

MEMORANDUM TO THE CABINETSecurity Review Procedure

The Cabinet Committee on the Security Appeal System met on December 3rd, 1958, to consider a draft Order in Council, setting out a procedure by which government employees whose loyalty was in doubt could be given an opportunity of appearing before an impartial body and answering the information against them. The draft Order had been prepared in consultation with the interdepartmental Security Panel, whose members foresaw a number of difficulties in its implementation, the chief of which was that the deputy minister of a department would be placed in a very awkward position if a board of review or appeal outside the public service disagreed with his initial decision to dismiss an employee on security grounds. The Cabinet Committee therefore referred the draft Security Review Order back to the Security Panel with a request that an attempt be made to devise a system in which a security case would be reviewed by an impartial body before a decision to dismiss was taken.

2. The Security Panel met on January 23rd, 1959, and, after consideration of the problem, expressed the view that the operation of the proposed review procedure would undermine the established managerial responsibilities and practices within the public service; that it would be subject to continuing pressures for its extension to include full judicial safeguards for the employee, thus endangering vital sources of security information; that it would also be subject to pressures for its extension to employees of Crown companies and employees of private firms engaged on secret or confidential contracts; and that, because of these dangers, departments would tend to seek other methods of dealing with security cases in order to avoid making use of a mandatory system of review by an outside body. The Panel therefore reported to the Cabinet Committee:

- (a) that, after considering the probable consequences of introducing a system of security review such as that set out in the draft Security Review Order under consideration, it could not recommend its introduction;
- (b) that, if the government nevertheless decided to introduce a system of security review, the system set out in the present draft Security Review Order, with certain minor modifications, appeared to be as good a system as could be devised;
- (c) that there might be merit in the Cabinet Committee considering the adoption of a less formal arrangement, by which outside advice on difficult security cases could be obtained on an ad hoc basis when it was considered appropriate; and

- (d) that the Security Panel was at present reviewing current security policy as set out in Cabinet Directive No. 29 of December 31st, 1955, with a view to recommending certain modifications based upon experience with security problems in the past three years.

3. The Cabinet Committee met again on May 21st, 1959, to consider the views of the Security Panel, and a revised draft of the Security Review Order. While its members were not in full agreement as to the value or necessity of introducing a system of security review, it was generally agreed that the system set out in the attached draft Order in Council appeared to be the best that could be devised, should the government decide to institute it. The undersigned is of the view that there is a need for an objective body of intelligent and experienced persons to assist the government in arriving at fair and effective decisions in difficult security cases. The Cabinet is therefore asked to consider the review procedure set out in the attached draft Order in Council in the light of these views, and to determine such action as may be appropriate.

E.D. Fulton,  
Minister of Justice.

O t t a w a,  
June 24th, 1959.