STATEMENT BY SENATOR STROM THURMOND (D-SC) ON SENATE FLOOR UPON INTRODUCTION OF BILL TO AUTHORIZE AND ESTABLISH A FEDERAL INDUSTRIAL SECURITY PROGRAM, June 30, 1959.

Mr. President, as a result of the Supreme Court's decision in the case of Greene v. McElroy, et al, delivered on June 29, 1959, our country is without any effective industrial security program. It is imperative that the Congress act immediately to overcome the result of this decision and to protect the internal security of the country.

The Department of Defense has long had an industrial security program, as have other government agencies and departments. These departments and agencies have specified in their contracts with contractors that no classified information was to be revealed, and no access to areas where classified projects were conducted was to be permitted, to any person not given security clearance by the Government department or agency. Pursuant to such contractual provisions, the departments and agencies have granted and declined security clearances to employees of their contractors.

In determining whether clearances should be granted or declined, the various agencies and departments of Government have carefully avoided damaging the Government's security program by not revealing the identification of the sources of their information. In so doing, the person for whom the security clearance was sought has often not been confronted with the witnesses who gave information on his case, nor has such person been given access to all the
information which is available to the department or agency which determines the matter.

The Greene case was probably a typical example. Greene was the executive Vice-President of a contractor of the Department of Defense. He was an aeronautical engineer. He had had prior clearances for classified work. In 1954 his security clearance was revoked. Since his employer was almost exclusively working on contracts for the Government, the contractor had no further need for his services and he was discharged. Greene was unable to find other employment in his field and brought an action to have the denial of a security clearance declared unlawful. The District Court and the Court of Appeals decided adversely to Greene, but the Supreme Court reversed the lower Courts and granted Greene's petition.

During the conduct of the proceedings to determine whether the security clearance should or should not be granted, Greene was not confronted with the agents who had furnished the information against him, nor was he given access to all of the specifics of the reports concerning his activities.

The Supreme Court based its invalidation of the Department of Defense Industrial Security Program on the narrow ground of lack of authorization of the program by either Congress or the President. The majority opinion of the court reasoned that neither Congressional nor Presidential authorization could be inferred for a procedure which did not provide the traditional safeguards
usually thought of in the context of procedural "due process"—to be precise, the right of a person to be confronted with the witnesses against him for cross-examination, and to have access to all specifics of the charges against him. The Supreme Court pointedly declined to express any view as to whether the procedures used in the case at hand would have been in violation of the Constitution had they been authorized specifically by Congress and the President. Thus, while admitting the authority of the Department of Defense to establish an industrial security program by virtue of Executive Order No. 11501 and inferred Congressional approval, the Court declined to infer from the same actions an authorization to conduct the program in such a manner as to deny the traditional and historical procedures of due process.

I would be the last to criticize the Court for declining to infer authorizations for executive departments and agencies. Such inferences could be extremely dangerous, and we are all most acutely aware that the departments and agencies are granted or assume the widest authorizations, as it is.

Nevertheless, I am convinced that the decision is wrong. The Court has failed to distinguish between what is a matter of right with the individual, and what is, at the greatest, a matter of privilege. This case did not deal with the right of an individual to hold a job or to preserve any right guaranteed to him by the Constitution. It involved solely the question of whether an
individual should have access to properly classified information presumably in the exclusive control of the Government. Under such circumstances, the Government has the right to determine who, and under what conditions persons shall receive classified information. The loss of employment which occurred in this instance, and undoubtedly in others, was incidental to the decision of the Department of Defense to deny such information to Greene. Since no right of the individual was involved, the procedure utilized by the Department of Defense in arriving at the decision is and was immaterial. Justice Clark wisely noted this distinction in his dissenting opinion.

Regardless of whether we agree or disagree, individually, with the rationale of the Supreme Court's opinion, the fact remains that the country is now without any effective industrial security program. The existing procedure could be made effective only through compromise of our entire security program by the process of "burning informants and agents." The burden rests squarely on the Congress to remedy the situation.

For the reasons stated, Mr. President, I send to the desk a bill to authorize and establish a Federal Industrial Security Program. In drafting this measure, I have relied heavily on the recommendations of the Commission on Government Security, published in June 1957. The bill I propose would establish specific criteria for granting or denying clearances. It would deal with the questions of confrontation and cross-examination forthrightly. While granting the maximum degree of safeguards for the individual, this proposal would also protect the identity of agents in the security program, and thereby, the security program
itself.

I fervently hope that the committees and the Congress will expedite action in this field so that Congress may meet its responsibility in full on this vital question prior to adjournment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the record following my remarks.

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