

(3) Down graded, declassified, or up graded material: When the classification of material is changed by proper authority the classification marking will be marked out and a notation made as follows: "Classification canceled or changed to \_\_\_\_\_ by authority of (official authorized to change), date, by \_\_\_\_\_ (name and position of person making the change)."

The above notation will be made on the first page of unbound documents or on the cover, title page, or first page of a bound document.

37. *Transmission*—A. *Preparation of classified information for transmission.*—

(1) Outside an agency:

(a) Top secret and secret material: (i) Top secret or secret material shall be enclosed in opaque inner and outer covers.

(ii) The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned classification and address.

(iii) The outer cover shall be sealed and addressed with no indication of the classification.

(iv) There shall be attached to or enclosed in the inner cover a receipt form containing no classified information but identifying the addressor, addressee, and the document; such receipt will be signed by the proper recipient and returned to the sender.

(v) Written material will be protected from direct contact with the inner cover by a cover sheet or by folding inward.

(b) Confidential material: (i) Confidential material shall be prepared for transmission in the same manner as that indicated for top secret and secret material, except that it will be covered by a receipt only when the sender deems it necessary.

(ii) When the head of an agency determines that the volume of confidential personnel documents to be transmitted outside his agency is so great that the use of double covers would create an unreasonable operational burden and entail prohibitive cost, he may permit transmission of such material in a single sealed envelope or wrapper. In such cases, no indication of the assigned classification will be shown on the envelope or wrapper.

(c) Restricted material: (i) Restricted material shall be transmitted in a sealed wrapper or envelope.

(ii) No receipt is required for restricted material.

(2) Within an agency: Preparation of classified information for transmission within an agency will be governed by regulations issued by the head of the agency to insure a degree of security equivalent to that outlined above for transmission outside an agency.

B. *Transmission of classified material.*—(1) Top secret material:

(a) The head of each agency, or his duly authorized representative, shall designate, and maintain control lists of persons within that agency who are authorized to receive top secret material.

(b) The head of each agency shall also designate top secret control officers who will maintain registers of top secret material received or disseminated by that agency.

(c) The transmission of top secret information will be effected by direct contact wherever practicable, by specifically designated personnel or by a messenger-courier system especially cleared for that purpose by the head of the agency.

(d) It is mandatory that transmission and custody of top secret material be covered by a receipt system.

(e) Under no circumstances will top secret material be transmitted by mail.

(2) Secret material shall be delivered by one of the means established for top secret material, by a messenger system specifically authorized for the purpose by the head of the agency, by registered mail within the continental United States and to and from United States Government installations in Canada, or by registered United States mail through Army or Navy postal facilities outside the continental United States, provided the material does not pass through a foreign postal system.

(3) Confidential material shall be delivered by one of the means established for top secret or secret material, or by ordinary mail within the continental United States when in the opinion of the forwarding agency no serious consequences would be entailed by its loss provided, however, that whenever single envelopes or wrappers are used as permitted in paragraph 37A (1) (b) (ii) transmission shall be by registered mail.

(4) Restricted material shall be delivered by any means authorized for higher categories of classified material, or by ordinary mail within the continental United



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 27

States, or by registered mail to and from United States Government installations in Alaska through the Canadian postal system.

38. *Physical security.*—A. *Storage facilities.*—Classified material not in actual use by or under direct observation of an authorized person in the same room shall be stored as set forth below:

(1) Top secret material will be stored in locked metal three-way combination safes or metal three-way combination file cabinets, or in a room protected by an armed guard or an electrical alarm system or in other facilities of comparable security specifically approved by the head of the agency concerned.

(2) Secret and confidential material will be stored in a manner authorized for top secret material, or in metal file cabinets equipped with a steel lockbar and combination padlock, or in comparably secure facilities approved by the head of the agency, or, in the case of confidential personnel documents, in locked metal cabinets.

(3) Restricted material will be stored in a manner authorized for higher categories of classified material or in any container equipped with a reasonably secure locking device or other storage facility of comparable security approved by the head of the agency.

B. *Inspections.*—(1) It is the responsibility of the official charged with the custody of classified material to accomplish the necessary inspections within his area to insure that all security precautions are taken to protect such information at all times.

(2) In each agency, officials shall be designated to make inspections on a room or area basis to insure that all classified material has been properly and safely stored.

(3) The head of each agency shall prescribe procedures whereby appropriate identification of the individual responsible for the contents of each container of classified material will be readily available.

C. *Safe combinations.*—(1) Safe combinations will be changed at least once a year; whenever a person knowing the combination is transferred from the office to which the safe is assigned; when a safe is first brought into an office; and at such other times as deemed necessary.

(2) Knowledge of combinations should be limited to the minimum necessary for operating purposes.

(3) Safe combinations shall be given a classification equivalent to that of the most highly classified material authorized by these regulations to be contained in the safe.

39. *Destruction of classified material.*—A. *Types of material which may be destroyed.*—(1) Record material may be destroyed only upon specific authorization by Congress. Requests for such authorization must be submitted to National Archives through channels established in each agency.

(2) Nonrecord material may be destroyed as soon as it has served its purpose.

B. *Methods of destruction.*—Classified record material, the destruction of which has been authorized, and classified nonrecord material will be destroyed by the following methods under procedures established by the head of the agency.

(1) Top secret, secret, and confidential documents will be destroyed by burning; products and substances by an equally complete method of destruction; in each case in the presence of an appropriate official. Under the most unusual circumstances outside the continental United States, the head of an agency may authorize destruction of documents other than by burning, provided the resulting destruction is equally complete.

(2) Restricted material will be destroyed by burning, shredding, or reduction to pulp, or an equally complete method of destruction.

C. *Certificates of destruction.*—A signed certificate indicating date of destruction and specifically identifying the material will be executed and signed by both the destroying and witnessing officials in the case of all top secret and secret material.

Mr. ROBINSON. That is the final draft of this committee, sir.

The CHAIRMAN. Up to this date?

Mr. ROBINSON. That is right.

The CHAIRMAN. Is this so-called final draft subject to approval or disapproval?

Mr. ROBINSON. Yes.

The CHAIRMAN. By whom, and who can disapprove or revise it?



28 SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835

Mr. ROBINSON. Anybody whose hands it may pass, between now and the time the President signs it.

The CHAIRMAN. Whose hands would it pass through, formally?

Mr. ROBINSON. Well, sir, as I just indicated on the record, it has gone through the hands of the State, War, and Navy Coordinating Committee, and it will go to the Bureau of the Budget, and the Bureau of the Budget may quite well get the opinion of the Attorney General, and what other clearances it may decide to get, I do not know.

Mr. BENDER. I think it would be well to have both in evidence, to see what happened before and after.

The CHAIRMAN. They are in.

You do not mean that any suggestions that were made by the Bureau of the Budget or any other agency would, as a matter of course, be incorporated?

Mr. ROBINSON. I do not know.

The CHAIRMAN. Who would finally pass on it, then?

Mr. ROBINSON. I guess the White House.

Mr. BENDER. Was this submitted to any of the agencies?

Mr. ROBINSON. Yes, the document that you have there was submitted.

Mr. BENDER. I wonder if it was submitted to the FBI?

Mr. ROBINSON. It was submitted to the Department of Justice.

Mr. BENDER. But not to the FBI?

Mr. ROBINSON. The FBI is part of the Department of Justice.

Mr. BENDER. Do you not think the FBI is important enough an agency to submit a document of this kind to them?

Mr. ROBINSON. I think we submitted it to the heads of all of the departments.

Mr. BENDER. How many agencies did you submit it to?

Mr. ROBINSON. It was fifty-some agencies.

Mr. BENDER. Some of these agencies are in the various departments; are they not?

Mr. ROBINSON. No, sir; they are all separate.

Mr. BENDER. They are all independent agencies; is that correct?

Mr. ROBINSON. May I read again the language here? It says:

will become binding upon all departments and agencies of the executive branch, It was sent to all departments and agencies of the executive branch, as provided in here.

Mr. BENDER. The FBI is not one of those agencies?

Mr. ROBINSON. It is a part of the Department of Justice.

Mr. KARSTEN. A copy to the Attorney General would certainly find its way to the FBI, would it not?

Mr. BENDER. Not necessarily.

Mr. ROBINSON. That is a matter over which I have no control.

Mr. KARSTEN. If you were to do it in one case, you would have to send it to the Bureau of Internal Revenue, and the various other agencies in the executive department.

Mr. BENDER. It is your policy not to submit any of your matters to the FBI at any time?

Mr. ROBINSON. No, sir. I don't think the question has arisen, but it would not be our policy not to submit them to the FBI. Actually, the FBI was right in the whole discussion of this commission on employee loyalty.



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 29

Mr. BENDER. Mr. Robinson, who directed the subcommittee which prepared these regulations to draw them up?

Mr. ROBINSON. The Executive order of the President.

Mr. BENDER. It was not the Joint Chiefs of Staff?

Mr. ROBINSON. No, sir. It was the Executive Order No. 9835.

Mr. BENDER. Did you draw this up on your own initiative; is that right?

Mr. ROBINSON. We were directed to do the draft by Executive Order 9835.

Mr. BENDER. Why did your subcommittee try to avoid public debate and discussion on so important a subject as this, which changes the Bill of Rights?

Mr. ROBINSON. We did not avoid public discussion.

Mr. BENDER. The public was not aware of it until after it leaked out.

Mr. ROBINSON. It was in an Executive order.

Mr. BENDER. After it leaked out, obviously, you made a change here, which you are hastening to submit, but this was your original idea?

Mr. ROBINSON. That is the answer to your first question, and what was the second half of it?

The CHAIRMAN. What appeared with reference to this procedure, and what about this paragraph 2, "The State, War, and Navy Coordinating Committee's Advisory Board shall draft rules," and so on?

Mr. KARSTEN. That is pretty plain as to what your duties were.

The CHAIRMAN. We will put the rest of it in.

Mr. ROBINSON. I have already read it into the record.

Mr. BENDER. Mr. Robinson, would it not have been possible for Albert Fall to mark all of the papers relating to Teapot Dome as confidential under these proposed new regulations that you have drawn up?

Mr. ROBINSON. I think the only answer that you can give to a question like that is that any set of principles, however they are drafted, are only as good as the people who administer them.

I think the intention was certainly clear that it would not permit him to do so, and I do not believe under the language any reasonable interpretation of the language, as it now exists in the report, could he officially and properly do so.

Whether he would do so is something entirely different.

Mr. KARSTEN. If you give the commandments to the Devil to administer, he is going to make a pretty bad mess out of them; is that right?

Mr. ROBINSON. That is what I am trying to say.

Mr. BENDER. It has been suggested that the agencies would have been very lenient in applying these regulations, but is it not true that you would have the right under them to classify as secret or confidential or restricted any other information at all?

Mr. ROBINSON. I think that is not so, if you are going to interpret it according to the natural interpretation of the words used.

Mr. BENDER. Well, would it be your view as to whether these regulations would be binding on a member of Congress; is that right?

Mr. ROBINSON. Well, certainly they were not intended to be binding on them. The Executive order says they will be applicable to all departments and agencies of the executive branch of the Government.



Mr. BENDER. Well, if some of this classified information came into his hands, do you think he would be bound by this classification, or could he release it, in your opinion?

Mr. ROBINSON. I do not believe there is anything in the Executive order or the draft of regulations which would limit him in any way on that, is there?

Colonel BLAKENEY. I do not think so.

Mr. KARSTEN. If I recall correctly, one Member of Congress released the top speed of the battleship *Missouri*, and a great deal of information about it during the war.

Colonel BLAKENEY. The Army Regulations would not apply to the Congress.

The CHAIRMAN. Well, if this procedure is followed through, and adopted, and approved by the President, does that enable individuals in the departments, or the heads of the departments, to refuse or justify them in refusing to answer questions propounded by congressional committees?

Mr. ROBINSON. I do not think there is anything in the regulations which would so authorize them.

The CHAIRMAN. You do not make any exemptions here? I have not had time to read it. Or do you make any exemptions to provide that the information shall be disclosed to Members of Congress?

Mr. ROBINSON. There is no such provision.

The CHAIRMAN. Do you not think the Congress has a right to know what is going on?

Mr. ROBINSON. Yes.

The CHAIRMAN. Down in the departments—unless it affects the welfare of the country, and its safety?

Mr. ROBINSON. Yes.

Mr. KARSTEN. I think this relates to public disclosure, it would not preclude the furnishing the information for Members of Congress who who receive it in their official capacity.

Mr. ROBINSON. I am glad you mentioned that, because the actual wording of the Executive order says specifically, "The handling and transmission of confidential documents and other documents and information which should not be publicly disclosed."

Mr. BENDER. Who wrote the phrase—

The CHAIRMAN. You say publicly disclosed; for instance, if a congressional committee subpoenas some members of the State Department to come up here and give information, it is publicly disclosed, and the reporters sit here and they get it. If you follow through on that theory.

Mr. ROBINSON. I am speaking to the committee, and not to the press. It is not, as far as I am concerned, a public disclosure; it may be for the committee, but it is an appearance before a congressional committee to me.

The CHAIRMAN. Now, we have asked representatives of a Government agency, in particular, the FBI, to give us information which they obtained when they were investigating, perhaps, the legality or the advisability of the paroles granted to four Chicago gangsters, and they refused. They said they could not do it, it is confidential.

Now, is not your procedure along the same line?

Mr. ROBINSON. I cannot make any comment as to their action in that, of course. I do not know.



Mr. KARSTEN. There is no intent to deprive Members of Congress of information in this.

Mr. ROBINSON. There is no intention to deprive Members of Congress of the information that they need.

The CHAIRMAN. They do not give us any when it is really pertinent, or where it might discredit either that department or the administration, generally.

Mr. ROBINSON. All I can say is that this document does not do it.

The CHAIRMAN. I do not know about that.

Mr. BENDER. You have seen this protest before I read it?

Mr. ROBINSON. Yes; I had seen it in the papers.

Mr. BENDER. The American Society of Newspaper Editors have protested.

Mr. ROBINSON. Yes.

Mr. BENDER. What was your reaction to the protest at the time that you first saw it?

Mr. ROBINSON. Well, at the time when we first saw it, I believe, if I am not mistaken on the timing, I believe that by the time it came out the regulations, or the draft, had already been amended to take out the part.

I am not sure whether it came before or after, Colonel Blakeney.

Mr. KARSTEN. Was the protest responsible for the change, or not? Did you do that of your own volition?

Mr. ROBINSON. I think the press in general was responsible. That protest, together with the other comments of the press, made the Board realize that it had inadvertently put in something subject to misinterpretation, and then on its own volition it took the action to change it.

Mr. BENDER. I think that we may have some witnesses who will testify to the contrary, and I just inject that now for what it is worth.

Mr. KARSTEN. We will be glad to hear them.

Mr. BENDER. Now, do you believe in freedom of the press, Mr. Robinson, without reservation?

Mr. ROBINSON. I certainly do, sir.

Mr. BENDER. With reservations?

