

JUDGE HALTS MOVE TO DISBAND O.E.O.

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Rules Administration Lacks Authority for Cutbacks in Current Fiscal Year NYTimes

By BILL KOVACH

Special to The New York Times

WASHINGTON, April 11—A Federal judge branded the Nixon Administration's efforts to dismantle the Office of Economic Opportunity as "illegal" today and ordered a halt to all efforts to abolish the program.

In a strongly worded 41-page opinion, Judge William B. Jones of the United States District Court for the District of Columbia ordered Howard Phillips, Acting Director of the O.E.O., to halt his termination of agency programs immediately because such action was "unauthorized by law, illegal and in excess of statutory authority."

Attorneys involved in the suit, brought on behalf of four Community Action agencies threatened with termination and several labor unions representing O.E.O. employees, described Judge Jones's action as "sweeping" and "historic." One lawyer said it should offer members of Congress new support in their struggle with the Administration over the impoundment of funds appropriated by Congress.

Harold Himmelman, attorney for the Lawyers Committee for

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Civil Rights, which represented the Community Action Agencies in the lawsuit, said that the opinion "clearly reaffirms the constitutional separation of powers and gives Congress the backup it has been looking for to make its fight against the Administration's use of executive power to end programs voted by Congress."

About 100 O.E.O. employees jammed the lobby of the agency's building this afternoon to cheer the decision and claim victory over "Howie Phillips and his wrecking crew."

Upstairs, Mr. Phillips's secretary reported that the Acting Director was in Boston and could not be reached for com-



Associated Press

Howard Phillips, acting
director of the Office of
Economic Opportunity.

ment. A spokesman for the O.E.O. said only that the opinion was being studied by counsel and that comment would be forthcoming "probably by tomorrow."

The lawsuits that prompted today's decision were part of a series of similar suits that have been filed since President Nixon announced his desire to terminate O.E.O. at the end of this year.

In his 1974 budget message, delivered Jan. 29, President Nixon called for the end of some O.E.O. programs and the transfer of the rest to other Federal agencies. On the same day, Mr. Phillips warned all regional O.E.O. offices of the intention to terminate their programs and ordered that all existing funds be used only for phasing out the operations.

Noting that Congress had made clear its intent that O.E.O. should continue at least until the end of this fiscal year, Judge Jones ruled:

"No budget message of the President can alter that power and force the Congress to act to preserve legislative programs from extinction prior to the time Congress has declared that they shall terminate, either by its action or inaction."

Judge Cites Consequences

In answer to the Administration's argument in the case that executive power included the power to reorganize Government agencies in the way Mr. Phillips pursued the termination of O.E.O., the judge said:

"If the power sought here were found valid, no barrier would remain to the executive ignoring any and all Congressional authorizations if he deemed them, no matter how conscientiously, to be contrary to the needs of the nation . . . The defendant [Mr. Phillips] really argues that the Constitution confers the discretionary power upon the President to refuse to execute laws passed by Congress with which he disagrees."

Unless overturned, the ruling today would have the effect of freeing money now in the hands of O.E.O. agencies for use in continuing programs that were halted when the termination order was issued. It would also, according to attorneys for the plaintiffs, require that Mr. Phillips fund some agencies, particularly some Legal Services programs, whose grants for the current year have been held up in anticipation of their demise.

"At the very least," said one O.E.O. worker, "it gives new viability to some Community Action programs that were withering in the field."

Chicago Ruling Differs

Special to The New York Times

CHICAGO, April 11 — A United States District Court judge refused today to grant a preliminary injunction that would have prevented the Nixon Administration from dismantling the Chicago District Office of Economic Opportunity.

In a suit similar to the one ruled upon today in Washington, Judge James B. Parsons held that the petition for a preliminary injunction, brought by Local 2816 of the American Federation of Government Employees, was "premature."

"O.E.O. will continue as provided by law unless Congress acts to discontinue it or fails to act to cause its continuance. Community Action agencies will be funded for their programs at least through fiscal 1973 (June 30)," Judge Parsons ruled.

There are 150 persons employed at the Chicago office of the agency. All but 38 will lose their jobs by April 28, the date set for closing. The 38 will be transferred to the General Service Administration.