

economics.

At this moment of world strategic crisis, we call on every American to tell President Reagan to publicly commit this nation's resources to achieve a fully functioning beam defense system in the immediate future. In addition, we ask Americans to tell their congressmen to oppose the bailout of the International Monetary Fund, which represents a national security threat to this nation and our allies. In this spirit, we mean to mobilize so that President Reagan will do what is necessary to protect the national sovereignty of Lebanon, now threatened by the Soviet Union and its surrogates.

During the coming two weeks, these are the minimum steps necessary to shift the momentum of world events from a course leading inevitably to nuclear war to one providing possibilities of war avoidance. To accomplish this shift, we must deliver a strategic shock to the Soviet leadership before negotiations can achieve anything. If this mobilization is not undertaken, the world has little chance to survive.

The most hopeful sign that war can be avoided is the victory of the NDPC-backed candidates. As LaRouche has stressed, President Reagan's beam-weapons program, if implemented along the lines LaRouche has laid out, provides the basis for a genuine economic recovery. It is fear of an American economic recovery that has led the Russian leadership to call into risk the survival of humanity with their increasing provocations. The present "recovery" is no such challenge to Moscow, because it's all on paper.

Conversely, the recent performance of Charles "Banker" Manatt is of the greatest assistance to the KGB. On the same day the NDPC achieved its electoral victories, Manatt was proclaiming that he speaks for the entire Democratic Party and all seven announced presidential candidates in calling for a nuclear freeze. Mr. Manatt is trying to put the Democratic Party solidly in the tradition of Neville Chamberlain. . . . Manatt likened President Reagan's campaign for the MX missile to the Soviet massacre of 269 passengers aboard unarmed KAL flight 7, and I quote him: "We are not prepared to have one moral outrage used to justify another." This is treason.

Speaking for the fastest-growing political tendency in the United States today, and for our candidates—those elected and those still running—I publicly commit the resources of our organization to eliminate once and for all from active influence on the policy of this nation the Harriman-KGB wing of the Democratic Party and its political allies, the Kissinger Republicans. Through the Pugwash conferences pioneered by Bertrand Russell and Leo Szilard, these political agents have gained control over the strategic policies of this country and steered the world into this present crisis. The cause for our nation's strategic decline and the present war course is the strategic doctrine known as Mutually Assured Destruction with which they have controlled U.S. policy.

With the implementation of the crash beam weapons program, the world will move into the era of Mutually Assured Survival. It is for this great goal that the NDPC has undertaken the present national mobilization.

Constitutional Law

War Powers compromise

by Edward Spannaus

A compromise reportedly reached on Sept. 20 between the White House and congressional leadership has avoided—for now—a challenge to the fundamental unconstitutionality of the War Powers Resolution. The compromise resolution, which gives congressional approval to the deployment of U.S. troops in Lebanon for 18 months, is almost meaningless: there is very little that Congress could otherwise have done without appearing to be cutting support for U.S. troops while they are under fire from Soviet-backed forces in Lebanon.

According to an unnamed White House official, the President intends to express reservations as to the ultimate constitutionality of the resolution, and "will assert the inherent constitutional power of the Commander-in-Chief" when he actually signs the resolution, thus leaving himself free to challenge the constitutionality of the resolution in court, if necessary. Secretary of State Shultz also stated on Sept. 21 that "the President has no intention of turning over to Congress his constitutional prerogative as Commander-in-Chief." And reportedly the President has been insistent that it is Congress, not he, who is invoking the act.

By leaving himself an "out" while garnering congressional support for his Lebanon policy, President Reagan has deftly avoided becoming the first Republican President to accept the constitutionality of the War Powers Act. The significance of this is that the real issue in the test over Lebanon is known to be Central America, not Lebanon; Congressional Democrats want to establish the Lebanon precedent in order to be able to mount a future challenge on the administration's Central American policy.

When the War Powers Resolution was passed by Congress during the 1973 Watergate assault on the Presidency, Richard Nixon vetoed it as unconstitutional, and it was subsequently enacted with a congressional override of the veto. Although President Ford submitted four reports to Congress regarding the use of U.S. troops abroad, he was careful to state that he did not regard himself legally obligated under the War Powers Act.

