

Mr. DENNEY. Mr. Blackburn, I share your view on this question on the highway cutbacks, and throughout these hearings I caught this from the different witnesses, and, of course, you have House Resolution 961.

You know there are many other Congressmen that have filed similar resolutions, and it is a matter that this committee is going to take up and consider when we write the bill for the Federal highway program for 1968.

I am sure the chairman is interested in this, also.

Now, stating your position in brief, you feel, as I understand your statement, that withholding the Federal-aid highway funds is not necessarily unlawful, it might be like a question of whether civil disobedience is criminal disobedience. That is partly the problem of the press now, in describing certain acts.

At least you do think this is a trust fund to be governed and controlled by Congress, and has a definite purpose of beneficiaries to the public of the United States, and that we are the trustees of that fund and not the executive branch. Is that your position?

Mr. BLACKBURN. I feel that position very strongly.

I feel that since it constitutionally and traditionally has always been the sole prerogative of Congress to levy a tax upon the people, that when the Congress does see fit to levy a special tax, and that is exactly what this is—

Mr. DENNEY. This is a tax, is it not?

Mr. BLACKBURN. Congress has levied this special tax upon the people, and Congress commands that the money be spent for that purpose and that purpose only.

Mr. DENNEY. Now, have you read the scholarly opinion of the Honorable Senator Brooke of Massachusetts with reference to the legality of the cutbacks?

Mr. BLACKBURN. Yes, I have.

Mr. DENNEY. Do you have any comment about that opinion?

Mr. BLACKBURN. I think it is a very well-written and well-reasoned brief, and I concur in his conclusion.

Mr. DENNEY. I remember when I read it that he said there was no authority to cut back.

Mr. BLACKBURN. I have the same opinion, and I do not see any language in the act which grants such authority.

Mr. DENNEY. The one thing that bothers me, the wording of the act provides authorizations to create obligations by contract in advance of appropriations shall be so apportioned as to achieve the most effective and economical use thereof.

Now, that is in the law, and if these contractors, these States are trying to work out an effective contract, it does not seem to me that if they do work out the procedure and the implementation of these contracts, how we can get the effective and most economical use of our money if they cannot rely on the fact that the money will be forthcoming when it is time to implement the contract, how can they plan?

Mr. BLACKBURN. I want to comment at this juncture, along the lines you have just mentioned, the section that you quoted I believe is in the section on appropriations; it is not in the Interstate Highway Act, but I believe it is in the United States Code title on appropriations.