

GREENE v. McELROY.

Opinion of HARLAN, J.

MR. JUSTICE HARLAN, concurring specially.

What has been written on both sides of this case makes appropriate a further word from one who concurs in the judgment of the Court, but cannot join its opinion.

Unlike my brother CLARK who finds this case "both clear and simple," I consider the constitutional issue it presents most difficult and far-reaching. In my view the Court quite properly declines to decide it in the present posture of the case. My unwillingness to subscribe to the Court's opinion is due to the fact that it unnecessarily deals with the very issue it disclaims deciding. For present purposes no more need be said than that we should not be drawn into deciding the constitutionality of the security-clearance revocation procedures employed in this case until the use of such procedures in matters of this kind has been deliberately considered and expressly authorized by the Congress or the President who alone are in a position to evaluate in the first instance the totality of factors bearing upon the necessity for their use. That much the courts are entitled to before they are asked to express a constitutional judgment upon an issue fraught with such important consequences both to the Government and the citizen.

Ample justification for abstaining from a constitutional decision at this stage of the case is afforded by the Court's traditional and wise rule of not reaching constitutional issues unnecessarily or prematurely. That rule indeed has been consistently followed by this Court when faced with "confrontation" issues in other security or loyalty cases. See *Peters v. Hobby*, 349 U. S. 331; *Vitarelli v. Seaton*, 359 U. S. 535; cf. *Service v. Dulles*, 354 U. S. 363; *Kent v. Dulles*, 357 U. S. 116. Adherence to that rule is, as I understand it, the underlying basis of today's decision, and it is on that basis that I join the judgment of the Court.