The Constitution specifically divides war power authority between the Executive and the Legislative departments. The Constitution provides the Executive with a very broad grant of executive power ("the executive power shall be vested in

avoids clash

a President. . . .”), plus the President is named Commander-in-Chief of the armed forces and is given the power to conduct foreign policy.

These president powers are subject only to the limitation that Congress is given the power to declare war, to appropriate funds for the armed forces and to regulate them, and to ratify treaties and ambassadorial appointments. The President has the power of Commander-in-Chief at *all* times, not just during wartime. So although the President himself cannot declare war, he obviously can deploy troops in non-declaration of war situations. And historically, this power has been freely exercised. Between 1798 and 1972, there were 199 military engagements abroad *without* a declaration of war. Almost half of these (97) lasted longer than 30 days. And over half (103) were outside the Western Hemisphere.

The notion of an “undeclared war” or limited war is not a modern concept; it was recognized as early as 1798 by the Supreme Court, which said that the hostilities with France constituted an “imperfect war” as opposed to a “solemn” or declared war. In fact, the Constitutional Convention seems to have recognized such a distinction when it substituted the narrower phrase “declare war” for the original “make war” in the draft of Article I.

The 1973 War Powers Resolution requires the President to submit a written report to Congress within 48 hours of the introduction of U.S. forces into hostilities, into situations of imminent involvement in hostilities, or even into a foreign nation if the troops are prepared for combat.

It further requires the President to withdraw the troops within 60 days unless Congress has declared war or authorized continued deployment. But it also says that the troops shall be removed at any time if the Congress so directs by concurrent resolution, even if before the 60-day period. This is the specific “legislative veto” clause. (Under the compromise resolution agreed to on September 20, Congress is still trying to retain this provision. Section 7(a) states in part: “...and nothing in this joint resolution shall preclude the Congress by joint resolution from directing such a withdrawal.”)

The War Powers Resolution was vetoed by President Nixon, who said in his veto message that the restrictions upon

Presidential power were “unconstitutional and dangerous to the best interests of our nation.” In his veto message he called the resolution “clearly unconstitutional” and said it would take away constitutional authority that had been exercised by Presidents for almost 200 years. Nixon also warned that “it would seriously undermine this Nation’s ability to act decisively and convincingly in times of international crisis. . . . A permanent and substantial element of unpredictability would be injected into the world’s assessment of American behavior, further increasing the likelihood of miscalculation and war.”

The Chadha decision

In *INS v. Chadha* (decided June 23, 1983), the United States Supreme Court held that the legislative veto section of the Immigration and Nationality Act was unconstitutional on the grounds that it violated the constitutional doctrine of separation of powers. The dissenting opinion, moreover, specifically discussed the War Powers Act, and stated that the majority decision “appears to invalidate all legislative vetoes irrespective of form or subject.”

The Reagan administration has not invoked the Chadha decision with respect to the constitutionality of the War Powers Resolution. The only instance in which the administration has invoked this ruling is in connection with a Department of the Interior land sale, which was previously reported to Congress and vetoed by a House committee. Secretary Watt went ahead with the sale on Sept. 14, explicitly defying the legislative veto by the House.

Meanwhile, the Justice Department is apparently advising the President that the Chadha decision does *not* invalidate the War Powers Resolution. On July 18, 1983, Deputy Attorney General Edward Schmults testified before the Subcommittee on Administrative Law and Government Relations of the House Judiciary Committee. While he made a strong attack on the independent regulatory agencies as a “fourth branch of government,” he made no mention of the War Powers Resolution. However, he submitted to the committee a memorandum prepared by the Justice Department’s Office of Legal Counsel which contained an analysis of all legislation affected by the Chadha decision. The DOJ memorandum argues that, although the provision for Congress to order immediate withdrawal of troops by concurrent resolution is invalidated, the reporting and consultation requirements, and the provision for withdrawal of troops after 60 days unless Congress affirmatively authorizes troops to remain, are not affected by Chadha.

However, the Sept. 20 compromise resolution explicitly reserves the right of Congress to direct the withdrawal of troops by joint resolution, despite the fact that this procedure was invalidated by the Chadha decision. The compromise resolution may serve the administration’s purposes in the Lebanon situation, but it sets a precedent which may well have an adverse effect on the executive branch’s ability to deal quickly and decisively with Soviet-backed provocation and aggression in other parts of the world.