Mr. ROBINSON. No, I have none; depending, of course, upon the interpretation of the word, I certainly believe in the freedom of the press without reservation.

Mr. BENDER. How long have you been in this particular job that you now hold?

Mr. ROBINSON. Since the 13th of last February.

Mr. BENDER. What did you do before that time?

Mr. ROBINSON. Before that time I was the Director of the Office of Economic Security Policy in the department, which had to do with the economic policies for occupied areas.

Mr. BENDER. How long were you there?

Mr. ROBINSON. I was there for 3 months. I went to the Department first about a year ago.

Mr. BENDER. What did you do before that?

Mr. ROBINSON. Before that, I did nothing except my own business for a year.

Mr. BENDER. What was your business?

Mr. ROBINSON. I was just handling my own affairs. I am a lawyer by trade, and I was a lawyer until 1940, when I came down



## 32 SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835

to Washington as Washington counsel for the British Purchasing Commission, and then I was with the Lend-Lease Administration for 6 months, and thereafter, I was in the Army.

Mr. BENDER. Mr. Robinson, who wrote the phrase that has since been stricken, "administrative embarrassment," and I am quoting from the document?

Mr. ROBINSON. I think that I would like Colonel Blakeney to see if we can trace back the origin of that. I am not sure where it came from.

Colonel BLAKENEY. I have gone back to the 1939 issue of the Army Regulations 380-5, which is one of the bases for the definition concerning the classified information, and in that Army Regulation the wording is approximately the same as it was contained in the original, preliminary draft.

I believe Commander Lichliter informed me yesterday that the definition concerning administrative embarrassment appeared also in the Navy Regulations back as far as 1920.

Mr. BENDER. Of course that appeared, but you have deleted it since? Why did you delete it?

Colonel BLAKENEY. The statement has not been deleted from the Army Regulations. It has been deleted from these standards.

Mr. BENDER. Why was it deleted now?

Colonel BLAKENEY. We believed that the basis of the set of rules was to safeguard the national security, and to safeguard the manner in which all governmental agencies to whom the sensitive agencies have to furnish information of a classified nature handle that information and that they should know what a stamp indicating classification meant.

Mr. BENDER. What do you mean by "sensitive agencies"?

Colonel BLAKENEY. The services, the Department of State and the Atomic Energy Commission and the Central Intelligence Agency.

Mr. BENDER. Who interpreted this Executive Order 9835 which Mr. Robinson showed us here? Who interpreted that to empower you to draw up security regulations in peacetime for executive agencies and departments?

Do you think all 57 agencies are sensitive agencies?

Colonel BLAKENEY. It does not say that we should apply them to sensitive agencies. There are many of these departments and agencies, Mr. Bender, that have to receive information of a classified nature from those of the other more sensitive agencies, in order to carry on their business in an orderly manner.

The CHAIRMAN. What happened was this, was it not, that the suppression of certain information which came into the hands of the Army and Navy, and perhaps of the State Department during the war, was necessary for our national safety? That is where the thing grew up in the beginning; was it not?

Colonel BLAKENEY. That has always existed in the Army and in the Navy.

The CHAIRMAN. You are right about that, but it being the duty of the Army to protect the Nation, information which came to their hands and which they thought would be injurious if disclosed, was suppressed?

Colonel BLAKENEY. It was classified.

The CHAIRMAN. And suppressed to a certain degree, anyway?



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 33

Colonel BLAKENEY. The dissemination of it was limited, yes.

The CHAIRMAN. How much of it should be given out was within the power of the men in charge of the armed services?

Colonel BLAKENEY. And the armed services, insofar as they could do so without affecting the national security would declassify the information and therefore make it available.

The CHAIRMAN. And where they thought that it would affect the national security, naturally, and rightfully—I have no fault to find with that—they suppressed it?

Colonel BLAKENEY. They continued it in the classified state.

The CHAIRMAN. When the war was over and this Commission was created, someone just took over the practice and procedure of the Army and the Navy and the State Department, and sought to impose the other departments with this first draft?

Colonel BLAKENEY. No, sir.

The CHAIRMAN. They included it in there.

Colonel BLAKENEY. No.

The CHAIRMAN. You included "administrative." "Embarrassing to the administration."

Colonel BLAKENEY. That is correct.

The CHAIRMAN. That was the policy that you had with the Army and Navy and in the State Department, too; was it not, sir?

Colonel BLAKENEY. Yes.

The CHAIRMAN. Then the war being over, this first draft carried that over and applied it to the other departments of the Government.

Colonel BLAKENEY. It did not apply it, sir.

The CHAIRMAN. Well, the draft proposed to apply it.

Colonel BLAKENEY. That is correct.

The CHAIRMAN. Then it was just an extension of the idea of the responsibility of the armed services to protect the national security extended over into the departments, which had to do with our domestic affairs.

Colonel BLAKENEY. In order that they should know what has to be done with the information which they may receive from those other agencies.

The CHAIRMAN. That is to say, the armed services, the officers, or whoever was in control of the armed services, proposed to substitute their judgment as to domestic affairs as to what was dangerous, if disclosed, and what was not, for that of the Congress or anybody else.

Colonel BLAKENEY. I believe that to be a statement of—well, I do not know just how to express it.

The CHAIRMAN. Let us put it this way: You say that this was a policy, that is, to suppress certain information which those in charge of defending our national security believed to be injurious.

They used their judgment and said what should and should not be given to the public, to the press, practically.

Colonel BLAKENEY. That has always been the policy.

The CHAIRMAN. So this time when the war was over and this Commission was created, that policy was incorporated into the first draft, and was proposed to be extended to all civilian agencies of the Government; was it not?

Colonel BLAKENEY. For the purpose of having them know what should be done and how it should be handled.



## 34 SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835

The CHAIRMAN. And what should be given out and what should not be given out.

Colonel BLAKENEY. No. The instructions concerning the giving out are the responsibility of the head of the agency, Mr. Chairman.

The CHAIRMAN. What agency?

Colonel BLAKENEY. Whatever agency it is, the Department of Commerce, if it is that Department.

The CHAIRMAN. In this first draft, or in the last one, too, for that matter, you classified a lot of information, did you not?

Colonel BLAKENEY. We defined information which should be classified.

The CHAIRMAN. And as to that, you advised that the Department should not give it out, certain portions of it, and some of it should be given out in certain ways.

Colonel BLAKENEY. Yes, for which the instructions are that information which is classified should not be given out, sir.

The CHAIRMAN. You were extending the old Army or Navy or whatever rule you want to call it, the old armed forces rule, to civilian agencies, which have to do with domestic affairs; were you not?

That is what it shows on the face of it.

Mr. KARSTEN. He covered that in the outset of his testimony.

Colonel BLAKENEY. There are two things that I would like to say. In the first place, we were directed to write up a set of rules which in our interpretation included the presentation of rules which would safeguard the information which the sensitive agencies felt should be safeguarded for the good of the Nation.

Mr. BENDER. Directed by whom?

Colonel BLAKENEY. By the Executive order.

The CHAIRMAN. And you did that in the interest of national security?

Colonel BLAKENEY. We did, sir.

The CHAIRMAN. Where heretofore prior to the war that had applied only to the armed forces and perhaps to the State Department, you extended it or proposed to extend it to civilian agencies and departments of the Government, did you not?

Colonel BLAKENEY. That is correct.

The CHAIRMAN. That is what I thought.

Mr. KARSTEN. I would like to ask, Colonel, each Government agency now has a process of classification of its own, is that correct? You take the War Department, it classifies its material, and the Veterans' Administration classifies its material, and the Navy Department classifies its material. Is that the way they operate? Each one classifies its own material and states which is confidential and which is top secret and which is restricted.

Colonel BLAKENEY. I believe that to be correct.

Mr. KARSTEN. And under this set of rules, your primary objective was to have a uniform rule applying to all agencies, is that the purpose of this?

Colonel BLAKENEY. A uniform standard that would apply to all of them.

Mr. KARSTEN. Now, let me ask you, is there any attempt to bring about censorship through these regulations?

Colonel BLAKENEY. Absolutely not.



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 35

Mr. KARSTEN. I noticed down here on page 6, you say, "Use the lowest consistent classification." The lower the classification becomes the more nearer it comes to the public, is that correct?

Colonel BLAKENEY. That is not exactly correct.

Mr. KARSTEN. Well, the lower the classification, the closer it would be to the public from my point of view.

Colonel BLAKENEY. Information can be and is down-graded or declassified from top secret directly to unclassified.

Mr. KARSTEN. Under this paragraph, any officer classifying information is directed or would be directed to use the lowest possible classification.

Colonel BLAKENEY. That is correct.

Mr. KARSTEN. And the lowest possible classification would be just above unclassified information, would it not, the very lowest one?

Colonel BLAKENEY. The lowest one is unclassified, if you are going to call it a classification.

Mr. KARSTEN. You say here under D on page 7, "Over classification must be avoided, it depreciates the importance of properly classified information and causes unnecessary delay in the handling and transmission of such documents."

During the period of the war, if you went over to the Pentagon, there were many envelopes marked "confidential" or "secret" and I know a great deal of it must not have been as confidential or as much of a secret as it was on the envelope.

Colonel BLAKENEY. I suspect that to be correct.

Mr. KARSTEN. This will correct situations of that kind, would it not?

Colonel BLAKENEY. It is an effort to continue the policy of the War Department, that is to carry over the policy of the War Department so far as classification is concerned, in that there would be as little classified material as the national security requires.

Mr. KARSTEN. Now, in the latter part of your report, I see quite a bit about physical security dealing with the methods that should be locked up under certain types of locks and that sort of thing. Was there any criticism from that standpoint of your report? Have you heard of any?

Colonel BLAKENEY. I have not heard of any, but I would not want to make a statement that there was not any criticism because I do not recall it.

Mr. KARSTEN. Now, under No. 39, entitled "Destruction of Classified Material," you could not in any way dispose of any material unless it was done by a specific authorization from Congress, could you?

Colonel BLAKENEY. Of record material, that is correct.

Mr. KARSTEN. Now, you distinguish that from a memorandum, a stenographer's notebook or an extra copy of a letter?

Colonel BLAKENEY. That is correct.

Mr. KARSTEN. You could destroy that, but record material would have to remain in your files permanently unless and until Congress gave you permission to destroy it?

Colonel BLAKENEY. That is correct; and that is so stated.

Mr. KARSTEN. And we have a committee of Congress who passes on the disposition of those papers?



## 36 SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835

Colonel BLAKENEY. That is right.

The CHAIRMAN. What about over on page 16, "Classified record material, the destruction of which has been authorized," and so on, and then the top secret document should be destroyed by burning. Under that, someone would have authority to destroy, for instance, all of the records.

Colonel BLAKENEY. Paragraph 39 (a) (1), the first sentence says, "Record material may be destroyed only upon specific authorization by Congress."

Mr. KARSTEN. That is destroyed by burning, is that the procedure?

Colonel BLAKENEY. That is the procedure for material marked "secret."

The CHAIRMAN. Nonsecret material may be destroyed as soon as it has served its purpose, that is nonrecord material? You have no authorization from Congress on that one, do you?

Colonel BLAKENEY. No, sir.

Mr. KARSTEN. What about a telegram? Can that be so destroyed without authorization from Congress, or not?

Colonel BLAKENEY. The basic record cannot.

Mr. KARSTEN. I was asking because Members of Congress send out telegrams every day of the year, and we have a provision under which we burn ours. They are never made public, to prevent any embarrassment of Members of Congress. You could not destroy your basic record, could you, such as we do down here?

Colonel BLAKENEY. That is correct.

Mr. KARSTEN. Thank you.

Mr. BENDER. Mr. Chairman, I would like to ask Mr. Robinson and the colonel what punishment would be set up for violation of these regulations?

Mr. ROBINSON. There are none provided.

Mr. BENDER. None are provided as yet?

Mr. ROBINSON. None is provided or is going to be provided.

Mr. BENDER. Even in wartime, have you known of sweeping regulations as this to be set up?

Colonel BLAKENEY. I can present, Mr. Bender, a set of rules issued to the heads of all departments and agencies under date of September 28, 1942, and signed by Elmer Davis, Director of the Office of War Information, which is a similar set of rules.

Mr. BENDER. Similar to these?

Colonel BLAKENEY. Similar.

Mr. BENDER. It was in wartime?

Colonel BLAKENEY. Yes.

Mr. BENDER. But not as sweeping as these?

Colonel BLAKENEY. Yes, sir; they cover the same ground.

Mr. BENDER. Would not an employee be fired as disloyal if he violated any of these provisions?

Colonel BLAKENEY. I believe that would be the prerogative of the head of the agency.

Mr. BENDER. That is assumed, is it not?

Colonel BLAKENEY. Not so far as the Security Advisory Board was concerned, or at least I, as a member of the Security Advisory Board.

Mr. ROBINSON. I certainly concur in that.

Mr. BENDER. Now, Mr. Robinson, regarding the freedom of the press, and if you do believe in a free press, without reservation, why



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 37

is it that the State Department has suppressed the Wedemeyer report on China?

Mr. ROBINSON. I do not know anything about that. That is entirely out of my field.

Mr. BENDER. Can you tell us how many suppressed reports you do know about that are in the State Department, similar to that of General Wedemeyer?

Mr. ROBINSON. I am afraid I have not the slightest idea, and I could not even make a guess. I have no idea about it, and I am just not qualified to answer that.

Mr. BENDER. Do you know if this exists, if there exists a private report within the State Department on the occupation costs of Germany and Japan?

Mr. ROBINSON. I do not know, sir.

Mr. BENDER. Does the State Department have a private report on the agreement reached between the "big four" Standard Oil Cos., and the English oil companies in regard to their negotiations in London during the past year?

Mr. ROBINSON. I do not know.

Mr. KARSTEN. Do not you think that is beside the point, Mr. Bender, that line of questioning?

Mr. BENDER. Mr. Robinson, what justification can you advance for the classification of material which, while not affecting the national security, might damage the prestige of a government agency?

Mr. ROBINSON. I do not believe, sir, that there is any such provision in the final draft of the rules.

Mr. KARSTEN. It says "prestige of the Nation."

Mr. ROBINSON. That is right.

Mr. KARSTEN. That does not mean the administration or the Government agency?

Mr. ROBINSON. That is right.

Mr. BENDER. I am through with that line of questioning.

The CHAIRMAN. Is there anything in your proposal which would prevent radio commentators or columnists from asserting that they were disclosing confidential information? We know such information existed. What I am getting at is one or two radio commentators once in a while state that they are able to disclose that the Department of State or the FBI is doing this, that, or the other. Do not you think it would be advisable to have something there preventing that, especially when it is not true?

Mr. ROBINSON. I would rather not comment on it. I do not believe there is anything in here on it.

The CHAIRMAN. Do not you think it would be wise to have something in there to prevent employees' giving a hint to some radio commentator?

Mr. ROBINSON. Well, sir, I think this document represents about the sum total of our thinking on it.

