

U. S. Loyalty Board Is Named to Hear Dismissal Appeals

20 on Panel to Review All Federal Employee Ousters Since Oct. 1

F. B. I. Co-operation Pledged by Hoover

Offer Counters Marshall Hint the Agency Would Not Divulge Findings

By Bert Andrews
WASHINGTON, Nov. 8.—A far-reaching action, which, on the face of it, will give an employee discharged by any government agency the right to appeal so that he can learn the charges against him and present his defense, was taken today by the United States Civil Service Commission.

The commission, in a release issued just one week after the New York Herald Tribune had revealed the details of the case of one State Department worker who was summarily dismissed and never told why, announced the appointment of nineteen men and one woman to serve as members of a Loyalty Review Board to hear appeals involving individuals accused of being disloyal or bad security risks.

The new board, created under an executive order issued by President Truman, is headed by Seth W. Richardson, Assistant Attorney General under former President Hoover and former attorney for the Congressional committee which investigated Pearl Harbor.

This board can be appealed to in all cases of employees dismissed since Oct. 1, 1947.

It is not certain whether the new board itself will have jurisdiction over the cases of eleven State Department employees dismissed prior to that time.

Certainties in Situation

It is certain, however, that the Civil Service Commission will have the right to hear the cases of the eleven—if they file appeals.

That the commission intends to ask the State Department for documents and charges under the department's control involving these individuals—if the individuals file appeals.

That the commission will also

No F. B. I. Objection
This new certainty was that the Federal Bureau of Investigation will not object if the State Department chooses to turn over to the Civil Service Commission, or the Loyalty Review Board, any material developed by the F. B. I. in its investigation of any of the eleven who choose to appeal.

J. Edgar Hoover, director of the Federal Bureau of Investigation, told the New York Herald Tribune that the F. B. I. would co-operate to the fullest with the Civil Service Commission and the new Loyalty Review Board, and would make available to either or both all pertinent information in the F. B. I. files.

This would mean that the Civil Service Commission and the new board could get from the F. B. I. all documents in the cases—documents which the State Department had previously indicated the State Department could not make available because they were not "under the department's control."

Secretary Marshall said on Wednesday that much of the State Department case against the man was based "on highly classified material not under the department's control." He said: "Security clearance of any other material in the file will be the responsibility of the (Civil Service) Commission or the (Loyalty Review) Board." The inference all reporters drew from this was that the State Department was saying in effect: "We'll gladly give the review bodies all the stuff we've got but we can't give them anything from other investigating agencies because those other agencies won't perjure it."

Now it is apparent that at least one other agency, the F. B. I., is entirely willing for the commission or the board to have anything it has furnished the State Department, and that if such material is held back it is not due to any order by the F. B. I.

Thus, on the face of today's developments, the eleven fired by the State Department have achieved complete, or almost complete, restoration of the civil right of any American to (1) know what he is charged with and (2) not to be convicted on anonymous or unrevealed testimony.

Clarification Lacking

The words "on the face of today's developments" seemed a necessary qualification to newspaper men because of the lack of complete clarification.

Harry B. Mitchell, president of the Civil Service Commission, re-

4. That the Civil Service Commission, however, would have the right to rule, in the cases of the eleven, and the Loyalty Review Board, in cases occurring after Oct. 1, that accused individuals should be heard as far as employment in other agencies was concerned.

Brighter Outlook Seen

Thus, "on the face of the developments," the situation seemed better for the dismissed individuals and for many, many others who, in the opinion of objective reporters, have been living in fear that some such thing might happen to them.

The flaw in the argument was pointed up by Abe Fortas, of the law firm of Arnold, Fortas & Horner, which is representing seven of the eleven discharged State Department employees because the firms think their civil liberties were violated when they were discharged without knowing the nature of the accusations against them.

Mr. Fortas pointed out that the President's executive order provided:

"The charges shall be stated as specifically and completely, as the discretion of the employing department or agency security considerations permit."

Mr. Fortas added:

"The crucial question is whether despite the bold language in the Civil Service Commission statement setting up the Loyalty Review Board, the employing department or agency will specify its charges against a man but will make them subject to restrictions on material in the agency files which came from other investigating agencies."

