relating to historic preservation; as well as to recommend measures to coordinate the preservation efforts of Federal, State, and local agencies and private parties. The Committee amendments are acceptable to the Department.

On October 15, 1966, the President approved seven conservation bills, including S. 3035. In so doing, he stated:

I am also signing today the Endangered Species Preservation Act and the National Historic Preservation Act. Both of these will help us to preserve for our children the heritage of this great land we call America that our forefathers first saw.

S. 3035 was designated as Public Law 89-665.

PROGRESSION OF MAJOR PROVISIONS - INTERIOR LEGISLATION

SENATE

HOUSE

	S. 3035 as <u>introduced</u>	S. 3098 as <u>1/</u> <u>introduced</u>	S. 3035 as <u>passed</u>	S. 3035 reported and passed
1. Strong preservation policy	Not included	Included	Included	Included
2. Coordinate and consolidate existing programs	Not included	Not included	Not included	Not included
3. Annual appropriations to Interior for historic property acquisition	Not included	Included	Not included	Not included
4. Establish National Register of three levels of significance	Included <u>2/</u>	Included	Included <u>2/</u>	Included
5. Additional appropriations to NPS for National Register	Not included	Included	Not included	Not included
6. Grants to State and local Government for surveys	Included	Included	Included <u>3/</u>	Included
7. Grants to the National Trust (2/3 Federal)	Included <u>3/</u>	Included	Included	Included
8. Advisory Council on Historic Preservation	Not included	Not included	Included	Included
9. Review of Federal development projects	Not included	Included	Included	Included
10. Matching grants to States for projects	Included	Included	Included	Included

1/ See under S. 3035 as passed for result as reported in Senate
 2/ Did not require three levels of significance
 3/ Limited to 50 percent of cost
 4/ Same as P. L. 89-665

PROGRESSION OF MAJOR PROVISIONS - HUD LEGISLATION

	SENATE			HOUSE		CONFERENCE
1. Internal Revenue Code Amendments	Not Included	Not Included	Not Included	Not Included	S. 3708 as passed by Senate	Not Included
	<u>S. 3097 1/</u>	<u>S. 3098 1/</u>	<u>S. 3708 2/</u>			
2. Advisory Council on Historic Preservation	Not Included	Not Included	Not Included	Not Included	S. 3708 as passed by House	Not Included
3. Matching grants to States and local public agencies for projects.	Included	Included	Not Included	Included		Included
4. Local cost of historic preservation to be credited to noncash contribution in urban renewal project	Included	Not Included	Not Included	Included		Included
5. Loan program for acquisition and rehabilitation	Included	Not Included	Not Included	Not Included		Not Included
6. Planning grants for surveys at local level	Included	Included	Not Included	Included		Included
7. Matching Grants (2/3 Federal) to National Trust	Included	Included	Not Included	Included		Included
8. Fellowship program for Graduates	Included	Not Included	Not Included	Included		Not Included

1/ See under S. 3711 for result as reported and passed in Senate.
 2/ See under House for result as reported and passed in House.
 3/ For states only.
 4/ Limited only to \$90,000 per structure.
 5/ Identical to P. L. 89-754.

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