SUITS SEEK TO STOP OEO DISMANTLEMENT

Judge Jones Doubts Justification

Although U.S. District Court Judge William Jones made no formal ruling on three suits filed against the administration to stop dismantlement of the Office of Economic Opportunity, he indicated that he had "serious doubts about some of the arguments used by the administration as justification."

Jones said he was "bothered" by the use of Fiscal Year 74 budget as a justification for eliminating the agency.

OEO Acting Director Howard Phillips has cited the budget message as a mandate to dismantle the agency and use FY 73 Community Action funding for closing out outstanding obligations.

"The thing that bothers me," Judge Jones commented, "is that the budget message is just the President saying what he'd like to do. It's simply the executive department proposing."

John Ferren, arguing against the dismantling for the Lawyers' Committee for Civil Rights, said that the suits are not trying to compel the spending of money, they are trying to enjoin the phaseout until Congress has had time to act.

He argued that there are four right ways for the President to seek an end to the agency and direct funding for Community Action: (1) file a formal reorganization plan which Congress could reject; (2) file a bill to repeal the authorization for the programs; (3) put a certain amount of money in the FY 74 budget request for phase-out operations; (4) ask for zero funding (as the President has done).

Although the President has followed the fourth point, "he can't step over the line and prejudge the issue by instituting phase-out procedures before Congress has responded to the proposals," Ferren said.

"Injuries are so extensive to CAAs", Ferren noted, "that the agencies cannot wait until June 30 to see how Congress resolves the issue".

He said that staff time which would normally be devoted to running programs must be diverted to phase-out operations. The program is irretrievable, agencies that close down on June 30 or before, would have to wait months to start programs again if Congress appropriated the funds.

Absenteeism is reported "rampant", as employees seek other jobs, and government and private supporters are holding off funding.

Ferren took issue with the argument that revenue sharing could be used to continue CAA operations at the option of the local community. The budgets of most communities, he said, were already "strapped" for funding to take care of such programs as fire protection.

The programs that the President proposed to transfer to other agencies will also suffer, Ferren argued, because they will have to use operational funds to pick up overhead costs which are being provided by CAAs.

Judge Jones told Ferren, "What bothers me most about Mr. Kelson's argument" is the implication that the White House could direct the phasing out of any government program for which future funding is uncertain. John Kelson is a Justice Department attorney representing OEO.

Several times during the hearing, Judge Jones and Kelson clashed over some of the points in the administration's case. Jones asked Kelson why the administration had not published most of its recent OEO instructions in the Federal Register as required by the 1972 EOA (the bill vetoed by the President) and reading from the Committee report on the vetoed bill.

Jones told Kelson he had "better get a stronger reed to lean on", and said that he was more interested in the statute than in vetoed bills or the administration's reading of Congressional intent.

Later, when Kelson repeated the familiar argument that Community Action was not being "abolished", but merely being "zero funded", Jones said Kelson was playing "a game of semantics".

The plaintiffs in the suit asked the court to rule that Phillips has exceeded his authority and asked that OEO be directed to resume all anti-poverty activity or that a preliminary injunction be issued against Phillips pending the outcome of the question of the legality of his actions.