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B-219727, Jul 30, 1985

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APPROPRIATIONS - CONTINUING RESOLUTIONS - AUTHORIZING LEGISLATION ABSENT DIGEST: THE FISCAL YEAR 1985 CONTINUING RESOLUTION PROVIDES AUTHORITY FOR THE CREATION AND OPERATION OF THE COMMITTEE ON THE UKRANIAN FAMINE. SECTION 136 OF THE RESOLUTION, WHICH APPROPRIATES $400,000 TO CARRY OUT THE PROVISIONS OF S.2456," INCORPORATES THE SENATE BILL INTO THE RESOLUTION BY REFERENCE. THEREFORE, THE BILL, WHICH CREATES THE COMMISSION, BECAME LAW WITH THE ENACTMENT OF THE CONTINUING RESOLUTION.

THE HONORABLE DANIEL A. MICA: CHAIRMAN, SUBCOMMITTEE ON INTERNATIONAL OPERATIONS COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES

IN YOUR LETTER OF JULY 25, 1985, YOU ASKED OUR OPINION ON THE LEGISLATIVE AUTHORITY FOR THE OPERATION OF THE COMMISSION ON THE UKRANIAN FAMINE. YOU INDICATE THAT FUNDS WERE APPROPRIATED FOR THE ACTIVITIES OF THE COMMISSION BY THE JOINT RESOLUTION MAKING CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1985, AND FOR OTHER PURPOSES (CONTINUING RESOLUTION), PUB.L. NO. 98-474, 98 STAT. 1837 (1984). FROM YOUR LETTER IT IS APPARENT, HOWEVER, THAT THE LEGISLATION ESTABLISHING THE COMMISSION, ALTHOUGH PASSED BY THE SENATE, WAS NOT ENACTED INTO LAW BEFORE PASSAGE OF THE CONTINUING RESOLUTION. FOR THE REASONS INDICATED BELOW, WE CONCLUDE THAT THE APPROPRIATION FOR THE COMMISSION PROVIDES ADEQUATE LEGISLATIVE AUTHORITY FOR THE CREATION AND OPERATION OF THE COMMISSION.

SECTION 136 OF THE CONTINUING RESOLUTION STATES:

"THERE ARE HEREBY APPROPRIATED $400,000 TO CARRY OUT THE PROVISIONS OF S.2456, AS PASSED BY THE SENATE ON SEPTEMBER 21, 1984." 98 STAT. AT 1973.

BY ITS TERMS THIS PROVISION AUTHORIZES IMPLEMENTATION OF THE PROVISIONS OF S.2456, THE BILL WHICH WOULD HAVE CREATED THE COMMISSION. IN OUR OPINION, THE EFFECT OF SECTION 136 IS TO INCORPORATE S.2456 INTO THE CONTINUING RESOLUTION BY REFERENCE, AND THUS TO MAKE IT LAW WITH THE ENACTMENT OF THE RESOLUTION.

THAT IT WAS THE INTENT OF THE CONGRESS THAT SECTION 136 WOULD AUTHORIZE THE CREATION OF THE COMMISSION, AS WELL AS APPROPRIATE FUNDS FOR ITS OPERATION, IS CLEAR FROM THE LEGISLATIVE HISTORY OF THE PROVISION. THE COMMITTEE OF CONFERENCE ON THE CONTINUING RESOLUTION STATED AS FOLLOWS WITH RESPECT TO THE PROVISION:

"APPROPRIATES $400,000 AS PROPOSED BY THE SENATE WHICH WOULD ESTABLISH A COMMISSION AND PROVIDE FUNDS TO STUDY THE CAUSES OF THE FAMINE IN THE UKRAINE IN 1932 AND 1933." H.R. REPT. NO. 1159, 98TH CONG., 2D SESS. 412 (1984). SENATOR BRADLEY, WHO INTRODUCED SECTION 136 AS A FLOOR AMENDMENT TO THE 136 AS A FLOOR

AMENDMENT TO THE CONTINUING RESOLUTION, EXPLAINED IT AS FOLLOWS:

"MR. PRESIDENT, THIS AMENDMENT IS VERY SIMPLE. IT APPROPRIATES $400,000 TO ESTABLISH A COMMISSION TO STUDY THE 1932-33 FAMINE CAUSED BY THE SOVIET GOVERNMENT IN UKRAINE." 130 CONG. REC. S13016 (DAILY ED. OCTOBER 3, 1984).

S.2456 CONTAINS NO PROVISION OTHER THAN THOSE CREATING THE COMMISSION AND GRANTING IT THE NECESSARY AUTHORITIES TO CONDUCT THE MANDATED STUDY. THEREFORE, SECTION 136 OF THE CONTINUING RESOLUTION WOULD BE MEANINGLESS IF IT MERELY APPROPRIATED FUNDS BUT DID NOT AUTHORIZE THE ESTABLISHMENT OF THE COMMISSION. CERTAINLY THE CONGRESS WOULD NOT HAVE APPROPRIATED FUNDS UNLESS IT INTENDED THAT THE COMMISSION EXIST AND OPERATE DURING FISCAL 1985.

UNLESS YOU RELEASE IT EARLIER, OR WE HEAR OTHERWISE FROM YOUR STAFF, THIS OPINION WILL BECOME AVAILABLE TO THE PUBLIC 30 DAYS FROM TODAY.