Mr. Fortas was saying, in effect:

"The test will be whether the State Department, in the cases of our clients, will supply the Civil Service Commission or the Loyalty Review Board with documents it has obtained from the F. B. I. and other investigating agencies, as well as documents it had obtained by itself."

The answer as to whether F. B. I. files would be available to the commission or the Review Board came from J. Edgar Hoover, director of the F. B. I., who said:

The Federal Bureau of investigation will lend its fullest co-operation to the Civil Service Commission and the Civil Service Commission's Loyalty Review Board.

"This will include making available to the commission and to the Review Board the contents of its files where pertinent."

Members Named

The twenty members of the Loyalty Review Board named today, with brief biographies, follow:

GEORGE W. ALGER: Member of law firm of Alger, Peck, Andrew, Rohlf, New York. Drafted present New York employees' liability act and many amendments to child labor laws; served by special appointment of Governor of New York as commissioner to investigate operation and management of the state prisons of New York and the operation of Board of Parole; served as impartial chairman from 1931-1935 of Commission on Cloak and Suit Industry.

JOHN HARLAN AMEN: Mem-

United States at the University

HARRY A. BIGELOW: Professor and dean emeritus, Law School, University of Chicago. Noted author of case books on the law of property.

AARON J. BRUMBAUGH: Vice-president, American Council on Education; formerly president of Mt. Morris College; dean, College of Arts, Literature and Science, University of Chicago.

JOHN KIRKLAND CLARK: Member of law firm of Clark and Welch, New York; President New York State Board of Law Examiners since 1921; special counsel in connection with numerous investigations in New York City.

HARRY COLMERY: Practicing attorney Topeka, Kan.; past national commander of American Legion.

TOM J. DAVIS: Practicing attorney in Butte, Mont.; served as president of Rotary International in 1941; consultant to United States delegation at San Francisco United Nations meeting, 1945.

BURTON L. FRENCH: Professor of government, Miami University, Oxford, Ohio; served for twenty-six years in House of Representatives from the State of Idaho, fourteen of which as member of Committee on Appropriations.

META GLASS: President Sweetbridge College from 1925 to 1947; president Association of American Colleges, 1928-'29 and 1938-'39.

EARL HARRISON: Professor and dean, Law School, University of Pennsylvania, Philadelphia; formerly member of law firm of Saul, Ewing, Remick and Harrison, Philadelphia; served as United States Commissioner of Immigration and Naturalization 1942-1944.

GARRETT HOAG: Member of law firm of Foley, Hoag and Elliot, Boston.

WILBUR LAROE Jr.: Practicing attorney in Washington; moderator, Presbyterian Church in the U. S. A.; formerly chief examiner, Interstate Commerce Commission.

ARTHUR M. MACMAHON: Eaton professor of public administration, Columbia University; editor, New York City Charter Revision Commission 1921-'23; member President's Committee on Administrative Management 1936; consultant Department of State, 1943-'45.

CHARLES E. MERRIAM: Professor of political science, University of Chicago; member of Hoover Commission on Recent Social Trends; member National Resources Board 1933-'43; member President's Committee on Administrative Management, 1938; formerly president, American Political Science Association.

HENRY PARKMAN Jr.: Member of law firm Hemenway & Barnes, Boston; trustee, Metropolitan Transit Authority, Boston; member, Massachusetts Senate 1929-'36; corporation counsel, Boston, 1938-'40.

BETH W. RICHARDSON: Member law firm Davies, Richberg, Deebe, Dusick & Richardson, Washington; formerly Assistant Attorney General of the United States; served as attorney for Congressional committee investigating Pearl Harbor.

ALBERT M. JAMES: Served as Judge, United States District

How It Will Operate

The Civil Service Commission said that the loyalty program would operate in the following manner, in accordance with the President's executive order, in so far as incumbent employees are concerned:

1. The names of all persons who were on the pay roll prior to Oct. 1, 1947, will be submitted to the Federal Bureau of Investigation at the rate of approximately 15 per cent a month. All names will have been submitted by March 31, 1948.

2. The Federal Bureau of Investigation will search both its fingerprint and name files for loyalty information on these incumbent employees.

