

REORGANIZATION ACT OF 1939

MARCH 6, 1939.—Ordered to be printed

Mr. BYRD, from the Special Committee to Investigate the Executive Agencies of the Government, submitted the following

REPORT

[Pursuant to S. Res. 217, 74th Cong.]

The Special Committee to Investigate the Executive Agencies of the Government, created under Senate Resolution 217 (74th Cong.), agreed to February 24, 1936, in accordance with the direction contained in said resolution "To report to the Senate at the beginning of the Seventy-fifth Congress and from time to time thereafter the results of its investigation, together with its recommendations, if any, for necessary legislation," submit herewith a report (No. 142) and recommendations in the form of the accompanying bill (S. 1706) to provide for reorganizing agencies of the Government.

REORGANIZATION URGENT

Reorganization of the Federal Government for economy, simplification, and efficiency is one of the most urgently needed responsibilities confronting the Congress, the Executive, and the Nation as a whole.

There is an abundance of evidence and testimony that reorganization for economy, efficiency, and simplification is desired and demanded by a Nation impatient for this reform. It can be accomplished in effective measure without sacrificing established and proved principles of democratic government. An attack upon the problem with a will for economy, simplification, and efficiency will certainly yield great benefits for those charged with administration of governmental functions and great savings to millions of people who carry the burden of Government financially, in the transaction of business with the Government, and in daily dealing with its agents and agencies.

The Federal Government of today is a 150-year accumulation of governmental functions, agencies, and procedure constituting the world's greatest and most costly bureaucracy. It has never been overhauled for economy, simplification, or efficiency. A thorough study of the executive agencies by the Senate Select Committee to

Investigate the Executive Agencies of the Government, and other investigations, recent and past, substantiate that statement. Admittedly, reorganization for the purposes already described is difficult. Responsibility for it lies jointly with the legislative and executive branches, because primarily it is the duty of the legislative branch to formulate the policies and prescribe the functions given to the executive branch for administration. However, it must be a precaution of first consideration in any reorganization that delegation of power at best is a wedge into our form of government of great potential danger. Any new delegation of power must be explicitly defined and safely curbed.

Functions of government, no less than the agencies and expenditures of government, have been increased tremendously, in recent years particularly. Thought as to whether these new functions and agencies fitted into economical, simple, coordinated, efficient Government operation has been as meager as the consideration given their cost. The number of agencies in the Federal Government is set variously at from 135 to some 600, depending upon the definition applied in the count. There has been no denial that unnecessary, overlapping, and uncoordinated functions, agencies, and procedures exist. It is obvious that these constitute a costly patchwork. It is undisputed that waste of money, effort, and time is a characteristic of such a vast bureaucracy.

Even a cursory examination of governmental operation and its results in the more recent years reveals an appalling and unnecessary loss to all elements of the American people. It is loss sustained both directly and indirectly. It is apparent in terms of social values, in terms of economic values, and in terms of just plain dollars and cents as measured by increased taxes, increased debt, and continued deficits. This loss to the Nation, precipitated largely by the governmental conditions already described, constitutes a hazardous deterrent to progress, both private and public.

ECONOMY EMPHASIS

Remedial action on an emergency basis immediately is necessary, and implementation of continued watchfulness and recourse from recurrence is desired. These ends and the purposes of reorganization should be synonymous. They are the purposes of this committee's bill. The bill emphasizes that economy should be the first objective sought under its provisions by a declaration that continued national deficits make it imperative to reduce drastically the expenditures of Government and that such reduction may be accomplished in great measure by proceeding immediately under provisions of the bill.

PROPOSED LEGISLATION

Provisions of the bill, following this declaration, may be summarized as follows:

In section 1 (a), the President is directed to determine what changes are necessary to accomplish elimination of waste and reduction of other expenditures consistent with efficient operation of government; increased efficiency; grouping, coordination and consolidation of executive agencies; reduction in the number of such agencies and

functions and abolition of unnecessary agencies and functions; and simplification by elimination of overlapping and duplicated effort.

Section 2 defines "executive agencies."

SPECIFIC PROHIBITIONS

Section 3 (a) specifically exempts the so-called quasi legislative, quasi judicial, regulatory independent agencies from operation of the bill.

Sections 3 (b) (c) (d) (e) prevent changing the name of an executive department, the title of its head or designation of any executive agency as a "department" or its head as "secretary"; prevent continuation of any temporary or emergency executive agency or function beyond the period authorized by law; prevent creation or establishment of any new executive agency to exercise any functions which are not expressly authorized by law in force on the date of enactment; and prevent an increase in the number of executive agencies above the number in existence on the date of enactment of the act.

PRESIDENT SUBMITS PLANS

Section 4 directs the President to prepare and submit to Congress a reorganization plan whenever he finds that the purposes of the bill will be served by the transfer of the whole or any part of any executive agency or the functions thereof to the jurisdiction and control of any other executive agency; or by the consolidation of the functions vested in any executive agency; or the abolition of the whole or any part of any executive agency or the functions thereof. The section specifies the incidental details to be stated in the plan, and prohibits the use of any unexpended balances of appropriations involved for any purposes except those for which the appropriation originally was made. It is provided that such plans are to be submitted to both Houses simultaneously, accompanied by an additional communication giving a detailed report showing the increase or decrease in expenditures which will result from the plan.

