

GREENE v. McELROY.

Opinion of the Court.

Alternatively, respondents urge that even if petitioner has been restrained in the enjoyment of constitutionally protected rights, he was accorded due process of law in that he was permitted to utilize those procedural safeguards consonant with an effective clearance program, in the administration of which the identity of informants and their statements are kept secret to insure an unimpaired flow to the Government of information concerning subversive conduct. But in view of our conclusion that this case should be decided on the narrower ground of "authorization," we find that we need not determine the answers to these questions.²²

The issue, as we see it, is whether the Department of Defense has been authorized to create an industrial security clearance program under which affected persons may lose their jobs and may be restrained in following their chosen professions on the basis of fact determinations concerning their fitness for clearance made in proceedings in which they are denied the traditional procedural safeguards of confrontation and cross-examination.

Prior to World War II, only sporadic efforts were made to control the clearance of persons who worked in private establishments which manufactured materials for national defense. Report of the Commission on Government Security, 1957, S. Doc. No. 64, 85th Cong., 1st Sess. 236. During World War II the War Department instituted a

²² We note our agreement with respondents' concession that petitioner has standing to bring this suit and to assert whatever rights he may have. Respondents' actions, directed at petitioner as an individual, caused substantial injuries, *Joint Anti-Fascist Committee v. McGrath*, 341 U. S. 123, 152 (concurring opinion), and, were they the subject of a suit between private persons, they could be attacked as an invasion of a legally protected right to be free from arbitrary interference with private contractual relationships. Moreover, petitioner has the right to be free from unauthorized actions of government officials which substantially impair his property interests. Cf. *Philadelphia Co. v. Stimson*, 223 U. S. 605.