The CHAIRMAN. Could you not start to think a little more and include a provision like that?

Mr. ROBINSON. We will be glad to think some more about it.

The CHAIRMAN. Let us know if you arrive at any conclusion, because we learn over the radio about many things that never did happen.



## 38 SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835

Now, going back here to your Executive Order 9835, the title of that, "Prescribing Procedures for the Administration of an Employees Loyalty Program in the Executive Branch of the Government," and the order itself then is based on four "whereases," and they all, each one of them refers to employees of the Government. Do you have the order before you?

Mr. ROBINSON. Yes, sir.

The CHAIRMAN. And they all have to do with the disloyalty and only with the disloyalty of Government employees, do they not?

Mr. ROBINSON. The "whereases" seem to, that is right.

The CHAIRMAN. The rest of it is based on the "whereases."

Mr. ROBINSON. That is right.

The CHAIRMAN. The "whereases" are supposed to state the reason for the existence of the order?

Mr. ROBINSON. I do not know.

The CHAIRMAN. You have drawn a good many petitions and "whereased" yourself half to death.

Mr. KARSTEN. The author of that Executive order received his training down here in parliamentary procedure, did he not?

The CHAIRMAN. You cannot prove it by me.

Anyway, after your four whereases, you or the order says—

Now, therefore, by virtue of the authority vested in me by the Constitution and Statutes of the United States, including the Civil Service Act of 1883 (22 Stat. 403), as amended, and section 9a of the act approved August 2, 1939 (18 U. S. C. 61i), and as President and Chief Executive of the United States, it is hereby, in the interest of the internal management of the Government \* \* \*

That does not say anything about foreign nations or dealing with foreign nations, does it?

Mr. ROBINSON. No.

The CHAIRMAN. It says—

in the interest of the internal management of the Government.

Mr. ROBINSON. That is right.

The CHAIRMAN. Your procedure is directed toward communications received from other nations, is it not?

Mr. ROBINSON. Well, sir, I do not know. I think the answer to your question is that all of the information that is discussed in this draft of rules is relating to the internal management of the Government.

The CHAIRMAN. You are making rules there as to communications received from any and every source, are you not?

Mr. ROBINSON. I can only go to the part of the order which is applicable to this Board.

The CHAIRMAN. Your rules apply to information received from any and every source and have to do with information and foreign relations as well as with internal affairs, do they not?

Mr. ROBINSON. That is what it tells us to do.

The CHAIRMAN. Where do you get authority to make regulations other than that which has to do with the internal management of the Government?

Mr. ROBINSON. In section 2 of the Executive order.

The CHAIRMAN. But the whole thing relates back here to the interest of the internal affairs of the Government, does it not?



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 39

Mr. ROBINSON. I think the Security Advisory Board was justified in acting upon the terms of its instructions, and the instructions are pretty clearly set forth in paragraph 2 of part 6.

The CHAIRMAN. Do you claim that is where you get your authority?

Mr. ROBINSON. Yes, sir.

The CHAIRMAN. Well, the whole Executive order is an attempt to safeguard the country, the internal affairs of the country, by setting up procedures to determine the loyalty or disloyalty of the Federal employees, is it not?

Mr. ROBINSON. That part is not.

The CHAIRMAN. Your rules are not, I agree with you. You just broaden it out to include everything that might come into the hopper.

Mr. ROBINSON. It states in paragraph 2 of part 6 of this order that the Security Advisory Board shall draft rules applicable to the handling and transmission of these documents.

The CHAIRMAN. Of what documents?

Mr. ROBINSON. I will read the rest of it—

of confidential documents.

The CHAIRMAN. It refers back to the documents that have to do with the loyalty test.

Mr. ROBINSON. It does not say so, sir.

The CHAIRMAN. It does not say anything else.

Mr. ROBINSON. It says—

and other information which should not be publicly disclosed.

Colonel BLAKENEY. May I interrupt a moment? I have before me the report of the President's Temporary Commission on Employee Loyalty which is the basis for this Executive order, and I read from section 5 of this report, which says:

The question of providing security procedures to furnish adequate protection for the internal security of the Government directs attention to two mutually dependent means of solving the problem. The first of these means may be referred to as the counterespionage phase of counterintelligence, a weapon designed to protect our Government from all types of espionage infiltration by the penetration of enemy and subversive networks.

The CHAIRMAN. Does it say anything about the danger from a dictator who passes upon all information that comes to these various departments and who would be permitted to suppress it all?

Colonel BLAKENEY. No, nor is there anything in the rules as I read them.

The CHAIRMAN. But the effect of it is to let these department heads suppress anything and everything that this Board seeks to classify, is it not?

Colonel BLAKENEY. No, sir.

The CHAIRMAN. The Board does not do it, but the head of the Department can do it under the rules, the information which comes to the various departments, is that not true?

Colonel BLAKENEY. If the head of the agency so sees fit.

The CHAIRMAN. Is there any appeal from that?

Colonel BLAKENEY. If the President so directs, I would assume that he would receive appeals.

The CHAIRMAN. There is no provision in the rules?

Colonel BLAKENEY. That is correct.



40 SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835

The CHAIRMAN. Or in the order, for any appeal. So as the matter stands, under the Executive order, and under your rules, the decision of, for example, Henry Wallace, if he was head of the Department down there, he could tell us what we could see or tell the press what they could see and what they could not see, could he not?

Colonel BLAKENEY. His rules would be those whereby that subject would be assessed.

The CHAIRMAN. His determination would be final, would it not?

Colonel BLAKENEY. If he originated the information, yes, if his office originated the information.

The CHAIRMAN. There was an appeal, was it not?

Colonel BLAKENEY. I do not know of the OWI situation.

The CHAIRMAN. That is Mr. Davis?

Colonel BLAKENEY. I do not know.

The CHAIRMAN. If the Army killed the story, there could be an appeal to OWI, Mr. Davis.

Colonel BLAKENEY. That is true.

The CHAIRMAN. But under this there is none.

Colonel BLAKENEY. No.

The CHAIRMAN. So we have a group of little dictators set up here, have we not?

Mr. KARSTEN. The chairman is developing a thought of suppression of information in Government agencies. I would like to ask now, is not your chief administrator in, say, the War Department, able to suppress certain information?

Colonel BLAKENEY. I am sure the chief administrator could if he so desired.

Mr. KARSTEN. And the present Secretary of Commerce would have the same authority to withhold any information at the present time as he would have under these rules, is that not true?

The CHAIRMAN. I do not want to interrupt you. He is asking you the question.

Colonel BLAKENEY. My response to that would be that he could do so.

The CHAIRMAN. What becomes of that statute that I just read to you, section 192, of title 2?

Colonel BLAKENEY. He is subject to prosecution under that, I should think. I do not know.

Mr. KARSTEN. We have an existing set-up right now in your Government agencies through which information passes. Does this restrict them in any way or will they have about the same freedom they have had?

Colonel BLAKENEY. I would assume so.

Mr. KARSTEN. Was that the intent of the report, to not in any way abridge any of the rights of those people?

Colonel BLAKENEY. That is right, but it was the purpose of this set of rules to make consistent throughout the Government the same sort of level, so that the Army and Navy and the Air Force and State Department and the other departments could accept the fact that the information which they furnished was being given the same kind of protection.

Mr. KARSTEN. One more question. Now, under the Army and Navy merger, you interchange a great deal of information with the Navy Department, and I assume you do more so now. Suppose



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 41

that you send a document to the Navy Department marked "top secret," and the Navy Department disagreed that it was not top secret. Under the existing procedure, could they change the classification to suit themselves?

Colonel BLAKENEY. They could not change the classification without going back to us.

Mr. KARSTEN. They would have to go back to you?

Colonel BLAKENEY. That is right.

Mr. KARSTEN. That is under the existing situation?

Colonel BLAKENEY. That is under the arrangements that have continued.

Mr. KARSTEN. Take the Veterans' Administration. Suppose they classify a document, veteran's hospital record, as confidential, and they sent it over to the War Department and you did not regard it as confidential, could you give it out?

Colonel BLAKENEY. No.

Mr. KARSTEN. What I am getting at is, their system of classification and your system of classification.

Colonel BLAKENEY. I do not know what their system of classification is. We could not give it out without referring it back to the Veterans' Administration, which we would do, saying we believe this information is not confidential. Can you not reclassify it?

Mr. KARSTEN. But this would make the whole thing uniform?

Colonel BLAKENEY. That is right.

The CHAIRMAN. It is the practice of the Army now, is it not, to deny information to congressional committees, and to suppress information? For example, I noticed some time ago that some of the officers out here in one of the camps were arrested downtown in a certain raid. Now, is it essential to the national security to suppress that information and the names of those officers?

Colonel BLAKENEY. I have no idea of the circumstances.

The CHAIRMAN. It was in the press.

Colonel BLAKENEY. I still do not remember the circumstances, Mr. Chairman.

Personally, I would see no reason why that information should be classified.

The CHAIRMAN. That might seem information to which no one was entitled were it not for the fact that you are asking, or someone is asking, or Congress is being asked to enact compulsory military training, a compulsory military training bill, and some of these mothers write in to us occasionally and they want to know about some of these reports that they hear, for example, as to soldiers or officers being arrested in places when they might be better off somewhere else than there, or following a practice of living with someone to whom they were not married or something like that. These mothers are greatly concerned and they want to know if their boys are going to be put under the charge of, from day to day, officers who do those things. Do you think that information ought to be suppressed or that you should be able to write the mothers that there is not anything of that kind or no officer like that?

Colonel BLAKENEY. If the situation existed, I see no reason for classifying it.

The CHAIRMAN. As secret or any other classification?

Colonel BLAKENEY. That is right.



## 42 SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835

Mr. KARSTEN. You are discussing the personal life of the officer.

The CHAIRMAN. And the Army holds that that is no business of anyone outside the Army, but these boys are coming under those instructions, and they want to know, and they vote, too.

Colonel BLAKENEY. It certainly is not the intention of the Army regulations to classify any such thing.

The CHAIRMAN. They do; and for your information, I would say they do. For instance at Fort Belvoir, they do refuse to give it out because they say that the private life of those officers, even though they be instructors in these schools which take in these young boys, is no concern of anybody outside. I just wonder if you were going to carry that on there and apply that standard to every Government agency, of protecting all employees and officeholders who happened to be in a department from any inquiry which the folks back home might be, we think, entitled to receive.

Colonel BLAKENEY. I feel quite sure that an officer's private life, just as any other individual citizen's private life, is his own business, but it is not classified.

The CHAIRMAN. It is his own business, but when by virtue of law you take some young man from his home, should not the home folks be entitled to know something about his views and should not, for instance, Congress be entitled to know what the policy of the Army and Navy is along those lines?

Colonel BLAKENEY. I cannot speak for the Army and Navy, but I think the home folks should know.

The CHAIRMAN. They ought to know what kind of a situation their young men and women are going into, should they not?

Colonel BLAKENEY. I should think so.

The CHAIRMAN. That is why I cannot quite wholly subscribe to this idea any more than a Congressman's private life is his own. Congressmen who get to fussing around do not last very long, but when you are in the Army, you are in for keeps.

Colonel BLAKENEY. No, sir; I find that not to be true.

The CHAIRMAN. I remember a case of that officer who killed a man up there in Michigan. I think it was at Selfridge Field, and all they did was just demote him one grade. He was drunk when he shot him. Maybe that was his excuse. Do you see what I am getting at? This question of universal military training is coming up, and we have to answer to our constituents, and we are not as secure as the officers are in their jobs. We are not secure in office, so we want to get the right answer.

Colonel BLAKENEY. Certainly I feel the officer wants to support, or I, as an officer, want to support the legitimate activities of the military personnel.

Mr. KARSTEN. Is not that true of our Army officers in general, Colonel?

Colonel BLAKENEY. I feel that to be true.

The CHAIRMAN. The Navy regulations contain a provision which requires the disciplinary officer—no, I think it is the Army regulations—which require the disciplinary, rather the disciplining of an officer who is guilty of conduct unbecoming an officer, but the Navy does not.

Mr. KARSTEN. They are all gentlemen in the Navy, Mr. Chairman.

The CHAIRMAN. I cannot reflect on the Army by agreeing to that.



That is all that I have.

Mr. BENDER. Is Mr. Lucas here?

The CHAIRMAN. Mr. Lucas, do you solemnly swear in the matter now pending before the committee you will tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. LUCAS. I do.

#### TESTIMONY OF J. G. LUCAS, SCRIPPS-HOWARD PAPERS

Mr. BENDER. Mr. Lucas, do you have a formal statement you would like to make regarding your experience with this order?

Mr. LUCAS. Not a formal statement. I am one of several newspapermen who have been increasingly concerned and have spent some time looking into this matter. Unfortunately, the man who has done the most work, Mr. Finney, of the Minneapolis Tribune, is out of town and he will be back Monday. We have obtained a copy of the preliminary draft as well as a press release.

Mr. BENDER. You are with the Scripps-Howard newspapers? Your name is J. G. Lucas?

Mr. LUCAS. We obtained a photostatic copy of the preliminary draft of these standards as well as the modifications which were made, and a press release announcing the modifications, and we also obtained a copy of the Veterans' Administration order, circular No. 61, which was attempted to be invoked on the basis of these regulations.

Mr. BENDER. During what period of time did you make this investigation?

Mr. LUCAS. I think my attention was first called to it about 2 weeks ago, when I received a letter from Mr. Ed. Letts, managing editor of our Pittsburgh paper, in which he enclosed a copy of a story written by Mr. Finney of the Minneapolis Tribune; and I contacted Mr. Finney, and I have worked with and through him on the basis of the information that he had already assembled, in my own investigation.

I made several attempts to contact Mr. Robinson, and he was busy and out of his office during most of that time. I tried unsuccessfully to contact Commander Lichliter, and I did set up an interview with Colonel Blakeney which was quite helpful and quite productive.

The gist of our conversation, and I think the Colonel will bear me out, was that he felt that my fears were overdrawn and that this would depend more or less on its administration, that while many or all of the contingencies I expressed fear about might come about, they were proceeding on the theory that the average Government administrator was honest and intelligent, and that these rules would not be administered in that way; and if they were, public opinion would correct them. That was the gist of our conversation, I believe.

Colonel BLAKENEY. That is correct.

Mr. LUCAS. Those of us who have worked on it and read these regulations, I think that I can speak for them, Mr. Finney and myself, our fears are not allayed at all by these modifications. We feel that the classification and information which would be detrimental to the prestige of the Nation can be construed as broad enough to include anything.

Mr. BENDER. So that your conclusion is or you conclude that this is something that ought not to be permitted to be a part of our system here?



Mr. LUCAS. I think any newspaperman who has given it any thought will be extremely alarmed and upset.

Mr. BENDER. You think this would affect the average newspaperman, say, here in Washington?

Mr. LUCAS. Those to whom I have talked have usually told me there is not any thought right now of using the powers which such an order would grant, but the establishment of the precedent and the setting up of the machinery are a concession of the right of Government administrators to classify the broad field of information covered by his order and it would be a death blow to freedom of the press in Washington.

