not invalidate administrative proceedings where the record shows that at no time during the hearing was there any misunderstanding as to the basis of the complaint.[449] The mere admission of evidence that would be inadmissible in judicial proceedings does not vitiate the order of an administrative agency.[450] A provision that such a body shall not be controlled by rules of evidence does not, however, justify orders without a foundation in evidence having rational probative force. Hearsay may be received in an administrative hearing and may constitute by itself substantial evidence in support of an agency determination, provided that there are present factors which assure the underlying reliability and probative value of the evidence and, at least in the case at hand, where the claimant before the agency had the opportunity to subpoena the witnesses and cross-examine them with regard to the evidence.[451] Although the Court has recognized that in some circumstances a "fair hearing" implies a right to oral argument,[452] it has refused to lay down a general rule that would cover all cases.[453]

In the light of the historically unquestioned power of a commanding officer summarily to exclude civilians from the area of his command, and applicable Navy regulations that confirm this authority, together with a stipulation in the contract between a restaurant concessionaire and the Naval Gun Factory forbidding employment on the premises of any person not meeting security requirements, due process was not denied by the summary exclusion on security grounds of the concessionaire's cook, without hearing or advice as to the basis for the exclusion. The Fifth Amendment does not require a trial-

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United States v. Nugent, 346 U.S. 1 (1953) (in auxiliary hearing that culminated in a Justice Department report and recommendation, it is sufficient that registrant be provided with resume of adverse evidence in FBI report because the "imperative needs of mobilization and national vigilance" mandate a minimum of "litigious interruption"), *and* Gonzales v. United States, 364 U.S. 59 (1960) (five-to-four decision finding no due process violation when petitioner (1) at departmental proceedings was not permitted to rebut statements attributed to him by his local board, because the statements were in his file and he had opportunity to rebut both before hearing officer and appeal board, nor (2) at trial was denied access to hearing officer's notes and report, because he failed to show any need and did have Department recommendations).

[449] NLRB v. Mackay Radio & Tel. Co., 304 U.S. 333, 349–50 (1938).

[450] Western Chem. Co. v. United States, 271 U.S. 268 (1926). *See also* United States v. Abilene & So. Ry., 265 U.S. 274, 288 (1924).

[451] Richardson v. Perales, 402 U.S. 389 (1971).

[452] Londoner v. Denver, 210 U.S. 373 (1908).

[453] FCC v. WJR, 337 U.S. 265, 274–77 (1949). *See also* Inland Empire Council v. Millis, 325 U.S. 697, 710 (1945). *See* Administrative Procedure Act, 60 Stat. 237 (1946), 5 U.S.C §§ 1001–1011. *Cf.* Link v. Wabash R.R., 370 U.S. 626, 637, 646 (1962), in which the majority rejected Justice Black's dissenting thesis that the dismissal with prejudice of a damage suit without notice to the client and grounded upon the dilatory tactics of his attorney, and the latter's failure to appear at a pre-trial conference, amounted to a taking of property without due process of law.