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Separate Those Powers

The average American still tends to assume that when Congress appropriates a sum of money for a particular program or project and the President fails to veto it, precisely that sum of money will be spent in the allotted time. Few assumptions are less warranted; as a result, a political confrontation between the executive and legislative branches of government is not far in the offing.

Over most of the Republic's history the authority of Congress to appropriate money was unchallenged, but now Congress proposes and the President disposes—if he so wishes. If not, he impounds the appropriated money or whatever part of it he thinks wise.

The shift started in complete innocence soon after the turn of the century, when the President was empowered to save the Treasury money if he could achieve a Congressional purpose for less than the amount appropriated. In World War II the executive power in this regard was swollen by President Roosevelt's refusal to spend money appropriated for projects that might require scarce materials or otherwise hinder the war effort. And legislation enabled postwar Presidents to exercise the same discretion for other reasons—the state of the nation's economy, the debt ceiling and the like.

By now the process has gone so far that the Nixon Administration has impounded nearly \$13 billion in funds appropriated by Congress for domestic programs. Instead of the roughly \$600 million that Congress clearly wanted spent on urban mass transit this year, the Administration has budgeted only \$269.7 million. Of funds made available by Congress for fiscal year 1971, some \$192 million for public housing has been frozen, \$200 million for urban renewal, \$200 million for water and sewer grants, and so on. The trend has gone so far that some Congressmen themselves accept the contention that a Congressional appropriation is merely an authorization to spend, not a mandate.

But the tide is turning. In hearings before his own subcommittee on the separation of powers, Senator Ervin of North Carolina complained rightly that through this discretionary use of funds "the President is able to modify, reshape or nullify completely the laws passed by Congress."

Legislation is in preparation to restore the balance by requiring a President to seek Congressional approval for cuts in appropriations that go beyond the dictates of efficiency. But Senator Mathias of Maryland, a liberal Republican, seems to us to be on an even better track. Why not give the President, through constitutional amendment, a line-item veto in appropriations bills—with Congressional power, of course, to override? Given a compelling case, the President would generally have his way—but he would have it only by grace of a truly equal branch of government.