

detention, providing in subsecs. (a) to (h), respectively, for warrants and applications; service of warrants and apprehension, and copies for persons apprehended; places of confinement, provision for transportation, food, shelter, etc., and supervision; preliminary hearing, rights of detainee, evidence, orders and reports of hearing officer, and appointment of preliminary hearing officers; receipt of additional information upon request of detainee, and revocation or modification of detention order; presentation of evidence in case of Board or court review and right to withhold certain information; regulations by Attorney General and exclusion of forced labor and confinement with criminals; and bi-monthly reports to President and Congress during emergency.

Section 815, act Sept. 23, 1950, ch. 1024, title II, §105, 64 Stat. 1023, related to the Detention Review Board, providing in subsecs. (a) to (d), respectively, for creation of Board, membership, terms, designation of Chairman, and removal; Board divisions, vacancies, powers of remaining members, quorums, official seal, and judicial notice thereof; reports to Congress and its contents; and dissolution upon termination of emergency, release of detainees, conclusion of proceedings, and subsequent establishment.

Section 816, act Sept. 23, 1950, ch. 1024, title II, §106, 64 Stat. 1024, related to salaries of Board members, other personnel, use of agencies and services, expenses, and appropriations.

Section 817, act Sept. 23, 1950, ch. 1024, title II, §107, 64 Stat. 1024, specified the District of Columbia as Board headquarters and related to meetings and hearings outside the District.

Section 818, act Sept. 23, 1950, ch. 1024, title II, §108, 64 Stat. 1024, related to rules and regulations by the Board and applicability of the Administrative Procedure Act.

Section 819, act Sept. 23, 1950, ch. 1024, title II, §109, 64 Stat. 1025, related to powers and duties of Board, providing in subsecs. (a) to (j), respectively, for review of, and action on, orders and claims, and determination of security risks; time for hearing on petition for review, the notice and place; information which may be given to detainee in review cases; subpoenas, oaths, affirmations, witnesses, evidence, aid of courts, and contempt; service of papers, fees and mileage, and information from other Government agencies; rights of detainee at hearing; consideration of confidential evidence, reduction of evidence to writing, and additional testimony, and argument; evidentiary matters considered in deciding questions as to security risks; necessity for reasonable ground for belief, and claims for indemnity and receipt of evidence having probative value.

Section 820, acts Sept. 23, 1950, ch. 1024, title II, §110, 64 Stat. 1027; Aug. 28, 1958, Pub. L. 85-791, §30(a), 72 Stat. 950, related to orders of Board, providing in subsecs. (a) to (e), respectively, for revocation of detention order; orders sustaining or denying indemnity claims; dismissal of petition and confirmation of detention order; report and recommended order of hearing examiner, and effectiveness after expiration of time period; and modification or setting aside by Board of its own findings or orders prior to court review.

Section 821, acts Sept. 23, 1950, ch. 1024, title II, §111, 64 Stat. 1028; Aug. 28, 1958, Pub. L. 85-791, §30(b), (c), 72 Stat. 950, 951, related to judicial review, providing in subsecs. (a) to (g), respectively, for rights of petitioner; orders granting indemnity and right of Attorney General; courts of appeals, place, petition, time, service, record, statement, powers of court, and conclusiveness of Board's finding; additional evidence, modification of, or new, findings by Board, recommendations, exclusiveness of court jurisdiction, finality of judgment, and review by Supreme Court; commencement of review proceeding as stay of Board's order; time of finality of Board's order; and applicability of Administrative Procedure Act.

Section 822, act Sept. 23, 1950, ch. 1024, title II, §112, 64 Stat. 1029, related to resisting, disregarding, or evading apprehension, escape or attempts at escape, conspiracy, and to penalties.

Section 823, act Sept. 23, 1950, ch. 1024, title II, §113, 64 Stat. 1030, related to aiding evasion of apprehension or escape, concealment, conspiracy, and to penalties.

Section 824, act Sept. 23, 1950, ch. 1024, title II, §114, 64 Stat. 1030, related to resistance of, or interference with, Board members or agents and to penalties.

Section 825, act Sept. 23, 1950, ch. 1024, title II, §115, 64 Stat. 1030, related to definitions.

Section 826, act Sept. 23, 1950, ch. 1024, title II, §116, 64 Stat. 1030, related to preservation of privilege of habeas corpus.

SUBCHAPTER III—PERSONNEL SECURITY PROCEDURES IN NATIONAL SECURITY AGENCY

§ 831. Regulations for employment security

Subject to the provisions of this subchapter, the Secretary of Defense (hereafter in this subchapter referred to as the "Secretary") shall prescribe such regulations relating to continuing security procedures as he considers necessary to assure—

(1) that no person shall be employed in, or detailed or assigned to, the National Security Agency (hereafter in this subchapter referred to as the "Agency"), or continue to be so employed, detailed, or assigned; and

(2) that no person so employed, detailed, or assigned shall have access to any classified information;

unless such employment, detail, assignment, or access to classified information is clearly consistent with the national security.

(Sept. 23, 1950, ch. 1024, title III, §301, as added Pub. L. 88-290, Mar. 26, 1964, 78 Stat. 168.)

