

OCTOBER TERM, 1958.

Opinion of the Court.

360 U. S.

Respondents argue that these statutes, together with 18 U. S. C. § 798, which makes it a crime willfully and knowingly to communicate to unauthorized persons information concerning cryptographic or intelligence activities, and 50 U. S. C. § 783 (b), which makes it a crime for an officer or employee of the United States to communicate classified information to agents of foreign governments or officers and members of "Communist organizations," reflect a recognition by Congress of the existence of military secrets and the necessity of keeping those secrets inviolate.

Although these statutes make it apparent that Congress recognizes the existence of military secrets, they hardly constitute an authorization to create an elaborate clearance program which embodies procedures traditionally believed to be inadequate to protect affected persons.²⁹

Lastly, the Government urges that if we refuse to adopt its "inferred" authorization reasoning, nevertheless, congressional ratification is apparent by the continued appropriation of funds to finance aspects of the program fashioned by the Department of Defense. Respondents refer us to Hearings before the House Committee on Appropriations on Department of Defense Appropriations for 1956, 84th Cong., 1st Sess. 774-781. At those hearings, the Committee was asked to approve the appropriation of funds to finance a program under which reimbursement for lost wages would be made to employees of government contractors who were temporarily denied, but later granted, security clearance. Apparently, such reim-

²⁹ As far as appears, the most substantial official notice which Congress had of the non-confrontation procedures used in screening industrial workers was embodied in S. Doc. No. 40, 84th Cong., 1st Sess., a 354-page compilation of laws, executive orders, and regulations relating to internal security, printed at the request of a single Senator, which reproduced, among other documents and without specific comment, the Industrial Personnel Security Review Regulation.