

1662 AMENDING SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950

the Court is persuaded by the emphasis which the Supreme Court placed in Greene upon the right to be free from unreasonable governmental action by which "affected persons may lose their jobs and may be restrained in following their chose professions . . . "(Greene v. McElroy, supra, 360 U.S. 474, at 493) (emphasis added).

Having exposed the serious constitutional problems in Section V. B., this Court must next inquire whether "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." (Id., at 507). Plaintiff asserts, and defendants do not contend otherwise, that Congress has never enacted an industrial security clearance program. Therefore, if Section V. B. is authorized, the authorization must specifically appear in an Executive Order issued by the President.

The defendants do not point to any Executive Order as specifically authorizing the procedures of Section V. B. In their Memorandum of Points and Authorities defendants argue that the authority and responsibility for the protection of official information affecting the national security is granted and delegated by Executive Order 10501, 18 Fed. Reg. 7049, 50 U.S.C. § 401 note. That Order, however, does not specifically authorize the procedure sanctioned by Section V. B. Defendants also discuss Executive Order 10865, 25 Fed. Reg. 1583, 50 U.S.C. § 401 note, as being relevant. Section 3 of that Order provides, "[e]xcept as provided in Section 9 of this Order", a security clearance may not be finally denied or revoked "unless the applicant has been given the following": (1) a comprehensive and detailed written statement of reasons; (2) an opportunity to reply in writing;