§ 832. Full field investigation and appraisal

(a) Conditional employment; other current security clearance; circumstances authorizing employment on temporary basis

No person shall be employed in, or detailed or assigned to, the Agency unless he has been the subject of a full field investigation in connection with such employment, detail, or assignment, and is cleared for access to classified information in accordance with the provisions of this subchapter; excepting that conditional employment without access to sensitive cryptologic information or material may be tendered any applicant, under such regulations as the Secretary may prescribe, pending the completion of such full field investigation: *And provided further*, That such full field investigation at the discretion of the Secretary need not be required in the case of persons assigned or detailed to the Agency who have a current security clearance for access to sensitive cryptologic information under equivalent standards of investigation and clearance. During any period of war declared by the Congress, or during any period when the Secretary determines that a national disaster exists, or in exceptional cases in which the Secretary (or his designee for such purpose) makes a determination in writing that his action is necessary or advisable in the national interest, he may authorize the employment of any person in, or the detail or assignment of any person to, the Agency, and may grant to any such person access to classified information, on a temporary basis, pending the

completion of the full field investigation and the clearance for access to classified information required by this subsection, if the Secretary determines that such action is clearly consistent with the national security.

(b) Boards of appraisal; establishment; membership; appointment; appraisal in doubtful cases; report and recommendation; qualifications of members; Secretary's clearance contrary to board's recommendation

To assist the Secretary and the Director of the Agency in carrying out their personnel security responsibilities, one or more boards of appraisal of three members each, to be appointed by the Director of the Agency, shall be established in the Agency. Such a board shall appraise the loyalty and suitability of persons for access to classified information, in those cases in which the Director of the Agency determines that there is a doubt whether their access to that information would be clearly consistent with the national security, and shall submit a report and recommendation on each such a case. However, appraisal by such a board is not required before action may be taken under sections 7512 and 7532 of title 5, or any other similar provision of law. Each member of such a board shall be specially qualified and trained for his duties as such a member, shall have been the subject of a full field investigation in connection with his appointment as such a member, and shall have been cleared by the Director for access to classified information at the time of his appointment as such a member. No person shall be cleared for access to classified information, contrary to the recommendations of any such board, unless the Secretary (or his designee for such purpose) shall make a determination in writing that such employment, detail, assignment, or access to classified information is in the national interest.

(Sept. 23, 1950, ch. 1024, title III, §302, as added Pub. L. 88-290, Mar. 26, 1964, 78 Stat. 168.)

CODIFICATION

In subsec. (b), "sections 7512 and 7532 of title 5" substituted for "section 14 of the Act of June 27, 1944, chapter 287, as amended (5 U.S.C. 863), section 1 of the Act of August 26, 1950, chapter 803, as amended (5 U.S.C. 22-1)" on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Sections 7511 and 7512 (which related to adverse actions against preference eligible employees and comprised subchapter II of chapter 75) were repealed by Pub. L. 95-454 and replaced by a new subchapter II (§§7511-7514) of chapter 75 (relating to removal, suspension for more than 14 days, reduction in grade or pay, or furlough for 30 days or less).

§ 833. Repealed. Pub. L. 104-201, div. A, title XVI, § 1633(b)(2), Sept. 23, 1996, 110 Stat. 2751

Section, act Sept. 23, 1950, ch. 1024, title III, §303, as added Mar. 26, 1964, Pub. L. 88-290, 78 Stat. 169; amended Oct. 27, 1972, Pub. L. 92-596, §7, 86 Stat. 1318; Oct. 21, 1977, Pub. L. 95-140, §3(c), 91 Stat. 1173; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Oct. 1, 1986, Pub. L. 99-433, title I, §110(h)(3), 100 Stat. 1004, related to termination of employment.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1635 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 1593 of Title 10, Armed Forces.

§ 834. "Classified information" defined

For the purposes of this section, the term "classified information" means information which, for reasons of national security, is specifically designated by a United States Government agency for limited or restricted dissemination or distribution.

(Sept. 23, 1950, ch. 1024, title III, §304, as added Pub. L. 88-290, Mar. 26, 1964, 78 Stat. 170.)

§ 835. Nonapplicability of administrative procedure provisions

Subchapter II of chapter 5, and chapter 7, of title 5, shall not apply to the use or exercise of any authority granted by this subchapter.

(Sept. 23, 1950, ch. 1024, title III, §305, as added Pub. L. 88-290, Mar. 26, 1964, 78 Stat. 170.)

CODIFICATION

"Subchapter II of chapter 5, and chapter 7, of title 5" substituted in text for "the Administrative Procedure Act, as amended" on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

SUBCHAPTER IV—COMMUNIST CONTROL

§ 841. Findings and declarations of fact

The Congress finds and declares that the Communist Party of the United States, although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the Government of the United States. It constitutes an authoritarian dictatorship within a republic, demanding for itself the rights and privileges accorded to political parties, but denying to all others the liberties guaranteed by the Constitution. Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are secretly prescribed for it by the foreign leaders of the world Communist movement. Its members have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination with respect to its objectives and methods, and are organized, instructed, and disciplined to carry into action slavishly the assignments given them by their hierarchical chieftains. Unlike political parties, the Communist Party acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members. The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means. The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present constitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to force and violence. Holding that doctrine, its role as the agency of a hostile foreign power ren-