Mr. BENDER. Are you the same Mr. Lucas who was a war correspondent?

Mr. LUCAS. I was a marine war correspondent during the war.

Mr. BENDER. From your experience, how would you view this peacetime security classification?

Mr. LUCAS. I think during the war there was a great deal of overclassification, if only to obtain communication priorities.

Mr. KARSTEN. What do you think about this provision here to avoid overclassification and the suggestion is made that items be placed in their lowest possible classification? Do you think that is a worthy provision?

Mr. LUCAS. I think that was in Army Regulations 380-5; that is pure lip service; they all say that.

Mr. KARSTEN. I have read your article in the Washington Daily News, and your one catch line was, "Serious administrative embarrassments." Was that your main objection?

Mr. LUCAS. Yes.

Mr. KARSTEN. Now, you say the prestige of the Nation is broad enough to cover anything?

Mr. LUCAS. Yes.

Mr. KARSTEN. Do you think that is a rather extreme view?

Mr. LUCAS. No.

Mr. KARSTEN. You think that is the interpretation to be placed upon it?

Mr. LUCAS. I think it would be very frequently placed on it, and as it became an accepted part of the machinery of the Government, it would.

Mr. KARSTEN. What would you recommend as language for such a paragraph?

Mr. LUCAS. As a newspaperman, I am opposed to the whole principle of classification. I would recommend scrapping it.

Mr. KARSTEN. Do you favor any sort of restrictive program in connection with secret and top secret documents?

Mr. LUCAS. I do not see why the Bureau of Mines and the Bureau of Labor Statistics.

Mr. KARSTEN. They do a great deal of work in connection with materials that might be used on the atomic bomb. I can see why as to some of their material.

Mr. LUCAS. The atomic material is classified by a special act of Congress.

Mr. KARSTEN. There might be other things that you do not know anything about.

The CHAIRMAN. What is it, the number of eggs the hens are going to lay because the Army depends on the eggs?



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 45

Mr. LUCAS. That broad field of "quite conceivable" can threaten the freedom of the press.

Mr. KARSTEN. I do know unless we had some restriction at the time the atomic bomb was perfected, we would not probably have been able to produce it.

Mr. LUCAS. I was overseas during most of that period, but voluntary censorship during the war worked with incredible success.

Mr. KARSTEN. I think the press of our Nation is the finest press in the world, and I have met very, very few of them that have not respected a confidence. But once in a while, you will find one that does not.

Mr. LUCAS. Once in a while that one will be able to do it even with these regulations.

Mr. KARSTEN. That was your main objective, these words "administrative embarrassment," and they, as you know, have been eliminated?

Mr. LUCAS. It will or it establishes a principle.

Mr. KARSTEN. You are against the draft altogether? As Mr. Robinson and Colonel Blakeney have pointed out, our Government agencies have a system of giving out information and there are perhaps some things restricted now. Would you be in favor of removing the existing restrictions altogether and complete freedom on it?

Mr. LUCAS. Yes, sir.

Mr. KARSTEN. You would be?

Mr. LUCAS. Yes.

Mr. KARSTEN. You realize that something like that would not be possible?

Mr. BENDER. Would it be possible for the public to receive an accurate picture of what is going on?

Mr. LUCAS. May I answer his question first? I am trying to think where I have run into classified information in other departments than the Army and Navy and the State Department.

Mr. KARSTEN. You probably have in the Bureau of Internal Revenue and perhaps the Tax Court and any number of Government agencies.

Mr. LUCAS. These things are protected by existing law rather than by regulations within the agencies, and I do not think anyone has quarrel with them, but the Veterans' Administration with circular 61 goes much further; it goes much further than the veteran's medical history or, as Colonel Blakeney said, classified information which comes to it from other departments.

Mr. LUCAS. It would classify administrative information, or statistics, all information, at least in the draft which I saw. Now, that is a pretty broad field there. Investigations or inspections could include anything. Statistical information could include anything, and each agency has the right to draw its own order.

Mr. KARSTEN. It now has its own right to do that, has it not?

Colonel BLAKENEY. I do not know about that. I would assume that it would.

Mr. KARSTEN. It would have the right to determine what it has.

Mr. LUCAS. This coming from the White House would certainly stir any dormant desire they might have.

Mr. KARSTEN. I think that you have the extreme view on this in your interpretation of it.



## 46 SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835

Mr. LUCAS. I have dealt with censorship in war, and I am not too happy about it.

Mr. KARSTEN. I do not see it is censorship.

Mr. LUCAS. When you talk about prestige of the Nation, that is censorship.

Mr. KARSTEN. I cannot see it.

Mr. LUCAS. Assume that you had someone in Government who misappropriated some Government funds, would that not affect the prestige of the Nation?

Mr. KARSTEN. This will be referring to the Government.

Mr. LUCAS. This will be administered by human beings who will administer the policy.

Mr. KARSTEN. If the Devil himself were put to administer the commandments, he would make a mess of it. If you take the view you have taken, it would be to presume that you are not going to have good administration.

Mr. LUCAS. If you had one instance of maladministration, this would be the case where this would be invoked in the extreme. The administrator doing a good job would have nothing to hide, but if you had one administrator who was feathering his own nest or mismanaging his office, this would be the perfect screen for him.

Mr. KARSTEN. I am not for withholding any information that should be made public, but I do see that there is confidential material.

Mr. LUCAS. In all Government departments?

Mr. KARSTEN. I do not say all of them, but your major departments, the veterans' medical record should not be made public property to you or anyone else. You are entitled to your own record, but you are not entitled to someone else's.

The CHAIRMAN. Mr. Lucas does not so contend.

Mr. KARSTEN. He is in favor of removing all regulations. You told me you were in favor of removing everything.

Mr. LUCAS. I am in favor of scrapping these minimum standards.

The CHAIRMAN. Is your position this—that inasmuch as this is a Government of the people, it would be dangerous to, by law, empower any official or group of officials to deny to them information other than that which is essential to our national security?

Mr. LUCAS. Exactly.

The CHAIRMAN. If it is the people's business, if the people have to pay for it, they are entitled to know what these various agencies are doing, are they not? That is the whole theory of our Government.

Mr. LUCAS. Yes, sir.

The CHAIRMAN. And the only way to detect and prevent unlawful activities or the acts of those who would be dictators is publicity; is that right? Maybe Congress, on a side issue, can help a little, but public opinion is the force.

Mr. LUCAS. That is the theory on which newsmen work; yes, sir.

Mr. BENDER. Well, has the Attorney General ruled on this? Is this Executive Order 9835 all-inclusive or does it merely refer to the loyalty probe?

Mr. ROBINSON. The Attorney General drafted it; that is my understanding.

Mr. BENDER. Did he pass on this particular document that we have under consideration today?

Mr. ROBINSON. He commented on it as an administrative agency.



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 47

Mr. BENDER. Mr. Lucas, as a working newspaperman, I wonder if you would answer the question I asked before, as to the public having an opportunity to receive an accurate picture of what is happening in Washington if these regulations are in force.

Mr. LUCAS. I think it would be very difficult; because, as I told Mr. Karsten, that information which the public would need to assess a public official who was not performing his duty would be subject to classification by that official.

Mr. KARSTEN. Right now he has his own devices, if he is a dishonest public official; is that right?

Mr. LUCAS. There are means of getting the information now, and there would be very few means with these regulations.

Mr. BENDER. I would like to ask Mr. Robinson a question while you are here, Mr. Lucas.

A few weeks ago the Washington Post ran an editorial in which it stated that one of the reporters telephoned the State Department to ask the salary of one of the Assistant Secretaries there. The Post charged that the State Department informed the reporter the information requested was confidential.

What do you think about that?

Mr. ROBINSON. I do not know anything about it; but if anybody did it, they certainly were away off base, because there is certainly nothing confidential about the salary of an Assistant Secretary of State. It is in the statute, I think.

Mr. KARSTEN. In the House we have a base salary, and then we add 20 percent and 10 percent, and you never know what you are making as an employee down there.

Mr. ROBINSON. This is out of my line, and I do not know what the salary of an Assistant Secretary of State is, but I am under the impression it is statutory.

Mr. BENDER. You think that State Department employee was out of order?

Mr. ROBINSON. On the basis of what you have told me here; yes.

Mr. KARSTEN. Suppose it was a collection agency; would you give the information?

Mr. ROBINSON. Suppose you are calling up the employee of a bank; would it not be the same situation? I do not think that Government employees are in a different situation than a private citizen. I do not see why he should not tell it.

Mr. KARSTEN. It is beside the point anyway.

Mr. ROBINSON. It is public information, after all.

The CHAIRMAN. May I add to that statement that there was a certain percentage added to salaries of clerks. It is all a matter of record. You can find out what the gross is and what the tax is and what the amount of money that the Secretary gets to carry home.

Mr. KARSTEN. You have to take your pencil along with you.

Mr. BENDER. I will ask any of your gentlemen if—before the war and during the time that you were connected with the Government or had occasion to observe the Government in action—do you know of any time before the war when it was necessary to draw up regulations like this or rules like this, where the security of the Nation or anything else was affected because of a lack of these rules?

Mr. ROBINSON. I am afraid that I cannot answer that, because I was not in the Government before the war.



Mr. BENDER. How about you, Colonel. You have been here a long time.

Colonel BLAKENEY. Well, I personally feel that as long as I have been in the Army, which is since 1923, I have been accustomed to the use of classified information. Classified information as far as the Army is concerned is supposed to affect the national security, and I had not considered that there would be any difficulty in handling classified information elsewhere, because it did not impinge on me before the war.

Mr. BENDER. Why do you feel that these rules are necessary in these other departments?

The CHAIRMAN. He has not said that he did yet.

Colonel BLAKENEY. I feel that they are useful in other departments in order that the handling of such information which the various sensitive departments have or will furnish to them may be adequately safeguarded.

Mr. BENDER. Do you not think that there are too many people getting too darned sensitive around here?

Colonel BLAKENEY. It is not a case of sensitiveness of the other agencies; it is the language of the sensitive information, or the information which is classified of the more sensitive ones.

In other words, when statistical information concerning production in the Soviet zone of Germany that has been obtained by our risking American lives to send somebody over into that area is sent back by the Department of the Army channels, and then furnished to the Agriculture Department, it would be not exactly the best thing to do to publish that information and the source of it through the newspaper circulation of the American press, because collecting that information would not be repeated.

The CHAIRMAN. Now, information came to me as to the number of cows there were in Italy or the number of hogs in Italy, let us suppose, and similar information, all down through the line, showing the economic situation, perhaps, in Italy and other countries—eight of them.

Now, under this proposed rule, if it were in effect, that information would not be given out, because it might tend to interfere with the adoption of the Marshall plan to extend aid to those countries; is that right?

Colonel BLAKENEY. I would not know about that.

The CHAIRMAN. For instance, if it showed that Italy, for example, has more cows now than it had before the war and that we lacked some 21,000,000 cows as compared to what we had before the war—if that information was given to the press and they published it, the people might say: "Well, what is the use of giving any more cows to Italy?"

Colonel BLAKENEY. If that were a correct statement, then I personally can see no reason why it should not be released.

The CHAIRMAN. Because the people are the ones who want to decide whether they want to extend some more aid.

Now, getting back to this unification bill, do you recall that in that bill that unified agency, or one branch of it, was given control over our national resources?

Colonel BLAKENEY. Yes, sir.

The CHAIRMAN. And another one was given authority to act in at least an advisory capacity as to regimenting our industries?



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 49

Colonel BLAKENEY. Yes, sir.

The CHAIRMAN. And that already the services are making plans with the larger industries and some with the smaller industries as to the production they can arrive at in the event there is war.

They are already holding conferences on how to coordinate the industrial production of the various plans. Do you know they are doing that?

Colonel BLAKENEY. Yes, sir.

The CHAIRMAN. Is there any reason why that information should not be given to the press?

Colonel BLAKENEY. Yes, sir.

The CHAIRMAN. So that other nations might know how well prepared we are.

Colonel BLAKENEY. The military target for an enemy nation toward us is not only our manpower in military uniform but it is the productivity and the means by which that productivity is brought to its maximum; and therefore if a roller-bearing plant in Pittsburgh is known to be that one on which dependence so far as roller bearings for aircraft is laid, that would be one of the major targets or one of the important targets for enemy action, either by sabotage or by direct military attack.

In the last fracas in Germany, if you recall, sir, aerial attack on Germany's aerial production, airplane production, and German oil production were major factors in the termination of the war, and consequently commercial targets are extremely important in future wartime planning, or rather planning for future wartime, if it should arise.

The CHAIRMAN. Admitting all that, is it not also true that the people whose Government this is supposed to be—and it is supposed to be their Army and armed forces—are entitled to know to what extent the military is taking over factories and assigning production to this area or that?

Colonel BLAKENEY. I did not understand, Mr. Chairman, there was any planning by the military of taking over the plants.

The CHAIRMAN. Perhaps not taking over, but assigning to them materials and arranging for the product and ascertaining how much of the roller bearings could be produced.

Colonel BLAKENEY. I think, sir, that a general statement to the public that the national defense establishment is doing its utmost to direct its planning to the effective defense of the country would be a much safer statement than a particularized one.

The CHAIRMAN. Do you not think the people are entitled to know, on the theory they are preparing for national defense, the unified service is preparing to carry on an aggressive war in some other country?

Colonel BLAKENEY. If they are, the people ought to know, provided that is not against the national prestige; and I say "prestige" advisedly, because if negotiations are going on which would be jeopardized by such disclosure, the national prestige would drop off. When I say "prestige," I mean negotiations in our international relations.

The CHAIRMAN. If we adopt that theory, are we not submitting the question of whether we go to war to the State Department rather than to the Congress?

Colonel BLAKENEY. No, sir. The Congress is the deciding factor.



## 50 SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835

The CHAIRMAN. That is supposed to be; that is the law as it is written. But, as a matter of fact, in the last war we did get into it before Congress ever declared that. You know that now. There was shooting going on before there was a declaration of war, was there not?

Colonel BLAKENEY. Yes, sir.

The CHAIRMAN. So Congress was not jockeyed, but it found itself in a position where it had to back up and take the position that it was not going to follow the Army and Navy or declare war, was it not?

Colonel BLAKENEY. That is a debatable point, I think, Mr. Chairman.

The CHAIRMAN. For instance, I, as a Member of Congress, had to either vote to declare war or be classified as one who refused to stand back of the armed forces of our country, did I not?

Mr. KARSTEN. That would be pretty hard to do after Pearl Harbor.

Colonel BLAKENEY. That would be pretty hard to say.

The CHAIRMAN. We had already started a fighting and shooting war on the high seas.

Colonel BLAKENEY. The Army and Navy had not gone out and started a fighting war on its own without instructions from the Commander in Chief.

The CHAIRMAN. Which again gets back to the proposition that the Commander in Chief is the one who declared the war, because Congress had the choice of either following the President into the war by declaring war, or being characterized as disloyal for refusal to follow.

