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## EXECUTIVE REORGANIZATION IN 1947

By DR. WILLIAM G. TORPEY\*

SIGNIFICANT action was taken during 1947 to reorganize the executive branch of the federal government.<sup>1</sup> Such action was initiated both by the President and by Congress. Pursuant to procedures established by the Reorganization Act of 1945, the President transmitted to Congress three reorganization plans. Two of these plans eventually became effective. In addition, Congress proposed—and the President signed—an act creating a special group to investigate organization and methods of operation of executive agencies. The purpose of this article is to summarize the key phases of such executive and legislative activity.

*Reorganization Plans No. 1 and No. 2*—Reorganization Plans No. 1 and No. 2 of 1947 were transmitted by the President to Congress on May 1, 1947.<sup>2</sup> The chief provisions of Plans No. 1 and No. 2 were aimed to continue specific organizational arrangements previously effected under authority of Title I of the First War Powers Act.<sup>3</sup> Five provisions of Plan No. 1 of 1947 were similar to recommendations of Plan No. 1 of 1946 which did not become operative because of Congressional opposition to other parts of the 1946 proposal. Plan No. 2 of 1947 also sought to introduce two changes in organization to improve the administration of certain labor functions.

Essential aspects of Plan No. 1 of 1947 may be summarized as follows:

PRESIDENT AND DEPARTMENT OF JUSTICE		
<i>Functions</i>	<i>Agency formerly exercising function</i>	<i>Disposition of function</i>
Functions of Alien Property Custodian and Office of Alien Property Custodian	Attorney General and Philippine Alien Property Administration (By Executive Order, formerly exercised by Office of Alien Property Custodian)	Transferred to Attorney General except as to Philippine property; functions relating to Philippine property transferred to President.
Function of approval of determination of Secretary of Agriculture in connection with agricultural marketing orders	President	Abolished

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1. See "Executive Reorganization Within the Federal Government," Dr. William G. Torpey, 31 Minn. L. Rev. 263-277.

2. House Documents Nos. 230, 231, 80th Congress, 1st Session.

3. Act of December 18, 1941, c. 593, 55 Stat. 838.

## DEPARTMENT OF TREASURY .

<i>Functions</i>	<i>Agency formerly exercising function</i>	<i>Disposition of function</i>
Functions of Director of Contract Settlement and Office of Contract Settlement (including Contract Settlement Advisory Board and the Appeal Board)	Secretary of Treasury (By Executive Order, formerly exercised by Office of Contract Settlement)	Transferred to Secretary of Treasury; Office of Contract Settlement abolished
Functions of Attorney General with respect to determination of Internal Revenue taxes arising out of violations of National Prohibition Act and compromise, prior to reference to Attorney General for suit, of liability for such taxes	Commissioner of Internal Revenue (By Executive Order)	Transferred permanently to Commissioner of Internal Revenue

## DEPARTMENT OF AGRICULTURE

<i>Functions</i>	<i>Agency formerly exercising function</i>	<i>Disposition of function</i>
Functions of eight agricultural research units	Agricultural Research Administration (By Executive Order)	Transferred to Secretary of Agriculture

## FEDERAL DEPOSIT INSURANCE CORPORATION

<i>Functions</i>	<i>Agency formerly exercising function</i>	<i>Disposition of function</i>
Function of Farm Credit Administration under Federal Credit Union Act, together with functions of Secretary of Agriculture related thereto	Federal Deposit Insurance Corporation (By Executive Order)	Retained on permanent basis by Federal Deposit Insurance Corporation

## WAR ASSETS ADMINISTRATION

<i>Functions</i>	<i>Agency formerly exercising function</i>	<i>Disposition of function</i>
Functions of War Assets Administration and War Assets Administrator	War Assets Administration	Transferred to Surplus Property Administration and Surplus Property Administrator, the latter to be known as War Assets Administrator

Essential aspects of Plan No. 2 of 1947 may be summarized as follows:

<i>Functions</i>	<i>Agency currently exercising functions</i>	<i>Proposed disposition of functions</i>
Functions of United States Employment Service	Department of Labor (By Executive Order)	Department of Labor
Functions of Administrator of Wages and Hours Division	Administrator of Wages and Hours Division	Secretary of Labor
With respect to coordination of labor laws on federal public works contracts, functions of prescribing standards regulations and procedures to be observed by contracting agencies	Individual federal agencies, without overall coordination	Secretary of Labor

Plans No. 1 and No. 2 provided for the transfer to the respective agencies in which functions were placed of (1) the records and property then being used or held in connection with such functions, (2) the personnel employed and (3) the unexpended balances of appropriations, allocations or other funds available or to be made available for use in connection with such functions. Records, property, personnel and funds so transferred could be used, employed or expended for such functions or, in the instance of Plan No. 1, in the winding up of the affairs of agencies abolished incident to the transfer of these functions. In individual messages to Congress, submitted with Plans No. 1 and No. 2, the President analyzed the changes recommended and stated that each reorganization contained in each plan was necessary to accomplish one or more of the purposes set forth in the Reorganization Act.

