

GREENE v. McELROY.

CLARK, J., dissenting.

19 Fed. Reg. 1503, 32 CFR, p. 288, Mar. 19, 1954. Thus, it was clear that the President had not contemplated that there would be a right of confrontation in the Federal Loyalty Security Program. And the report of the Secretary of the Army—transmitted to the President by the Secretary of Defense—made clear that the criteria of Exec. Order No. 10450 were being utilized not only where the loyalty of a government employee was in doubt, but also in carrying out the industrial security program. Semiannual Report of the Secretary of the Army, Jan. 1, 1954, to June 30, 1954, 135-136.

Thus we see that the program has for 13 years been carried on under the express authority of the President, and has been regularly reported to him by his highest Cabinet officers. How the Court can say, despite these facts, that the President has not sufficiently authorized the program is beyond me, unless the Court means that it is necessary for the President to write out the Industrial Security Manual in his own hand.

Furthermore, I think Congress has sufficiently authorized the program, as it has been kept fully aware of its development and has appropriated money to support it. During the formative period of the program, 1949-1951, the Congress, through appropriation hearings, was kept fully informed as to the activity. In 1949 D. F. Carpenter, Chairman of the Munitions Board, appeared before a Subcommittee of the House Committee on Appropriations to testify concerning the requested appropriation for the Board. While the report indicates much of the testimony was "off the record," it does contain specific references to the program here under attack.¹¹ Significantly the appropriation bill for 1950 included an item

¹¹ House of Representatives, Hearings before the Subcommittee of the Committee on Appropriations on the National Military Establishment Appropriation Bill for 1950, 81st Cong., 1st Sess. 91.