Colonel BLAKENEY. The Commander in Chief, as I understand the situation—and I am not advised of the facts, but as I understand the situation—the Commander in Chief had instructed certain destroyers to accompany certain vessels carrying commercial equipment; and they appeared on the high seas, which the enemy had declared a place in which armed vessels of the United States should not appear, so they were shot at.

The CHAIRMAN. And it is not only possible, but probable, that if the people had known what the Executive department was doing in the way of giving orders to shoot on certain occasions, or on the happening of certain contingencies—if the press had heralded that fact—the Congress might have been advised of the people's wish to stay out of the war, or the movement might have been checked.

Colonel BLAKENEY. It might have been.

The CHAIRMAN. Anyway, the people would have had a chance to enter a protest before we got in.

Colonel BLAKENEY. I believe the people had that chance.

The CHAIRMAN. I do not understand what you mean by that, because I recall distinctly that the President said twice, or at least once, that our soldiers should not be sent to foreign soil, and yet at the same time, before war was declared—

Mr. KARSTEN. Foreign wars, was it not, and not foreign soil?

The CHAIRMAN. I thought it was soil, but I find that you are correct. What the President said was this—On October 23, 1940, at Philadelphia, he said:

We are arming ourselves not for any foreign war.  
We are arming ourselves not for any purpose of conquest or intervention in foreign disputes. I repeat again that I stand on the platform of our party:  
"We will not participate in foreign wars and we will not send our army, naval,



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 51

or air forces to fight in foreign lands outside of the Americas except in case of attack."

It is for peace that I have labored, and it is for peace that I shall labor all the days of my life.

The foregoing is quoted from page 495 of volume 9 of the Public Papers and Addresses of Franklin D. Roosevelt.

After making the statement at Philadelphia, quoting the Democratic platform, as above quoted, in a speech at Boston on October 30, 1940—and I am quoting now from the same volume 9 of the Public Papers and Addresses of Franklin D. Roosevelt, page 517, the President said:

And while I am talking to you mothers and fathers, I give you one more assurance.

I have said this before, but I shall say it again and again and again:

Your boys are not going to be sent into any foreign wars.

They are going into training to form a force so strong that, by its very existence, it will keep the threat of war far away from our shores.

The purpose of our defense is defense.

It follows, of course, that if we engaged in a foreign war, our men would be sent to fight on foreign soil.

If the people had known and had this information which the executive department had, had the people known what the executive department was doing, and had they been advised through the press, there might have been protests which would have perhaps kept us out of the war.

Colonel BLAKENEY. I think the people are entitled to know everything that will support the national good; yes, sir.

The CHAIRMAN. Who is to determine what the national good is?

Colonel BLAKENEY. The Congress and the President and those agencies that they have sufficient confidence in to put in positions where they can assess such a thing.

Mr. BENDER. Mr. Chairman, I would like to ask the colonel a question.

The CHAIRMAN. May I ask one question that was suggested with reference to what is secret about this plant. Someone wanted me to ask if it is not true that any city or telephone directory gives the location, and the Commerce Department, too, and the Labor report furnishes the figure on employment and production.

Colonel BLAKENEY. That is quite right.

The CHAIRMAN. You would not suppress that, would you?

Colonel BLAKENEY. Not at all, but I would not want to point out that this particular plant at the address that is indicated is an essential one in our national war construction industries.

The CHAIRMAN. Pardon me, go ahead.

Mr. BENDER. Could you not find some reason for keeping information secret? Is there not some reason why almost any information might not be kept secret? And under these regulations, you are establishing a precedent and establishing rules and regulations that make it possible to say, "Well, that is vital information," are you not?

Colonel BLAKENEY. Mr. Lucas has already indicated that it is impossible to keep anything secret if it is not the desire of the press to keep it so. The press, I admit, has done a marvelous job. I was a public relations officer with the Third Army and I had to deal with some 45 press correspondents at one of the most critical stages of the



## 52 SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835

war. I told those correspondents of the activity that was going on. They did not let me down but once, and that time it did not hurt anybody except me.

The CHAIRMAN. Your feelings were only your feelings.

Colonel BLAKENEY. It did not help my official position, either, Mr. Chairman.

The CHAIRMAN. You have another witness?

Mr. BENDER. Yes, but we would like to hear from the last witness today, Mr. Bruce Catton, a newspaperman who is now with the Luckman committee.

The CHAIRMAN. Very well.

Mr. BENDER. All right, Mr. Catton.

Will you swear the witness, Mr. Chairman?

The CHAIRMAN. Do you solemnly swear that the testimony that you will give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. CATTON. I do.

Mr. BENDER. Will you identify yourself, Mr. Catton?

**TESTIMONY OF BRUCE CATTON, DIRECTOR OF INFORMATION,  
THE LUCKMAN COMMITTEE, WASHINGTON, D. C.**

Mr. CATTON. Yes. I am Bruce Catton, currently with the Luckman Committee as Director of Information. I was a newspaper man for some 20 years and Director of Information with the War Production Board during the war.

Mr. BENDER. Mr. Catton, could a Government information man do an honest job under the terms of this order?

Mr. CATTON. It seems to me quite certain, Mr. Bender, that this order would at least make it at least a great deal more difficult for him to do that; and in some cases could very easily make it impossible.

Mr. KARSTEN. You are talking about the administrative official, are you?

Mr. CATTON. Yes, in the Government department, whose function it is to see that the news and information gets out to interested parties.

Mr. KARSTEN. You say he could not do a fair job under this order?

Mr. CATTON. It would make it much more difficult for him, and it is very easy to imagine cases in which it would make it impossible.

Mr. KARSTEN. In what way?

Mr. CATTON. Because it would increase the restrictions on the material which he could get, the facility with which he could get it, the ease with which he could direct reporters or other inquirers to the persons or facilities in the department.

Mr. KARSTEN. It would increase the restriction. That is your primary point there, is it?

Mr. CATTON. Yes; it would make it harder for him to function.

Mr. KARSTEN. Would that increase the restrictions on the dissemination of this information, Colonel, or not?

Colonel BLAKENEY. I beg your pardon?

Mr. KARSTEN. I say would that increase the restrictions on the dissemination of information? I refer to this proposed set of rules.

Colonel BLAKENEY. I can't, frankly, see how it would.

Mr. BENDER. Mr. Catton, exactly what is the function of an information man in a Government department?



Mr. CATTON. His only function that I know of that has any real justification is to do all he can to help the people of the country find out what their hired hands in the Department are doing. In other words, he is not a press agent, and he is not a public relations man. He is a channel for information.

Mr. BENDER. Could our democracy function as it is supposed to function if an order of this kind were involved?

Mr. CATTON. I suppose something depends upon the interpretation of the order, Mr. Bender. As it has been explained to me, and assuming that it does put on these restrictions which, it seems to me, are clearly involved, I don't think it could. Because I think the functioning of our democracy nowadays depends upon a constant flow of very complete information about what the Departments are up to. And to the extent that this was cut down that flow, I think it would very materially—

Mr. BENDER. This would very materially cut down the flow of that information?

Mr. CATTON. Yes.

Mr. BENDER. In your experience, can we rely on the Administrator to determine for himself what material is proper to be restricted and what material is not proper to be restricted?

Mr. CATTON. I don't believe you can. Of course, there is a borderland there. But in so many cases an administrator of an agency or department will have a program under way, for instance, his own prestige may be involved in the completion of that program. He is under a very strong temptation to make it appear that that program is going very well, that the complaints about it are few, that the administration of it is excellent.

Mr. KARSTEN. But does he not have that same temptation whether you have this or not? It is human nature.

Mr. CATTON. Yes, but here is the point, Mr. Congressman: As we are at present without a blanket over-all rule of this kind, there is a saving looseness in the operation of all Government departments that I know anything about.

Mr. KARSTEN. Do you think he would voluntarily release information about himself, even though this did not exist? No, of course he would not.

Mr. CATTON. No; he would not. But my point is this: That as we are now, it is usually impossible for him to prevent that kind of information from coming out anyway.

Mr. KARSTEN. I believe it would be, under this, impossible to prevent it from coming out.

That is all I have.

Mr. BENDER. What is the relationship, Mr. Catton, between an adequate Government information service and the broader subject of freedom of the press?

Mr. CATTON. Well, I think the two tie together very directly. Assuming that an adequate Government information service is a service which is devoted solely to doing everything that it can to make all the pertinent facts and even the nonpertinent facts readily available to anyone who asks for them, I think that ties in very directly with the freedom of the press. The freedom of the press, as you see it from a Government information man's point of view, consists of two things. First is the freedom to print the news. The other half of it is the freedom to get it.



## 54 SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835

And as we are set up now, I think a properly functioning Government information service materially helps the press to get the information it has to have.

Mr. BENDER. Do you think that under peacetime conditions, with all these 57 varieties, this is a lousy procedure? Is that your conclusion?

Mr. CATTON. Yes.

Mr. BENDER. That is all I have, Mr. Chairman.

The CHAIRMAN. That is all, is it, Mr. Bender?

Mr. BENDER. That is all for today.

The CHAIRMAN. That will be all today, gentlemen.

Thank you for coming up.

(The following was submitted for the record:)

## EXHIBIT C

THE REPORT ON THE PRESIDENT'S TEMPORARY COMMISSION ON  
EMPLOYEE LOYALTY

The President's Temporary Commission on Employee Loyalty respectfully submits this report pursuant to Executive Order No. 9806,<sup>1</sup> dated November 25, 1946.

## I. INTRODUCTION

The President's Temporary Commission on Employee Loyalty, hereinafter referred to as the Commission, was created to inquire into (a) the standards, procedures, and organizational provisions for the investigation of persons who are employed by the United States Government, or who are applicants for such employment; (b) the removal or disqualification from employment of any disloyal or subversive person, and to prepare a report incorporating any recommendations deemed appropriate in order to improve existing legislative and administrative arrangements in connection with loyalty investigations, administrative responsibility in loyalty cases, standards of loyalty, loyalty adjudications and related matters, so as to protect the Government against the employment or continuance in employment of disloyal, or subversive persons, and assure fair hearings to persons against whom such charges are brought.

The Commission was organized following the issuance of Executive Order No. 9806, and held its first meeting on December 5, 1946. It has given continuous study to the matters within its jurisdiction since that date.

## II. ORGANIZATION OF COMMISSION

The following officers were designated to serve on the Commission as representatives of their respective agencies:

A. Devitt Vanech, Special Assistant to the Attorney General, Department of Justice (chairman).

John E. Peurifoy,<sup>2</sup> Acting Assistant Secretary of State for Administration, Department of State.

Edward H. Foley, Jr., Assistant Secretary of the Treasury, Department of the Treasury.

Kenneth C. Royall, Under Secretary of War, Department of War.

John L. Sullivan, Under Secretary of the Navy, Department of the Navy.

Harry B. Mitchell, President, Civil Service Commission.

In order to facilitate the work of the Commission, a subcommittee was appointed to prepare and draft memoranda and agenda for the consideration of the Commission at its meetings. This subcommittee was composed of the following members: L. V. Meloy, Civil Service Commission (chairman); Harold I. Baynton, Department of Justice; Stanley R. Goodrich, Department of State; Stephen J. Spingarn, Treasury Department; Kenneth D. Johnson, War Department; and Marvin J. Otilie, Navy Department. Lt. Col. Innes Randolph of the War Department served as military adviser, and Rear Adm P. B. Nibecker served

<sup>1</sup> Annexed as exhibit 1.

<sup>2</sup> State Department was originally represented by Donald S. Russell, Assistant Secretary of State, who resigned on January 20, 1947 and he was succeeded by Anthony J. Panuch who resigned on January 23, 1947.



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 55

as naval adviser. Calvin W. Derrenger of the Department of Justice served both the Commission and subcommittee as executive secretary and recorder.

David N. Edelstein and Joseph C. Duggan of the Department of Justice assisted the Commission and its chairman in the preparation of this report.

## III. HISTORICAL BACKGROUND

The qualifications for employment by our Federal Government prior to 1939 were assayed independently of the attribute of loyalty to the Government of the United States. Such loyalty was generally assumed.

The question of employee loyalty as an element of suitability for Government service is of comparatively recent application. Before 1939, the various agencies and departments of the Federal Government resolved employability on the basis of qualification and character. Inquiries to determine employee loyalty were not generally made and were considered by the Civil Service Commission to be prohibited pursuant to the provision of Civil Service Rule I, promulgated in 1884, which stated:

"No question in any form or application in any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant, nor shall any inquiry be made concerning such opinions, or affiliations, and all disclosures thereof shall be discountenanced."

The foregoing provision was intended to prohibit inquiry into an individual's partisan political affiliation and beliefs and to place Federal employment on a nonpartisan plane. However, it was not contemplated that it would have the effect of excluding all questions designed to uncover adherence to ideologies inimical to our form of government, such as communism, fascism, totalitarianism and others.

On August 2, 1939, the Congress passed the original Hatch Act "to prevent pernicious political activity." Section 9A of this act (55 Stat. 1148; 18 U. S. C. 611) was designed to prevent any person employed in any capacity in any agency of the Federal Government from holding membership in any political party or organization advocating the overthrow of our constitutional form of government. This enactment represented an explicit recognition by the Congress of the necessity for barring from Government employment those whose interests were directed to the destruction of the traditional American way of life.

A further recognition of the problem by the Congress was evidenced when, on July 1, 1941, there was added to all appropriation acts a mandate which provided that no part of any appropriation shall be used to pay the salary or wages of any person who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence. This mandate is still in effect.

With the passage of these laws the element of employee loyalty was placed directly in issue and, accordingly, investigative procedures designed to obtain information regarding employee loyalty became proper and pertinent. These laws served successfully to proscribe persons whose loyalties adhered to our recognized enemies in time of war, but in their practical application failed to encompass other subverters.

Congress further implemented its intention to safeguard the Government from the destructive influence of disloyal persons by the grant of specific powers to the more sensitive agencies, the War and Navy Departments (Public Law 671, 76th Cong., 3d sess., approved June 25, 1940, as amended; 50 App. U. S. C. 1156; sec. 3 of Public Law 808, 77th Cong., 2d sess.; 56 Stat. 1053; 5 U. S. C. 652, note). By these statutes, Congress authorized the indicated Secretaries to remove summarily any employee in the interest of national security without regard to any provisions of laws, rules, or regulations governing the removal of employees. Another sensitive agency, the State Department, was accorded substantially the same authority in the so-called McCarran rider (Public Law 490, 79th Cong., approved July 5, 1946; 60 Stat. 453), which granted to the Secretary of State the power of summary removal during the fiscal year ending June 30, 1947.

In order to provide a firm legal basis for barring disloyal persons, President Roosevelt, acting through the Civil Service Commission in March 1942 issued War Service Regulations specifying that one of the grounds on which a person could and would be disqualified for employment in the Federal service was the existence of a reasonable doubt as to his loyalty to the Government of the United States.

