

GREENE v. McELROY.

Opinion of the Court.

notions of fair procedures.³¹ Before we are asked to judge whether, in the context of security clearance cases, a person may be deprived of the right to follow his chosen profession without full hearings where accusers may be confronted, it must be made clear that the President or Congress, within their respective constitutional powers, specifically has decided that the imposed procedures are necessary and warranted and has authorized their use. Cf. *Watkins v. United States*, 354 U. S. 178; *Scull v. Virginia*, 359 U. S. 344. Such decisions cannot be assumed by acquiescence or non-action. *Kent v. Dulles*, 357 U. S. 116; *Peters v. Hobby*, 349 U. S. 331; *Ex parte Endo*, 323 U. S. 283, 301-302. They must be made explicitly not only to assure that individuals are not deprived of cherished rights under procedures not actually authorized, see *Peters v. Hobby*, *supra*, but also because explicit action, especially in areas of doubtful constitutionality, requires careful and purposeful consideration by those responsible for enacting and implementing our laws. Without explicit action by lawmakers, decisions of great constitutional import and effect would be relegated by default to administrators who, under our system of government, are not endowed with authority to decide them.

Where administrative action has raised serious constitutional problems, the Court has assumed that Congress or the President intended to afford those affected by the action the traditional safeguards of due process. See, e. g., *The Japanese Immigrant Case*, 189 U. S. 86, 101; *Dismuke v. United States*, 297 U. S. 167, 172; *Ex parte Endo*, 323 U. S. 283, 299-300; *American Power Co. v. Securities and Exchange Comm'n*, 329 U. S. 90, 107-

³¹ It is estimated that approximately three million persons having access to classified information are covered by the industrial security program. Brown, *Loyalty and Security* (1958), 179-180; Association of the Bar of the City of New York, Report of the Special Committee on the Federal Loyalty-Security Program (1956), 64.