In the House of Representatives, the message from the President, together with the two plans, was immediately referred to the Committee on Expenditures in the Executive Departments. In the Senate, Plan No. 1 and its accompanying message were sent to the Senate Committee of Expenditures in the Executive Departments while Plan No. 2 and its message were referred to the Senate Committee on Labor and Public Welfare.

Consistent with procedures contained in the Reorganization Act of 1945, two concurrent resolutions were introduced in the House of Representatives. House Concurrent Resolution 50 stipulated that Congress did not favor Plan No. 1; House Concurrent Resolution 49 declared Congressional disfavor of Plan No. 2.

During the period May 21-27, hearings were held on the two

resolutions by the House Committee. No opposition developed to Plan No. 1. Therefore, the House Committee did not deem it necessary to report out House Concurrent Resolution 50. In the Senate, an unofficial report of the Senate Committee on Expenditures in the Executive Departments approving Plan No. 1 was filed. The filing of such a report is not required under legislative processes established by the Reorganization Act, but the Senate Committee indicated that it was unofficially reporting favorably in order that the Senate might take cognizance of the inspection of the Plan. It is of interest to note that the Senate Committee, in its unofficial report, recommended to the President, however, that nomenclature for the agricultural research functions included in the Plan be simplified. The Senate Committee also stated that although it believed the federal credit union function not to be a proper one to be continued by the Federal Deposit Insurance Corporation, nevertheless, the Committee preferred to change the location of the function at a later time.

The House Committee on Expenditures in the Executive Departments reported House Concurrent Resolution 49 favorably on June 2 and recommended its passage. The adoption of the resolution by Congress would prevent Plan No. 2 from becoming effective. Following the recommendation of its Committee, the House of Representatives on June 10 passed the resolution without a record vote.

On June 16 and 17 the Senate Sub-Committee on Labor of the Committee on Labor and Public Welfare conducted hearings on House Concurrent Resolution 49. Subsequently, on June 20, the Senate Committee on Labor and Public Welfare reported the resolution unfavorably and recommended its defeat. In other words, the majority of the Senate Committee believed that Plan No. 2 should become effective. However, after extensive debate, the Senate on June 30 passed the resolution by the close vote of 42-40, thereby nullifying Plan No. 2.

With respect to Congressional opposition to Plan No. 2, the House Committee on Expenditures in the Executive Departments believed that the functions of the United States Employment Service should be transferred to the Federal Security Agency and that the administration of the unemployment compensation laws should be consolidated with it in such a manner that emphasis would be placed upon the work of the Employment Service. Administration of the unemployment compensation laws, the Committee thought,

should be considered as part of the total process of employment security. Furthermore, the Committee emphasized the desirability of the continuance of the independence of the Administrator of the Wages and Hours Division from the Secretary of Labor. The minority report of the Senate Committee on Labor and Public Welfare reiterated these views. During debate on the floor of the Senate, opposition to the Plan centered on (1) the separation of the employment service function from the unemployment-compensation function (2) the transfer of authority from the Wages and Hour Division to the Secretary of Labor and (3) testimony that the Plan would not result in any economy or in any decrease in personnel. The final decision in each house sustained these views.

*Reorganization Plan No. 3*—Reorganization Plan No. 3 of 1947 was forwarded by the President to Congress on May 27, 1947.<sup>4</sup> The Plan was designed to simplify, and to increase the efficiency of, the administrative organization of permanent housing functions. It also provided for the administration of certain emergency housing activities pending their liquidation. It may be pointed out that Reorganization Plan No. 1 of 1946 (which was defeated in Congress) involved a reorganization of housing functions.

Essential aspects of Plan No. 3 may be summarized as follows:

<i>Functions</i>	<i>Agency formerly exercising functions</i>	<i>Disposition of functions</i>
Functions of Home Owners Loan Corporation, Federal Savings and Loan Insurance Corporation, Federal Housing Administration, United States Housing Authority, Defense Homes Corporation, United States Housing Corporation, Federal Home Loan Bank Board	Individual agencies as named	Transferred to Housing and Home Finance Agency, to include Home Loan Bank Board, Federal Housing Administration, and Public Housing Administration as constituent agencies; created National Housing Council; abolished Federal Home Loan Bank Board, Board of Directors of Home Owners Loan Corporation, Board of Trustees of Federal Savings and Loan Insurance Corporation, Office of Administrator of United States Housing Authority and Office of Federal Housing Administrator.

Reorganization Plan No. 3 stipulated that the assets, contracts, property, records, personnel and unexpended balances of appro-

4. House Document No. 270, 80th Congress, 1st Session.

priations, authorizations, allocations or other funds, held, employed, or available or to be made available in connection with functions transferred by this Plan, were to be transferred with such transferred functions, respectively.