In October 1941 the Attorney General of the United States directed the Federal Bureau of Investigation to investigate complaints made against Federal employees alleged to be disloyal. The necessary investigations were conducted and the



information developed was reported to the various employing agencies. Any action upon these reports was entirely within the discretion of the employing agency or department. Some of the departments which received these reports expressed a desire for the establishment of a central source to issue advice on the handling of such cases. In response to this, the Attorney General in April 1942, created a special Interdepartmental Committee on Investigations.<sup>3</sup> This committee distributed information to the departments and agencies regarding the investigative procedures followed by the Federal Bureau of Investigation, the nature and purpose of their reports and the necessity of establishing sound procedures within each department and agency. This committee also indicated that upon request it would review the records in individual cases and render an advisory opinion. Such opinions were requested and rendered in a small number of cases.

On February 5, 1943, President Roosevelt issued Executive Order No. 9300,<sup>4</sup> replacing the Attorney General's Interdepartmental Committee with a new "Interdepartmental Committee on Employee Investigations."<sup>5</sup> This Executive order is still in effect and provides one of the legal means for processing loyalty cases. The Interdepartmental Committee is concerned only with permanent employees; that is, those who have passed their probational period. It confines itself to the statutory provisions of the applicable congressional acts dealing with the problem and, thus, deems an employee removable on loyalty grounds only if it is established that the employee is (1) a member of an organization advocating the overthrow of our constitutional form of government, or, (2) a personal advocate of the use of force or violence as a means of changing our political institutions. The Interdepartmental Committee is an advisory body and has no authority to enforce its findings on any agency or department. The authority to remove or retain an employee rests solely with the head of the employing department or agency (*Myers v. U. S.*, 272 U. S. (1926) 52, 161; *Burnap v. U. S.*, 252 U. S. (1919) 512; 30 Op. Attorney General 79, 83).

Although these efforts to prevent disloyal persons from either obtaining or retaining Government employment were well intended, they were ineffective in dealing with subversive activities which employ subterfuge, propaganda, infiltration, and deception.

The House Civil Service Committee was authorized by House Resolution 66 (79th Cong., 1st sess.) to conduct studies and investigations of the policies and practices pertaining to employment in the departments and agencies of the Government. Pursuant to its authority, the Committee on Civil Service created a subcommittee "to make such investigation as it may deem proper with respect to employee loyalty and employment policies and practices in the Government of the United States, and to make a report to this committee of its investigation prior to the recess or adjournment, together with such recommendations as it deems advisable." The subcommittee limited the scope of its investigations to an inquiry into the practices, procedures and standards employed by the various Federal departments in screening and investigating the loyalty of employees of the Government.

The subcommittee's report<sup>6</sup> submitted to the full House Civil Service Committee stated that "it is of vital importance to our country that those employed in all departments of Federal service be of high integrity and unquestioned loyalty to our Government. Employment in the Government of the United States is and should be regarded as a high privilege." It went on to say that "there are many conditions called to the committee's attention that cannot be remedied by mere changes in techniques or by issuances of directives. Adequate protective measures must be adopted to see that persons of questioned loyalty are not permitted to enter into the Federal service. These protective measures should, of course, be absolutely fair and impartial, but doubts must, in the nature of things, be resolved in favor of the Government." The majority of the subcommittee specifically recommended that an Interdepartmental Commission be created to study existing laws and the adequacy of existing legislation; to review existing internal security measures; to analyze prevailing standards, procedures, techniques, personnel and financial requirements necessary to protect the Government from disloyal employees or prospective employees and to prepare a program designed democratically to afford maximum protection to our Government against individuals whose loyalty is to governments other than our own. The majority submitted a supplemental report containing the following recommendations:

<sup>3</sup> The committee was composed of officials representing the Interior Department, Treasury Department, Commerce Department, Justice Department and the Federal Deposit Insurance Corporation.

<sup>4</sup> Annexed as exhibit 2.

<sup>5</sup> This Committee was composed of officials representing the Treasury Department, the Interior Department, the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Civil Service Commission.

<sup>6</sup> Annexed as exhibit 3.



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 57

"That a full and complete investigation be conducted and further hearings be held under the direction of the House Civil Service Committee, (1) to study the standards, the directives and the methods, and the policies of the Civil Service Commission and other agencies with respect to the question of loyalty in Government and to recommend uniform policies and standards with regard thereto; (2) to study more fully the problem of loyalty among the employees now on the Federal pay roll; (3) to devise by legislation or otherwise, ways and means of eliminating without delay employees in every department or agency of Government where there is reasonable doubt concerning their loyalty."

On November 25, 1946, the President issued the Executive order establishing this Commission.

## IV. SCOPE AND METHOD OF THE COMMISSION'S INQUIRY

A. *Scope of the inquiry*

Paragraph 2 of the Executive Order authorizes and directs the Commission—  
" \* \* \* to inquire into the standards, procedures, and to organizational provisions for (a) the investigation of persons who are now employed by the United States Government or are applicants for such employment, and (b) the removal or disqualification from employment of any disloyal or subversive person. During the progress of its study the Commission shall give consideration to the findings and recommendations of the subcommittee of the Civil Service Committee of the House of Representatives contained in the Subcommittee's Report rendered on July 20, 1946 (Congressional Record, July 20, 1946, p. 9728)."

The Commission began its study by giving consideration to the findings and recommendations of the subcommittee of the Civil Service Committee of the House of Representatives as contained in its report to the House of Representatives on July 20, 1946. Information was solicited and obtained from various departments, commissions, and agencies and from the testimony of selected Government officials.

B. *Method of inquiry*

The Commission initiated its inquiry by directing identical letters<sup>7</sup> to the Federal Bureau of Investigation of the Department of Justice, the Office of Naval Intelligence of the Navy Department, and the Military Intelligence Division of the War Department. These letters of inquiry requested information concerning:

- (1) The extent to which the subversive or disloyal employee constitutes a problem in, or threat to, the Federal service.
- (2) The techniques by which subversive or disloyal persons operate.
- (3) The difficulty of proving the connections and activity of subversive or disloyal persons.

In addition, individual letters<sup>8</sup> were sent to 50 executive departments, agencies, boards and commissions (including the District of Columbia government) requesting advice and information on the following matters:

- (1) Statutory authority bearing upon the employment or dismissal of personnel with respect to whom there are allegations of disloyalty.
- (2) Criteria established for judging employees' loyalty.
- (3) Procedure for the investigation of personnel with respect to loyalty prior to employment.
- (4) Procedure for dismissing personnel for reasons of disloyalty.
- (5) Recommendations regarding procedures to be established in the employment and dismissal of personnel with respect to disloyalty.

The following witnesses appeared before the Commission: Attorney General Tom C. Clark; Mr. D. Milton Ladd, Assistant Director of the Federal Bureau of Investigation; and Mr. Herbert E. Gaston, Chairman of the Interdepartmental Committee on Employee Investigations.

Representative Edward R. Rees of Kansas, chairman, House Civil Service Committee, and Representative J. M. Combs of Texas, former chairman, House Civil Service Subcommittee, also appeared and favored the Commission with expressions of their views.

C. *Analysis of the information received by inquiry*

(1) *From the intelligence service.*—The information received from the reports<sup>9</sup> of the Federal Bureau of Investigation, the Military Intelligence Division and the Office of Naval Intelligence indicates that these three intelligence services recognize the existence of a threat within the Government service to the internal security of the United States by reason of the employment of subversive persons.

<sup>7</sup> A sample of the letter of inquiry is annexed hereto as Exhibit 4.

<sup>8</sup> A sample of the letter is annexed hereto as exhibit 5.

<sup>9</sup> The reports are annexed hereto as exhibits 6, 7, and 8.



(2) *From Government agencies.*—With reference to the replies to the general letters of inquiry directed to the 50 selected agencies, the most significant disclosures were (1) a wide disparity in standards established for judgment of employee loyalty; (2) absence of, or lack of uniformity in, procedures designed to determine loyalty prior to employment; (3) lack of uniformity in procedures designed to effect removal from service, and (4) wide divergence of opinion as to the character and scope of administrative or legislative remedial steps deemed desirable.

Except for the War, Navy, and State Departments, which have special emergency legislation of a summary character, most of the agencies rely primarily on the statutory criterion in section 9 A of the Hatch Act, which in amended form has been incorporated into the various appropriation acts. This criterion posits advocacy of the overthrow of the Government of the United States as the norm determinative of the question of loyalty.

These replies further indicate that, with a few exceptions, the agencies normally rely upon the investigative facilities of the Civil Service Commission in order to ascertain the loyalty of a prospective employee. Since the Civil Service Commission has been unable to investigate a large percentage of applicants, the agencies have relied almost exclusively on the veracity attributed to the oath of office and affidavit executed by the new appointee, and signature to these two instruments is taken as a prima facie evidence of loyalty.<sup>10</sup>

These replies further indicate that the procedures for removing employees for reasons of disloyalty varied widely and may be summarized as follows: (1) Investigation of the allegations by the agency, and if sufficient evidence is obtained, removal by the head of the agency; (2) reference of the allegations to the Civil Service Commission for investigation and for advice as to procedure on removal; (3) hearing of the charges before an agency board or committee on employee investigations, and compliance with the procedures set forth in general memorandum No. 6,<sup>11</sup> dated September 1, 1943, issued by the Interdepartmental Committee on Employee Investigations; (4) reference of the complaint to the Federal Bureau of Investigation either under the Hatch Act or the prohibition contained in the agency appropriation; (5) adoption of the removal procedure recommended by the Civil Service Commission and in accordance with the requirements as set forth in the Federal Personnel Manual; (6) several agencies in their replies stated that they had no established procedure designed to substantiate allegations of disloyalty.

#### *Recommendations from other Government agencies*

While the recommendations of the agencies varied, there was general agreement on the following: (1) That there be a preemployment investigation or check; (2) that the investigative responsibility and function be centralized; (3) that the preemployment investigation or check, with certain exceptions, be the function of the Civil Service Commission; (4) that the postemployment investigation or check be the function of either the Federal Bureau of Investigation or the Civil Service Commission;<sup>12</sup> and (5) that the employing agency be responsible for the removal of its own employees.

In addition to these recommendations, a substantial number of the replies indicate (1) that there should be established an independent over-all centralized authority acting solely for and on behalf of the President in the matter of the removal of disloyal employees; or (2) that the original hearing in loyalty cases should be within the employing agency, subject to a right of appeal to a centralized agency established with a power to review de novo; or (3) that the over-all agency be established with advisory powers only.

(3) *From witnesses.*—Attorney General Tom C. Clark; Mr. D. Milton Ladd, Assistant Director of the Federal Bureau of Investigation; and Mr. Herbert E. Gaston, chairman of the Interdepartmental Committee on Employee Investigations appeared before this Commission at its request to express their views on the problem of subversive activities within the Government.

The Attorney General's observations are contained substantially in his memorandum<sup>13</sup> to the Chairman of the Commission.

Mr. D. Milton Ladd's observations are contained substantially in the memorandum<sup>14</sup> from the Federal Bureau of Investigation to the Chairman of the Commission.

Mr. Herbert E. Gaston's observations are contained substantially in his statement<sup>15</sup> submitted to the Commission.

<sup>10</sup> In general, this does not apply to selected positions in agencies having investigative facilities.

<sup>11</sup> Annexed hereto as exhibit 9.

<sup>12</sup> This generally would not apply to agencies having adequate investigative facilities of their own.

<sup>13</sup> Annexed hereto as exhibit 10.

<sup>14</sup> Annexed hereto as exhibit 6.

<sup>15</sup> Annexed hereto as exhibit 11.



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 59

The views expressed by Congressmen Combs and Rees are set forth substantially in the majority and minority reports, respectively, in the report<sup>16</sup> of the subcommittee of the House Civil Service Committee.

(4) *Statistical data on number of "loyalty" cases—(a) Statistics furnished by the Federal Bureau of Investigation.*—The Federal Bureau of Investigation files show that under the Hatch Act and the prohibitions contained in the appropriation acts for the years 1942-45, 6,193 cases were referred to it for investigation.

At the time of the investigations by the Federal Bureau of Investigation, 1,906 of the persons involved were no longer employed by the Federal Government.

In 1,114 cases, the investigative reports disclosed that the original complaints were totally unfounded.

In all cases, the Federal Bureau of Investigation reported the results of its investigations without recommendation or expression of opinion as to the action to be taken, leaving to the employing agency or department the determination as to whether the employee should be retained or removed.

One hundred and one individuals were discharged as a result of the information developed during the course of the investigations.

Twenty-one persons resigned while the investigations were in progress.

In 75 cases, administrative action, other than dismissal, was taken.

One hundred and twenty-two cases are still under consideration by the employing agencies and the investigations of 69 cases have not been completed by the Federal Bureau of Investigation. In the remaining 2,785 cases the employing agencies did not consider that the facts developed required any action.

(b) *Statistics furnished by the Civil Service Commission.*—According to information furnished by the Civil Service Commission, it was disclosed that for the period beginning with the fiscal year 1941 and ending on December 31, 1946, a total of 392,889 investigated cases covering qualifications, character, and loyalty of applicants were closed out.

Of this number, 43,537 persons were rated ineligible, of which 1,307 were cases in which disloyalty was the major disqualification. Some of the 43,537 cases also presented loyalty questions, even though the final rating of ineligibility was predicated on other grounds.

Of the 1,307 cases which were rated ineligible on loyalty grounds, 694 cases involved persons who were either Communists or followers of the party line.

Although the total number of investigations conducted by the Civil Service Commission is impressive, it should also be noted that the number of such investigations is relatively small in comparison with the number of placements which totaled 9,604,935 during the same period. Fiscal limitations and lack of sufficient investigative personnel were responsible for the inability of the Civil Service Commission to investigate all appointees. The statistics furnished by the Civil Service Commission are as follows:

Table showing total number investigated cases completed during period from July 1, 1940, through Dec. 31, 1946 (by fiscal years), and indicating the total number of such cases rated ineligible and the total number rated ineligible on loyalty grounds

Fiscal year	Total number placements (figures furnished by B. & F. Division)	Total number investigated cases completed	Total number ineligible cases	Percent of ineligible investigated cases to total number investigated cases	Total number investigated cases ineligible on loyalty grounds	Percent of ineligible loyalty cases to total number ineligible cases	Percent of ineligible cases on loyalty grounds to total number investigated cases
1941	561,789	13,921	3,059	21.0	105	3.4	0.7542
1942	1,549,678	55,636	11,658	20.0	278	2.4	.4906
1943	2,697,124	85,751	12,024	14.0	334	2.7	.3894
1944	1,982,118	70,775	5,913	8.3	355	6.0	1.5015
1945	1,826,159	118,036	7,229	6.0	144	2.0	.1219
1946	868,443	42,650	3,131	7.3	81	2.5	.1899
1947 <sup>2</sup>	119,624	6,120	523	8.5	10	1.9	.1633
Total	9,604,935	392,889	43,537	12.2	1,307	3.3	.3699

<sup>1</sup> These percentages are high because of the fact that when the Loyalty Rating Board was created in May 1944, it inherited a backlog of border-line cases which were already pending.

