rity benefits, Justice Harlan for the Court concluded that a rational justification for the law might be the deportee's inability to aid the domestic economy by spending the benefits locally, although a passage in the opinion could be read to suggest that termination was permissible because alien Communists are undeserving of benefits.[713] Of considerable significance in First Amendment jurisprudence is *Speiser v. Randall*,[714] in which the Court struck down a state scheme for denying veterans' property tax exemptions to "disloyal" persons. The system, as interpreted by the state courts, denied the exemption only to persons who engaged in speech that could be criminally punished consistently with the First Amendment, but the Court found the vice of the provision to be that, after each claimant had executed an oath disclaiming his engagement in unlawful speech, the tax assessor could disbelieve the oath taker and deny the exemption, thereby placing on the claimant the burden of proving that he was loyal. "The vice of the present procedure is that, where particular speech falls close to the line separating the lawful and the unlawful, the possibility of mistaken fact-finding—inherent in all litigation—will create the danger that the legitimate utterance will be penalized. The man who knows that he must bring forth proof and persuade another of the lawfulness of his conduct necessarily must steer far wider of the unlawful zone than if the State must bear these burdens . . . . In practical operation, therefore, this procedural device must necessarily produce a result which the State could not command directly. It can only result in a deterrence of speech which the Constitution makes free." [715]

Employment Restrictions and Loyalty Oaths.—An area in which significant First Amendment issues are often raised is the establishment of loyalty-security standards for government employees. Such programs generally take one of two forms or may combine the two. First, government may establish a system investigating employees or prospective employees under standards relating to presumed loyalty. Second, government may require its employ-

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[713] 363 U.S. at 612. The passage reads: "Nor . . . can it be deemed irrational for Congress to have concluded that the public purse should not be utilized to contribute to the support of those deported on the grounds specified in the statute." Id. *But see* Sherbert v. Verner, 374 U.S. 398, 404–05, 409 n.9 (1963). Although the right-privilege distinction is all but moribund, *Flemming* was strongly reaffirmed in later cases by emphasis on the noncontractual nature of such benefits. Richardson v. Belcher, 404 U.S. 78, 80–81 (1971); United States Railroad Retirement Bd. v. Fritz, 449 U.S. 166, 174 (1980).

[714] 357 U.S. 513 (1958).

[715] 357 U.S. at 526. For a possible limiting application of the principle, *see* Law Students Civil Rights Research Council v. Wadmond, 401 U.S. 154, 162–64 (1971), and id. at 176–78 (Justices Black and Douglas dissenting), id. at 189 n.5 (Justices Marshall and Brennan dissenting).