The President's message to Congress, transmitting Plan No. 3, noted that the government lacked an effective permanent organization to coordinate and supervise the administration of its principal housing programs. The President stated that after the termination of Title I of the First War Powers Act, the National Housing Agency would dissolve and the agencies and functions administered in it would revert to their former locations within the government unless positive action, such as that provided by Plan No. 3, were taken. Without such action, the President said, the housing programs of the government would be scattered among some thirteen agencies in seven departments and independent establishments. The President believed that each reorganization contained in the plan was necessary to accomplish one or more of the purposes set forth in the Reorganization Act.

In the House of Representatives, House Concurrent Resolution 51 indicating Congressional disapproval of Plan No. 3 was introduced and was referred to the House Committee on Expenditures in the Executive Departments. Hearings were held by the Committee on June 9 and 10, following which the Committee reported the resolution favorably to the House and recommended its passage. The Committee stated that Plan No. 3 of 1947 was the same as Part V of Plan No. 1 of 1946 with four exceptions and that Plan No. 3 was therefore inconsistent with the action taken by the previous Congress. The effect of the adoption by Congress of the action urged by the House Committee would have been to nullify the Plan. The House of Representatives on June 18 agreed to the resolution, without a record vote, and sent it to the Senate for consideration.

The Senate Committee on Banking and Currency, to whom House Concurrent Resolution 51 was referred, reported the resolution unfavorably on June 30 by a vote of 7-6 with the recommendation that Plan No. 3 be allowed to take effect. The Senate Committee averred that Plan No. 3 differed in essential respects from Plan No. 1 of 1946 and concluded that basic differences gave adequate consideration to the reasons for the rejection of the 1946 plan and satisfactorily met the objections originally raised. After full debate, the Senate on July 22 defeated House Concurrent

Resolution 51 by a vote of 38-47 and therefore assured that Plan No. 3 would become effective on July 27.

*Commission on Organization*—Indicative of sustained interest in the matter of reorganization of the executive department was the passage in 1947 of an act establishing a commission to study organization of the executive branch.<sup>5</sup>

In a declaration of policy contained in the act, Congress stated its intent to promote economy, efficiency and improved service in the transaction of public business in the executive branch by

- “(1) limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions;
- (2) eliminating duplication and overlapping of services, activities, and functions;
- (3) consolidating services, activities, and functions of a similar nature;
- (4) abolishing services, activities, and functions not necessary to the efficient conduct of government; and
- (5) defining and limiting executive functions, services, and activities.”<sup>6</sup>

To carry out the policy enunciated above, a commission, known as the Commission on Organization of the Executive Branch of the Government, was established by the act for the purpose of investigating “the present organization and methods of operation of all departments, bureaus, agencies, boards, commissions, offices, independent establishments and instrumentalities of the executive branch of the Government, to determine what changes therein are necessary in their opinion to accomplish the purposes set forth.”<sup>7</sup> The Commission, bipartisan in nature, is composed of twelve members. Pursuant to provisions of the law, four members were appointed by the President, four by the President pro tempore of the Senate and four by the Speaker of the House of Representatives.<sup>8</sup>

On September 29, 1947 the members of the Commission held their first meeting at which former President Herbert C. Hoover was chosen chairman. Subsequently, in December, he announced the appointment of a group of twelve “eminent and experienced

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5. Public Law 162—80th Congress, 1st Session.

6. Sect. 1.

7. Sect. 10 (a).

8. Sect. 3.



citizens" to assist the Commission in its work. It was stated that these individuals will be assigned to specific areas of study, such as overlapping state and federal functions in the fields of taxation and administration, government competition in business, government procurement policies and budget and fiscal methods.

The Commission is authorized to secure directly from any executive body information, suggestions, estimates and statistics for the purpose of the act.<sup>9</sup> The Commission or any of its members may hold hearings and take testimony as the Commission or such member deems advisable. Any member of the Commission may administer oaths or affirmations to witnesses.<sup>10</sup>

The Commission is required to make a report to Congress on its findings and recommendations within ten days after the Eighty-first Congress is convened and organized.<sup>11</sup> Ninety days after the submission of its report to Congress, the Commission shall terminate.<sup>12</sup>

It is apparent that the 1947 Act reaffirms many basic principles expressed in the Reorganization Act of 1945. The approach of the 1947 Act to problems of reorganization, however, differs appreciably from procedures created by the 1945 Act. For this reason as well as others, the work of the Commission during the ensuing year will be observed with genuine interest by administrators as well as by legislators.

*Conclusion*—The Reorganization Act of 1945—including the action taken thereunder—and the Act of 1947 establishing the Committee on Organization of the Executive Branch of the Government express joint Congressional and Presidential determination to improve the administrative structure of our national government. The considered attention given both by Congress and by the President to reorganization of the executive department during 1947 emphasizes the deep significance which the legislative and executive branches currently attach to the problem.

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9. Sect. 11 (b).

10. Sect. 11 (a).

11. Sect. 10 (b).

12. Sect. 9.