<sup>2</sup> Figures for this fiscal year cover the period July 1, 1946, through Dec. 31, 1946.

NOTE.—A major contributing factor to the high percentages of ineligible for the years 1941, 1942, and 1943 was the rigorous standards imposed, e. g., exclusion of foreign-born persons for civilian employment at Pearl Harbor.

<sup>16</sup> Annexed hereto as exhibit 3.



60 SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835

(c) Statistics furnished by the Interdepartmental Committee on Employee Investigations.—Statistical data received from the Interdepartmental Committee on Employee Investigations indicated that although that committee's functions are primarily advisory, it has handled a total of 729 cases in the period beginning February 5, 1944, and ending December 2, 1946. The committee's statistics are as follows:

	Figures for Feb. 5, 1944	Figures for Sept. 21, 1945 (cumulative)	Figures for Dec. 2, 1946 (cumulative)
A. Final action:			
Exonerated.....	141	394	453
Discharged as subversive.....	5	24	24
Other disciplinary action.....	3	3	3
Action suspended because of resignation or separation for reasons not within the purview of the order.....			
Total.....	165	443	554
B. Cases receiving attention in the agencies.....	86	104	75
C. Cases pending before the committee:			
Requests for advisory opinions.....	9	1	0
Agency reports of dispositions in process of review.....	41	2	0
D. Grand total.....	301	671	729

Incidence of cases:  
 February 1943 to February 1944..... Per month 25  
 September 1945 to December 1946..... 4

V. COMMENTARY AND CONCLUSIONS OF THE COMMISSION

While the Commission believes that the employment of disloyal or subversive persons presents more than a speculative threat to our system of Government, it is unable, based on the facts presented to it, to state with any degree of certainty how far reaching that threat is. Certainly, the recent Canadian espionage expose, the Communist Party line activities of some of the leaders and some of the members of a Government employee organization, and current disclosures of disloyal employees provide sufficient evidence to convince a fair-minded person that a threat exists.

The question of providing security procedures to furnish adequate protection for the internal security of the Government, directs attention to two mutually dependent means of solving the problem. Unless both of them are adequately provided for and made operative, there can be no achievement of the basic objective.

The first of these means may be referred to as the counter-espionage phase of counterintelligence, a weapon which is designed to protect our Government from all types of espionage infiltration by the penetration of enemy and subversive networks. The second is the means employed to prevent disloyal persons from working for the Government and represents counterintelligence in its defensive rather than offensive aspect.

The first means must be constantly improved and expanded in order to fully protect our Government. In handling employee loyalty, there has been a tendency to treat it as a personnel matter apart from its relationship to counterintelligence. Disloyal employees jeopardize the security of the interests and secrets of the Government, but the fact that other types of employees also jeopardize these same interests and secrets must not be lost sight of by a disproportionate preoccupation with the question of employee loyalty alone. Counterespionage will reveal the venal employee selling secrets to foreign agents as well as the disloyal employee whose motives are ideological rather than mercenary. Unless this entire problem is considered with proper emphasis on the counterespionage aspect of its solution, the Commission is convinced that the achievement of the basic objective may well fail.

However, because the Executive order did not include a study and determination of this first means, the Commission has directed its emphasis towards the second means, namely the study and determination of loyalty procedures which will provide for investigative and adjudicative processes designed to eliminate from the public payroll, both before and after employment, all disloyal and subversive persons.

The Commission is convinced that the combination of these two means provides our best protection from a danger which can develop into a real threat to our national security.



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 61

*A. General conclusion*

As a result of the inquiry made and the information received, the Commission draws the following general conclusions. In arriving at these conclusions, the Commission realized that employee loyalty is a subject in which hysteria, emotion, and irresponsible thinking can easily play havoc with what must be an intelligent, realistic, and factual approach.

1. Although the vast majority of Federal employees are loyal, some are subversive or disloyal. Because of the secretive manner and method of their operation, it is difficult to assess the numerical strength of the disloyal group. Whatever their number, the internal security of the Government demands continuous screening, scrutiny, and surveillance of present and prospective employees.

2. The presence within the Government of any disloyal or subversive persons, or the attempt by any such persons to obtain Government employment, presents a problem of such importance that it must be dealt with vigorously and effectively.

3. In addition to the emphasis properly placed on Communist and Communist front organization activities, attention should be directed to the resurgence of native Fascist movements.

4. Even if all the specific recommendations contained in this report are adopted and effectuated, there is still a distinct need for aggressive and uninterrupted counterintelligence, particularly in its counterespionage phases. A clear example of that need is presented in the recent widely publicized Canadian experience with Communist espionage activities. It would be unrealistic to assume that foreign powers are not maintaining intelligence networks in this country.

5. A guarantee of full and complete protection to the government is a commendable objective, but is rendered difficult of achievement by the fact that public funds are not unlimited and must be made available for many other necessary and vital purposes.

6. There are compelling reasons for authorizing the Secretaries of the State, War and Navy Departments and the Atomic Energy Commission to remove summarily any employee in the interest of national security. These more sensitive agencies require this specific authorization to safeguard the government from the destructive influence of disloyal or subversive persons.

*B. Specific conclusions and commentary thereon*

The questions raised by Paragraph 3 of the Executive order lead the Commission to draw specific conclusions, which together with the general conclusions stated above, serve as the basis for the Commission's recommendations.

The questions will be stated and answered in order, followed by a brief discussion leading to the conclusions. The Commission has considered security of the interests and secrets of the United States Government to be the basic objective. Disloyal or subversive employees jeopardize that security and it is imperative, therefore, that our Government take diligent measures to protect itself against such persons, both prior to and after, their employment.

Paragraph 3a of the Executive order poses two questions:

(1) Do the existing security procedures in the executive branch of the Government furnish adequate protection against the employment or continuance in employment of disloyal or subversive persons?

(2) What agency or agencies should be charged with prescribing or supervising security procedures?

The Commission resolved the first question in the negative.

In answer to the second question, the Commission concluded that in the case of an applicant seeking employment in the competitive service,<sup>17</sup> the agency so charged shall be the Civil Service Commission; and in the case of a person already employed or an applicant for employment outside the competitive service, the employing department or agency shall be so charged.

The inadequacy of existing loyalty procedures is demonstrated, it is believed, by reports from the agencies in the executive branch which indicate a lack of uniform procedural means and methods either to bar or banish the subversive or disloyal person from the Federal pay roll. There can be no doubt that prevailing techniques and procedures have been ineffective.

It is believed that the various departments and agencies of the Federal Government will move more aggressively toward the solution of loyalty problems if the responsibility for conducting necessary investigations of their own employees remains solely in the heads of such departments and agencies, and if they are provided with adequate standards and procedures. Limitations on funds and personnel and the shifting and unique patterns of security requirements within

<sup>17</sup> The term "competitive service" now includes all persons subject to the jurisdiction of the United States Civil Service Commission by virtue of the Civil Service Act of 1883, as amended.



the individual departments make it imperative that the head of each department or agency be solely responsible for his own loyalty program.

A central master card index available to all agencies designed to serve as a central source of information will facilitate the work of the agency in each case. Resort to the central master card index will enable departments and agencies, in many cases, to obtain pertinent information.

The designation of the Civil Service Commission as the advisory agency in connection with loyalty problems will repose in the present central personnel servicing agency duties similar to those of a clearinghouse.

At the present time one of the major difficulties confronting the heads of Federal agencies in making determinations in loyalty cases is the fragmentary character and inconclusiveness of the information in some investigative reports. The evidence necessary to support reasonable belief that an employee is disloyal must be of such a nature as will permit a fair-minded official to make such a determination in good conscience and with proper regard for the rights of the individual. In view of the problem existing in respect to the protection of confidential sources of information developed by investigative agencies, the departments and agencies must employ personnel who have been specially trained in security matters and who understand fully the requirements and the detailed operational techniques necessary for the protection of confidential sources of information. Establishment of an effective security control system for protecting confidential sources of information must be a condition precedent to the receipt by any Federal department or agency of full and complete reports from investigative agencies. Upon the establishment of such effective controls, there must then be a full disclosure to the requesting department or agency of evidence obtained by investigative agencies in loyalty cases.

Paragraph 3b of the Executive order poses two questions:

(1) Should the responsibility for acting upon investigative reports dealing with disloyal or subversive persons be left to the respective departments and agencies where such persons are employed?

(2) Should the responsibility for acting upon such reports be centralized in a single agency?

The Commission concluded that the first of these questions should be resolved in the affirmative.

With regard to the second of these questions, it concluded that the responsibility for acting upon such reports should not be centralized in a single agency, but that a central review board should be created with definite advisory responsibilities in connection with the loyalty program.

Existing law imposes the responsibility for the conduct of the internal affairs of each department or agency in the head thereof and principles of sound administrative management and executive accountability require that the present arrangement be left undisturbed.

However, so that the loyalty procedures operative in each of the departments and agencies may be properly coordinated, the Commission believes that a centralized advisory body should be established within the Civil Service Commission. Such advisory body shall advise departments and agencies on loyalty problems, disseminate to the departments and agencies information pertinent to loyalty matters, coordinate employee loyalty policies and procedures, conduct such studies and surveys and make such rules and regulations as it deems appropriate to the proper effectuation of the loyalty program, and from time to time, make such recommendations to the President as it deems necessary to the maintenance of employee loyalty.

Paragraph 3c of the Executive order poses two questions:

(1) What procedure should be established for notifying allegedly disloyal or subversive employees or applicants for employment of the charges made against them?

(2) What procedures should be established to guarantee a fair hearing on such charges?

Because of the confidential nature of the information, it is impossible in the notice served on an employee to specify all the sources of the information on which such charges are based. However, it is possible to be as specific and complete in stating the charges as security considerations permit. The usual objection raised by the employee in many loyalty cases is that since he has not been fully informed of the allegations against him, he is unable to prepare his defense. It is believed that stating the charges as specifically and as completely as security considerations permit, will offset this criticism and at the same time protect the confidential sources. Although the position of the employee must be considered, it is imperative that the identity of the source of confidential information be protected.



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 63

Fair administrative process will provide an employee with the right to a hearing with counsel and witnesses, and even though he will not have the right of confrontation, he will have an opportunity to present his side of the case prior to adjudication.

The action taken by a Federal department or agency to remove an employee is administrative in character and a hearing conducted for such a purpose is an administrative hearing and not a judicial proceeding. The responsibility of the head of the Department or agency is so to administer the affairs within his department or agency as to protect the best interests of the Government, and to protect the individual employee from unfounded accusations.

One must recognize that in dealing with subversive organizations the departments and agencies of the Government are dealing with organizations which resist a candid revelation of the facts in their possession, and which are committed to a policy of deception and falsification, which advocate a disregard for the sacredness of an oath, and which, while seeking to destroy all the traditional safeguards erected for the protection of individual rights, are determined to take unfair advantage of those selfsame safeguards.

Paragraph 3d of the Executive order poses the following question:

What standards are desirable for judging the loyalty of employees of the Government and applicants for such employment?

The answer to this question is found in the criteria recommended under paragraph 3d in the final part of this report.

It is the conviction of the Commission that the narrow limitations of the present statutory standards generally used for determining disloyalty, render it prudent to provide additional and more flexible criteria. At the same time, the Commission is well aware that flexibility must not be gained at too great a loss of definitiveness. The standards must be specific enough to assure that innocent employees will not fall within the purview of the disloyalty criteria. Every mature consideration was invoked by the Commission to afford maximum protection to the Government from disloyal employees while safeguarding the individual employee with a maximum protection from ill-advised accusations of disloyalty.

Paragraph 3e of the Executive order poses the following question:

Is further legislation necessary for the adequate protection of the Government against the employment or continuance in employment of disloyal or subversive persons?

The Commission concluded that, except for the necessity of permanently extending existing temporary legislation to protect certain sensitive agencies, no further legislation is required and specific recommendations are set forth under paragraph 3e in the final part of this report.

## VI. RECOMMENDATIONS

Based on the foregoing general and specific conclusions of the Commission, the following recommendations are respectfully submitted:

Under Paragraph 3a of Executive Order No. 9806, it is recommended as follows:

(a) Each department and agency shall be responsible for prescribing and supervising its own loyalty procedures, in accordance with generally applicable minimum requirements hereinafter recommended.

(b) A central master card index shall be maintained in the Civil Service Commission covering all persons on whom loyalty investigations have been made by any department or agency since September 1, 1939. The master file shall contain the name, adequate identifying information and an indication that a report can be found in the appropriate department or agency. The investigative report in each case shall remain in the investigating agency.

(c) (1) At the request of the head of any department or agency an investigative agency shall make available to such head, personally, all investigative material and information collected by the investigative agency on any employee or prospective employee of the requesting department or agency, or shall make such material and information available to any officer or officers designated by such head and approved by the investigating agency.

(2) Notwithstanding the foregoing requirement, however, the investigative agency may refuse to disclose the names of confidential informants, provided it furnishes sufficient information about such informants on the basis of which the requesting department or agency can make an adequate evaluation of the information furnished by them, and provided it advises the requesting department or agency in writing that it is essential to the protection of the informants or to the investigation of other cases that the identity of the informants not be revealed.



64

## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835

It is not intended that investigative agencies should use this discretion to decline to reveal sources of information where such action is not essential.

(d) The Attorney General shall currently furnish information to the Civil Service Commission on all organizations designated by him in accordance with the criterion established in subparagraph vi of the recommendations under paragraph 3d of Executive Order 9806. The Civil Service Commission shall disseminate this information to all departments and agencies together with any other current information on related loyalty problems. It shall be the responsibility of the Loyalty Review Board, hereinafter provided, upon request, to advise any department or agency on loyalty matters.

(e) The loyalty boards of the various departments and agencies, hereinafter provided, may be called upon by the Civil Service Commission or the Loyalty Review Board for reports to indicate the number of loyalty cases on which a determination has been made during a given period.

(f) Each department or agency shall be responsible for the loyalty investigation of any of its employees whenever it is deemed necessary. Those departments and agencies not having investigative organizations will use the investigative facilities of the Civil Service Commission.

(g) (1) There shall be a loyalty investigation of all persons entering the employ of any department or agency. All investigations of persons entering the competitive service shall be conducted by the Civil Service Commission, except in such cases as are covered by a special agreement between the Commission and any given department or agency. The investigation of all persons entering the employ of any department or agency, other than those entering the competitive service, shall be the responsibility of the employing department or agency.

(2) The investigation shall be conducted either before or after a person goes on the pay roll. In the case of a person entering the competitive service, if the investigation continues after the date he goes on the pay roll and is not completed within 18 months from that date, the condition that his employment is subject to investigation shall expire except in a case where the Civil Service Commission has made an adjudication of disloyalty and the case continues to be active by reason of an appeal.