3. Whenever the check of the Federal Bureau of Investigation files develops a question of loyalty relative to an incumbent employee, the Federal Bureau of Investigation will immediately launch a full field investigation.

4. The results of this full field investigation will then be sent to the Civil Service Commission by the Federal Bureau of Investigation.

5. The Civil Service Commission will make a record of the receipt of the report, and will then transmit it at once to the department or agency in which the employee is working.

6. When the report is received by the department or agency in which the employee is working it will be referred to an agency loyalty board appointed by the head of the department or agency concerned.

Right to a Hearing

Under the provisions of the President's executive order, the employee concerning whom the investigation was made will have a right to an administrative hearing before the agency loyalty board.

Also, under the provision of the President's executive order, the employee must be served with a written notice of the hearing to be

conducted by the agency loyalty board and must be informed in the written notice of the nature of the charges against him in sufficient detail so that he will be enabled to prepare his defense.

The executive order provides specifically that "the charges shall be stated as specifically and completely, as in the discretion of the employing department or agency security considerations permit and the officer of employee shall be informed in the notice (1) of his right to reply to such charges in writing within a specified reasonable period of time, (2) of his right to an administrative hearing on such charges before a loyalty board, and (3) of his right to appear before such a board personally to be accompanied by counsel or representative of his own, choosing and to present evidence on his behalf through witness or by affidavit."

7. If the agency loyalty board recommends the removal of the employee, he will be entitled, under the executive order, to appeal to the head of the employing department or agency, or to such person or persons as may be designated by the head of the department or agency.

May Ask Advisory Opinion

8. When the head of the agency

employee will be notified by the Civil Service Commission's Loyalty Review Board and appropriate steps will be taken to insure a complete presentation of all of the facts in the case to the members of the Loyalty Review Board who may be assigned to the particular case.

If the head of the department or agency accepts a recommendation from the agency loyalty board for removal of an employee, the employee may, if he so desires, appeal to the Loyalty Review Board in the Civil Service Commission. The board will then take appropriate steps to consider his case.

10. Upon the completion of the consideration of a case, the commission's Loyalty Review Board will make an appropriate recommendation to the head of the department or agency concerned who has the responsibility for taking final action in the case of all incumbent employees.

Case of New Appointees

The loyalty program will operate in the following manner, the commission said, in so far as new appointees are concerned:

1. All employees appointed to the executive branch of the Federal government subsequent to Oct. 1, 1947, have been and will be appointed "subject to the results of an investigation."

2. As soon as the new appointees are placed on the rolls the Civil Service Commission will be notified and, in conformity with the provisions of the President's execu-

utive order, the commission will check these persons against the following sources of information:

(a) Federal Bureau of Investigation files.

(b) Civil Service Commission files.

(c) Military and naval intelligence files.

(d) The files of any other appropriate government investigative or intelligence agency.

(e) The files of the House Committee on Un-American Activities.

(f) Local law enforcement files at the place of residence and employment for the new appointee, including municipal, county and state law enforcement files.

(g) Schools and colleges attended by the new employee.

(h) Former employers of the new employee.

(i) References given by the new employee.

3. Whenever the checks which are made against these sources of information bring to light derogatory information with respect to loyalty the case will be referred immediately to the Federal Bureau of Investigation for a full field investigation.

4. When the Federal Bureau of Investigation has completed the investigation the report will be referred to the Civil Service Commission.

5. The Civil Service Commission will then refer the report to an appropriate regional loyalty review board located in one of its fourteen regional offices.

These boards will be constituted

in substantially the same manner as the central Loyalty Review Board which has just been appointed by the commission.

6. The regional loyalty boards will provide the new appointee with a statement of the derogatory information bearing on loyalty which has been developed, and will likewise provide him with an opportunity to present his side of the case. In this connection, he will have the opportunity of be-

ing represented by counsel and will likewise have the right to present evidence in his behalf either through witness or by affidavit.

7. Any action taken by a regional loyalty review board in the case of a new appointee may be appealed to the central Loyalty Review Board which, in turn, will make a recommendation to the members of the Civil Service Commission who will have the responsibility for making the final decision.