

# Wide Spending Reforms Urged in Congress Study

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Official Upholds Nixon

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WASHINGTON, Feb. 6—The new Deputy Attorney General, Joseph T. Sneed, told members of Congress today that President Nixon had an implied constitutional right to refuse to spend money as Congress directed.

But members of the Senate Judiciary Subcommittee on separation of Powers countered that the Nixon Administration was trying to rewrite the United States Constitution and that Mr. Sneed's attitude was reminiscent of President Ferdinand E. Marcos when he recently abolished the Philippine National Assembly.

One Senator went so far as to tell Mr. Sneed that in explaining the President's cutbacks in domestic programs, "you put up the best possible defense you could for a guilty client."

## Vetoes Forecast

The committee debate over a Senate proposal to require the President to spend congressionally appropriated money was by turns contentious, scholarly, humorous and esoteric. It represented the high point thus far of an angry clash between Congress and the President over conflicting views on national spending priorities.

Republican Congressional leaders declared after a meeting with Mr. Nixon this morning

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ing that the President was determined to hold down Federal spending and would veto a "very substantial" number of appropriation measure if they conflicted with the White House goal.

The House of Representatives scheduled floor action tomorrow, nonetheless, on a proposal that would require Mr. Nixon to release \$225-million in rural conservation funds that the White House has withheld from the current budget.

Mr. Sneed, who was worn in last week as the number two official of the Justice Department, said that a proposal to force Mr. Nixon to seek Congressional approval each time he wanted to impound appropriated funds was probably un-

constitutional and would reduce the President to the status of a "chief clerk."

The Deputy Attorney General, presenting the first detailed rationale for the President's refusal to spend more than \$3-billion appropriated by Congress, said in prepared testimony that the President was sworn to uphold "all" the laws. Thus, he contended, if appropriations bill appeared to conflict with Congressional mandates limiting the national debt, curtailing inflation or seeking full employment, the President was empowered to impound appropriations.

## Abolition Right Upheld

At one point during long questioning he told Senator Charles H. Percy, Republican of Illinois, that the President's powers allowed him to abolish programs by withholding their total appropriations.

Mr. Sneed also disavowed a 1969 memorandum in which William H. Rehnquist — an Assistant Attorney General later appointed to the Supreme Court by Mr. Nixon — advised the White House that the refusal to spend appropriated money "is supported by neither reason nor precedent."

Senator Percy, recalling that Mr. Nixon had described Mr. Rehnquist as "the President's counsel," asked if Mr. Sneed was suggesting the Associate Justice had used faulty judgment.

"We think it was erroneous," Mr. Sneed replied.

The crowded hearing room erupted in laughter when Senator Sam J. Ervin Jr., Democrat of North Carolina, said, "The President didn't appoint him [Mr. Rehnquist] to the Supreme Court because he gave him erroneous legal advice, did he?"

Mr. Sneed's response was inaudible.

## Challenge by Muskie

Senator Edmund S. Muskie, Democrat of Maine, sharply challenged the Administration viewpoint as Mr. Sneed gave it. Mr. Muskie said that Mr. Sneed's testimony was "very much like the tone of a speech made by the President of the Philippines as a justification for eliminating the National Assembly."

Mr. Sneed told Mr. Muskie

that he regretted "that the tone was interpreted in that fashion" but continued to assert that Congress could neither prohibit the President from withholding funds nor turn to the courts for relief.

Beginning with Thomas Jefferson in 1803, said Mr. Sneed, "such a long-continued executive practice" of impounding funds, "in which Congress has generally acquiesced, carries with it a strong presumption of legality."

That statement prompted Senator Ervin to declare that homicide and robbery had ample precedent but that repetition of the crimes "does not make murder meritorious or larceny legal."

The climate of the constitution dispute appeared to have been exemplified by an exchange between Mr. Ervin and Mr. Sneed, who, as a former dean of the Duke University Law School, was a constituent of the North Carolina Senator. Mr. Ervin asked where the Constitution gave the President the right to impound funds.

## Cites 3 Articles

"We rest on Articles I, II and III," said Mr. Sneed, referring to descriptions of the powers of the legislative, executive and judicial branches.

"I can't reconcile that conclusion with what the words say," Mr. Ervin countered.

"Well, I've tried," Mr. Sneed said with a smile.

"You put up the best possible defense you could for a guilty client," concluded Mr. Ervin, a one-time justice of the North Carolina Supreme Court.

Mr. Sneed told the subcommittee that Senator Ervin's proposal, requiring the President to release impounded funds unless Congress consented within 60 days to withholding them, would have the practical effect of forcing the Administration "to spend virtually all sums appropriated by the Congress."

## 'You Boggle My Mind'

He said that the measure would undercut the President's authority to curb inflation, unemployment and other economic ills and, as a consequence, "is wholly impractical, profoundly unwise and of very doubtful constitutionality."

At one point, Senator Lawton Chiles, Democrat of Florida, told Mr. Sneed, "Dean, you boggle my mind."

Senator Muskie quarreled angrily with both Mr. Sneed and another Administration witness, William D. Ruckelshaus, the administrator of the Environmental Protection Agency, over the President's refusal to allocate \$6-billion of the \$11-billion Congress earmarked over two years for sewer system grants.