(3) A full field investigation shall be conducted of those applicants designated by the head of the employing department or agency, such designation to be based on what he considers to be in the best interest of national security.

(4) An investigation short of a full field investigation shall be made on all other applicants at all available pertinent sources of information, such as:

- i. Federal Bureau of Investigation files.
- ii. Civil Service Commission files.
- iii. Military and naval intelligence files and the files of any other pertinent intelligence or governmental investigative agency not previously referred to.
- iv. House Committee on Un-American Activities files.
- v. Local law enforcement files at the place of residence or employment, such as municipal, county, and State.
- vi. School and college.
- vii. Former employer or employers.
- viii. References.
- ix. Any other similar checks as may be appropriate.

If any of these sources reveal derogatory information, there shall then be a full field investigation.

(h) Each department and agency to the extent that it has not already done so, or the Civil Service Commission, shall submit lists of the names of all of its incumbent employees (and such other necessary identifying material as the Federal Bureau of Investigation may require) to the Federal Bureau of Investigation of the Department of Justice, which shall check such lists against its records of persons concerning whom there is substantial evidence of being within the purview of paragraphs (i) to (vi) of the recommendations herein made under paragraph 3d of Executive Order 9806. After such check is made each department and agency shall make, or cause to be made by the Civil Service Commission, such other investigation of its employees as the head of the department or agency shall deem advisable, as indicated by the aforesaid check.

(i) That the President direct the Security Advisory Board of the State-War-Navy Coordinating Committee to draft uniform minimum rules applicable to the handling or transmission of all confidential documents, or other documents or information which should not be publicly disclosed, and upon approval by the President, such rules shall apply to all departments and agencies of the executive branch of the Government.



## SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835 65

Under paragraph 3b of Executive Order No. 9806, it is recommended as follows:

- (a) The responsibility for acting upon investigative reports shall be left to the respective departments and agencies and not to a central agency or committee.
- (b) The head of each department and agency shall appoint a Loyalty Board or Boards of not less than three members each for the purpose of hearing loyalty cases.
- (c) There shall be established in the Civil Service Commission a Loyalty Review Board with power:

- i. To advise all departments and agencies on all problems related to employee loyalty.
- ii. To disseminate all information pertinent thereto.
- iii. To coordinate the employee loyalty policies and procedures of the various departments and agencies.
- iv. To make any rules and regulations deemed necessary to implement applicable statutes and Executive orders.
- v. To make reports and submit recommendations to the President from time to time whenever such actions are deemed necessary to the maintenance of the employee loyalty program.
- vi. Except in cases arising in a department or agency which is authorized to remove an employee summarily for security reasons (as now provided for in Public Law No. 808 and under the McCarran rider), the Loyalty Review Board shall have power to review cases involving subversive or disloyal persons and to make advisory recommendations thereon to the head of the employing department or agency. Cases which are subject to review may be referred to this Board for advisory recommendations either by an employing agency or department or by an employee in the executive branch of the Government who has been adjudged to be disloyal or subversive.

Under paragraph 3c of Executive Order No. 9806, it is recommended as follows:

- (a) An employee who is charged with being disloyal shall have a right to an administrative hearing before a loyalty board in the employing department or agency. He may appear personally, accompanied by counsel or representative of his own choice, with witnesses, and present any evidence, including affidavits, in his behalf. Each department or agency shall prescribe regulations for the conduct of these hearings.

- (b) The employee shall have the right to reply in writing to the charges so made and each agency shall serve a written notice on such employee containing:
  - i. A statement of the charges preferred against him, the specification of such charges to be as complete as security considerations permit.
  - ii. A statement that he has a right to reply to the charges in writing within a reasonable period of time, to be specified.
  - iii. A statement as to his right of hearing, if he so desires, at which he may personally appear with counsel or representative of his own choice, and witnesses, and present evidence, including affidavits, in his own behalf.

- (c) When a loyalty board recommends removal there shall be, prior to removal, a right of appeal under provisions prescribed by the head of each department or agency.

- (d) The rights of hearing, notice and appeal shall be accorded to all employees, irrespective of tenure or manner, method or nature of appointment.

Under paragraph 3d of Executive Order No. 9806, it is recommended as follows:

The underlying standard for either the refusal of employment or removal from employment in loyalty cases shall be that, on all the evidence, reasonable grounds exist for believing that the person involved is disloyal to the Government of the United States. Individual employee activities and associations which may be considered in this connection include one or more of the following:

- i. Sabotage, espionage, or attempts or preparations therefore, or knowingly associating with spies or saboteurs;
- ii. Treason or sedition or advocacy thereof.
- iii. Advocacy of revolution or force or violence to alter our constitutional form of government.
- iv. Intentional, unauthorized disclosure to any person of documents or information of a confidential or nonpublic character obtained by the person making the disclosure as a result of his employment by the Government of the United States.
- v. Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.
- vi. Membership in, affiliation with or sympathetic association with any foreign or domestic organization, association, movement, group or com-



## 66 SECURITY REGULATIONS UNDER EXECUTIVE ORDER 9835

bination of persons, designated by the Attorney General as totalitarian, Fascist, Communist, or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny others their constitutional rights, or as one which seeks to alter our form of government by unconstitutional means.

Under paragraph 3e of Executive Order No. 9806, it is recommended as follows:

(a) That the temporary legislation by which the Secretaries of the War, Navy, and State Departments can presently remove any employee summarily for security reasons, be made permanent because of the sensitive nature of the operations of these three departments, and that permanent legislation of the same character be enacted to grant similar power to the Atomic Energy Commission.

(b) That all of the recommendations contained in this report be effectuated by the promulgation of an Executive order which will simultaneously provide for the abrogation of Executive Order No. 9300, dated February 5, 1943.

In conclusion, the Commission recommends that this report, together with any Executive order which the President may issue, be submitted to Congress for consideration.

A. DEVITT VANECH (Justice), *Chairman*.  
JOHN E. PEURIFOY (State).  
EDWARD H. FOLEY, Jr. (Treasury).  
KENNETH C. ROYALL (War).  
JOHN L. SULLIVAN (Navy).  
HARRY B. MITCHELL (Civil Service Commission).

(Thereupon, at 4:05 p. m., the committee adjourned, subject to the call of the Chair.)



## INDEX

	Page
Administrative embarrassment.....	32, 33, 45
Armed services: Making plans with larger industries and some of the smaller industries as to production in event of war.....	49
Authority:	
Draw up "security regulations".....	8
In section 2 of Executive Order 9835.....	38
Make regulation other than that which has to do with the internal management of the Government.....	38
Code, United States:	
Title II, section 192: Witness summoned by authority of either House of Congress, who willfully makes default.....	2, 40
Title V, section 652: Rights of persons employed in the Civil Service Commission to petition Congress.....	1
Commission on Employee Loyalty.....	8
Creation of Board.....	9, 10
Democracy: Depends upon a constant flow of complete information on departmental activities.....	53
Directed subcommittee to prepare regulations (exhibit B).....	29
Draft, first:	
Destruction of classified material.....	35, 36
Instruction on classifying information.....	34
Overclassification.....	35
Executive Order 9835:	
Drafted by Attorney General.....	46
Prescribing procedures for the administration of an employees' loyalty program.....	38
Rules apply to information received from any and every source and have to do with information and foreign relations as well as to internal affairs.....	38
Whereases have to do only with disloyalty of Government employees..	38
Federal statutes applicable:	
Title II, U. S. C., section 192: Witnesses summoned by authority of either House of Congress—who willfully makes default.....	2, 40
Title V, U. S. C., section 652: Rights of persons employed in the Civil Service Commission to petition Congress.....	1
Freedom of press.....	31, 44, 53
Identify preliminary draft.....	12
Information denied re:	
Investigators' leads file compiled by the Civil Service Commission which included—	
Names of prominent citizens who were not applicants for Federal employment.....	1
Views and activities of Congressmen, Senators, and Senators' wives.....	1
Paroles granted four Chicago gangsters.....	1, 30
What conciliators and mediators were doing in connection with strikes, labor disputes, and violence.....	1
Information man: Function of, in Government department.....	52
Justification for—	
Classification of material which, while not affecting the national security, might damage the prestige of a Government agency.....	37
No provision for, in final draft of rules.....	37
Newspapermen:	
Favor scrapping of "minimum standards".....	46
Fears overdrawn.....	43
Recommend scrapping of whole principle of classification.....	44, 45



INDEX

	Page
Policies of departments: Not to disclose information.....	1
Preliminary draft—"minimum standards".....	13
Prestige of the Nation—detrimental to: Can be construed as broad enough to include everything.....	43, 44, 46, 47
Regulations:	
Applicable to all departments and agencies of the executive branch of the Government.....	29
Binding on Members of Congress.....	29
Reports:	
President's Temporary Commission on Employee Loyalty—basis of Executive Order 9835.....	39
Of State Department:	
Private report between "big four" Standard Oil companies and the English oil companies re their negotiations in London during the past year.....	37
Occupation costs of Germany and Japan.....	37
Suppressed report—number of.....	37
Wedemeyer report on China—suppressed.....	37
Roosevelt, Franklin D.:	
Speech:	
October 23, 1940—"We are arming ourselves not for any foreign war. * * * *"	50
October 30, 1940—"And while I am talking to you mothers and fathers, I give you one more assurance. * * * *"	51
Rules: Head of departments can suppress anything and everything that the Board seeks to classify.....	39
Security Advisory Board: Justified in acting upon terms of its instruction set forth in paragraph 2 of part 6 of rules for handling of confidential documents.....	39
Sensitive agencies.....	32
State, War, and Navy Coordinating Committee.....	10
Charter of.....	11
Statutory provisions applicable:	
Title II, U. S. C., section 192: Witness summoned by authority of either House of Congress—who willfully makes default.....	2, 40
Title V, U. S. C., section 652: Rights of persons employed in the Civil Service Commission to petition Congress.....	1
Veterans' Administration:	
Order, Circular No. 61.....	43, 45, 46
Release of confidential report on those under.....	6, 41
Views of—	
Finney, Mr., Minneapolis Tribune.....	43
Letts, Ed., managing editor, Scripps-Howard newspaper at Pittsburgh, Pa.....	43
War:	
Armed services making plans with larger industries and some of the smaller industries as to production in event of.....	49
Deciding factor:	
Congress.....	49, 50
State Department.....	49
War, promised to keep us out of: Roosevelt, Franklin D.....	50, 51



STATE-ARMY-NAVY-AIR FORCE  
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*Cong. Hearings*

March 11, 1948

MEMORANDUM FOR COLONEL BLAKENEY:

As requested, I attended the further hearings yesterday afternoon before a subcommittee of the House Committee on Expenditures in Executive Departments with reference to the Minimum Standards drafted by the SAB.

Two witnesses were heard - Mr. Nat Finney, correspondent for the Minneapolis Star and Tribune and the Des Moines Register and Tribune, and Mr. Carlton Skinner, Director of Information and Security Officer for the Interior Department.

Mr. Hoffman, Chairman of the subcommittee, opened the hearings shortly after 2:00 p.m. and accepted for inclusion in the record two recent newspaper articles - one from the Chicago Tribune on how to achieve military secrecy and one from the New York Herald Tribune on the security regulations - which were not read to the Committee. Certain portions of the testimony were off the record. To the best of my recollection, off-the-record testimony is omitted from this summary.

Mr. Finney, the first witness extemporized from a prepared statement, the full text of which was accepted for inclusion in the record. The bulk of the quoted testimony in the attached ticker excerpts was apparently taken from this prepared statement although certain portions were referred to in the direct testimony. Although Mr. Finney did state he had been misinformed in some respects regarding the basis for the security regulations issued by the Veterans Administration, he stated it was still his understanding they were issued "at the direction of the Security Advisory Board". The general tenor of Mr. Finney's oral testimony was that the proposed regulations would result in withholding information the press and public should have and stressed the fact that the proposed regulations were "minimum" and would be made much more rigid by any agency head desiring to do so. Under questioning of Mr. Karsten he admitted there was some information which responsible public officials should not disclose but stated he believed the discretion of such officials, rather than security regulations, should govern. He stated he had no quarrel with a system of classification for the sensitive agencies - or even with abuse of such a system in such agencies - but did not believe it necessary or advisable in

handling



-2-

handling the domestic affairs of the Government. He admitted his fears of "peacetime censorship" were based on the possibilities of abuse and poor administration of the regulations as drafted.

Mr. Finney stated his belief that Mr. Robinson had been accurately quoted by him previously and that it appeared to him the mere drafting of the Standards bolstered this belief since there was obviously no purpose to the regulation other than to formalize the authority of public officials to decide what information should be released. He also stated Mr. Robinson had misled him as to the status of the regulations - that the only difference between the photostatic copy of the preliminary draft he secured and Annex B in the November 14 hearings was the removal of the "administrative embarrassment" language and that he was still unable to determine their present status. At this point, Mr. Hoffman read into the record the two recent letters from Mr. Robinson and Mr. Moseley about the present status of the draft.

In the course of the hearing, Mr. Hoffman questioned the necessity or advisability of additional testimony since Mr. Bender's object was to prevent issuance of the regulations and since the Coordinating Committee had agreed to hold the proposed draft in abeyance pending completion of the House Committee's investigation and report. In response to a question from the Chairman as to who was in back of the regulations, Mr. Bender answered "the Administration." It was also stated by Mr. Finney (and, I believe, by Mr. Bender) that it was believed an attempt would be made by the administration to put the draft into effect.

In support of his contention that the Standards represented an attempt to extend military secrecy regulations to all agencies, Mr. Hoffman quoted portions of Colonel Blakeney's testimony on the long-time inclusion of the "administrative embarrassment" phrase in security regulations of the War and Navy Department.

Mr. Skinner, who, according to the testimony, was requested to appear at the instance of Mr. Bender, opened his testimony with the statement that he was not present to testify either for or against the regulations under consideration, but would give whatever information he could on the basis of his experience in both the information and security fields. Under questioning, it became apparent that he believed some such regulations advisable. He stated he felt the Standards as drafted could be administered without danger of censorship or undue administrative burdens; that the only constructive suggestion he had to offer was that if the regulations were put into effect they should be administered by a separate administrative group (in CIA, for instance) under a small group of individuals having no other responsibilities, rather than by an interdepartmental committee

composed



-3-

composed of members having other duties and able to devote only part time to Government security regulations; that probably part of Mr. Finney's difficulties with Mr. Robinson arose from the fact that Mr. Robinson has "about ten other jobs" and probably was not always readily available; that proper administration of regulations such as those proposed required full time of responsible officials who would always be available for prompt interpretations of the regulations. He also stated that the Secretary of Interior had issued instructions that all employees of the Department were to talk freely to the press at all times; that to insure free flow of information to the press and to avoid abuse of security regulations, he had deliberately placed responsibility for security of the Department under the Director of Information.

At the close of the hearing, the Chairman was asked by a representative of the press when further hearings were to be scheduled. He replied whenever the press so requested.

The hearing adjourned at 3:10 p.m.

S. G. Blake  
Secretary