CONGRESS VOTES PLANS UP OR DOWN

Section 5 provides that the reorganization plans submitted by the President shall become effective when they are approved affirmatively and directly by the passage by Congress of a joint resolution to that effect. The bill undertakes to expedite the procedure and the results to be achieved by making any such joint resolution a special order of business to be voted up or down within not more than 20 days after it is introduced in the respective Houses of Congress.

SENATE AND HOUSE BILL DIFFERENCES

The Senate committee, in this bill, has endeavored to cooperate as fully as possible with efforts for reorganization already undertaken in the House of Representatives. The provisions of the Senate committee bill and House bill 4425, as introduced, are similar in many respects.

The principal difference between the bills, except the more positive declaration for economy contained in the Senate committee bill, is in

the method of making operative such reorganization plans as may be submitted by the President under terms of the legislation.

The House bill provides a negative, unorthodox, and unprecedented procedure with drastic regulation of debate. Under the terms of the House bill, a reorganization plan submitted by the President becomes operative if Congress does not act. Under the Senate committee bill, a reorganization plan becomes operative upon affirmative action by the Congress and it is required that such action must be taken by a vote in the respective Houses not later than 20 days after the submission of a joint resolution for approval of the plan, thus preventing defeat of the proposal by dilatory tactics either in committee or on the floor of either House. During the entire 20-day period there may be such free debate as desired.

RESTRICTIVE DEBATE

An illustration of the restrictive debate proposals of the House bill is the provision limiting all debate to 20 minutes (10 minutes on each side) on a motion to discharge the committee from further consideration of a resolution preventing a reorganization plan from becoming effective. Debate on such a motion may actually become the sum total of debate on the reorganization plan, and it is not inconceivable that in one reorganization plan the President might submit proposals for reorganizing all of the executive operations of the Government. It is obvious that the limitations just described, as well as other debate limitation provisions of the House bill, would be totally inadequate for proper discussion of the proposals, or even for purposes of obtaining information necessary for intelligent voting.

Attention is further called to the fact that under the House bill authority is given the President to recommend changes, amendments, alterations, or abolition of governmental functions as well as the administrative machinery necessary for performance of such functions. Under the House proposal, these recommendations might become effective without as much as a vote in Congress. Functions of Government are the policies of Government adopted by the Congress. Without making an issue as to the propriety of abolition or amendment of functions of Government in this manner, it is obvious that the importance of such a delegation of authority to the President is so important that Congress should at least act affirmatively and directly, as contrasted with the negative procedure and drastic debate limitations set forth in the House bill.

SIMPLE AND DIRECT METHOD

The Senate committee method is simple and direct. It merely provides that upon the expiration of not more than 20 days (in which there may be free debate), after a resolution of reorganization plan approval is submitted to the respective Houses of Congress, the plan would be voted up or down. The resolution would be of the simplest sort. The Senate committee method prevents delay beyond the 20-day period, whereas no plan under House bill provisions could become effective in less than 60 days. The Senate committee bill provides for a vote in each House within 20 days after the introduction

of the resolution of approval in the respective Houses. The resolution of approval becomes a special order of business immediately upon introduction. Under the Senate committee bill, the reorganization plans are not referred to committee, and the plans cannot be altered or amended. They must be accepted or rejected as a whole.

The Senate committee submits that as a fundamental principle of government, Congress should retain the right of direct and affirmative vote upon changes of functions or policies of government and other vast potential powers which may in effect be exercised by the Executive under this proposed legislation.

Congress is anxious for reorganization for economy, simplicity, and efficiency. The people of America are demanding it. The Senate committee bill provides a more expeditious way to achieve it. At the same time, it protects well-considered and wise proposals, as well as the rights of the representatives of the people to voice their approval or objections to changes in Government which may be of vast importance.

ECONOMY DECLARATION

The Senate committee bill by declaration emphasizes economy as an objective. The language of this declaration has for its pattern the declaration in the act of 1933 under which the current administration effected economies and accomplished some of its most effective efforts to overcome the then prevailing attitude of despair. The emergency then was occasioned by the depression. Now it is the fiscal condition and operation of the Government. Language immediately following the declaration is made to conform.

OTHER DIFFERENCES

The Senate committee bill eliminates the provisions of the House bill allowing the function of preparing their own appropriation estimates to be transferred from the so-called quasi legislative, quasi judicial, regulatory independent agencies to some other agency. The Budget Bureau reports these agencies work with it in full cooperation in the preparation of preliminary estimates just as other agencies do. This proposal has been discussed previously in formal consideration of reorganization and it is regarded as dangerous.

The Senate committee bill, for obvious reasons, specifically prevents continuation of temporary or emergency executive agencies or functions beyond the period authorized by law; prevents the creation or establishment of any new executive agency to exercise any functions not expressly authorized by law in force on the date of enactment of the bill; and prevents an increase in the number of executive agencies above the number in existence on the date of enactment of the bill.

The Senate committee bill provides for more rigid reports from the President showing increase or decrease in expenditures to be occasioned by reorganization plans, than does the House bill.

The Senate committee bill, with its affirmative vote procedure, omits an expiration date, such as is set forth in the House bill. The committee is of the belief that reorganization for economy and efficiency should be a continuing responsibility of the Government. This, in its self, is an impressive argument for the direct approval procedure.

The Senate committee bill eliminates the authorization for the President to appoint not to exceed six assistants to the President to be paid up to \$10,000 a year each. There is no objection to giving the President as much assistance as he needs, but a reorganization bill is not the proper place for such a provision. It fits better in a Budget bill. Moreover, the House bill fails to define the duties of these assistants or the sphere in which they are to operate.

