

GREENE v. McELROY.

CLARK, J., dissenting.

gence operations." Exec. Order No. 10501, Nov. 5, 1953, 18 Fed. Reg. 7049, 3 CFR (1949-1953 Comp.), p. 979, § 1 (b).

Surely one does not have a constitutional right to have access to the Government's military secrets.¹ But the Court says that because of the refusal to grant Greene further access, he has lost his position as vice president and general manager, a chief executive officer, of ERCO, whose business was devoted wholly to defense contracts with the United States,² and that his training in aeronautical engineering, together with the facts that ERCO engages solely in government work and that the Government is the country's largest airplane customer, has in some unaccountable fashion parlayed his employment with ERCO into "a constitutional right." What for anyone else would be considered a privilege at best has for Greene been enshrouded in constitutional protection. This sleight of hand is too much for me.

But this is not all. After holding that Greene has constitutional protection for his private job, the Court has ordered the President's Cabinet members to revoke their refusal to give Greene access to military secrets.³ It

¹ My brother HARLAN very kindly credits me with "colorful characterization" in stating this as the issue. While I take great pride in authorship, I must say that in this instance I merely agreed with the statement of the issue by the Solicitor General and his co-counsel in five different places in the Brief for the United States. See pp. 2, 17, 19, 29, 59.

² ERCO agreed in its government contract, as was well known to Greene, to exclude any individual from any part of its plant at which work under the contract was being performed who had not been cleared by the Navy for access to military secrets.

³ Brother HARLAN states that I suggest "that the Court's action today requires 'the President's Cabinet members to revoke their refusal to give' the petitioner 'access to military secrets,' despite any views they may have as to his reliability" Government officials, well versed in the application of this Court's judgments to the practicalities