

GENERAL SCIENCE

Oppenheimer's "Security"

The Atomic Energy Commission's special review board, in a two-to-one decision, has recommended that J. Robert Oppenheimer's security clearance not be reinstated.

► A SPECIAL Atomic Energy Commission security review board has declared that J. Robert Oppenheimer is "loyal" and "discreet," but has recommended two to one against restoring his suspended security clearance. (See SNL, April 17, p. 224.)

The board's chairman, Gordon Gray, president of the University of North Carolina, and Thomas A. Morgan, former president of the Sperry Corporation, voted against restoring Oppenheimer's access to information deemed classified by the government.

A minority report was filed by Dr. Ward V. Evans, chemistry professor at Loyola University in Chicago, who stated that the board's failure to clear Oppenheimer would be a "black mark on the escutcheon" of the United States. "Only time will prove whether he was wrong on the moral and political grounds" for which he opposed a crash development of the H-bomb program, Dr. Evans stated in his dissenting opinion.

The three members agreed that Oppenheimer's opposition to this program "involved no lack of loyalty to the United States or attachment to the Soviet Union."

Oppenheimer's attorneys immediately appealed his case, asking that the review go directly to the five Atomic Energy Commissioners for a decision, instead of reaching them through the AEC personnel security review board.

Lloyd K. Garrison of New York and John W. Davis are the lawyers who requested that Oppenheimer be allowed to waive his right of appeal through regular channels in order to ask for direct consideration by the present AEC commissioners.

In its decision, the board's two-man majority said that they had come "to a clear conclusion, which should be reassuring to the people of this country, that he (Oppenheimer) is a loyal citizen."

Majority's Conclusions

Other considerations, however, led Gordon Gray and Thomas Morgan as the board majority to conclude that reinstating Oppenheimer's security clearance would be "a danger to the common defense and security of this country" and thus not "clearly consistent with its interests."

These considerations were:

"1. We find that Dr. Oppenheimer's continuing conduct and associations have reflected a serious disregard for the requirements of the security system.

"2. We have found a susceptibility to influence which could have serious implica-

tions for the security interests of the country.

"3. We find his conduct in the hydrogen bomb program sufficiently disturbing as to raise a doubt as to whether his future participation, if characterized by the same attitudes in a government program relating to the national defense, would be clearly consistent with the best interests of security.

"4. We have regretfully concluded that Dr. Oppenheimer has been less than candid in several instances in his testimony before this Board."

Dissenting Opinion

In his dissent, Dr. Evans said that the board's "failure to clear Dr. Oppenheimer will be a black mark" for this country.

Oppenheimer's witnesses before the special board, he said, "are a considerable segment of the scientific backbone of our nation, and they indorse him."

Dr. Evans stated that he was worried "about the effect an improper decision may have on the scientific development in our country," because the science of nuclear physics is new here and "most of our au-

thorities in this field came from overseas. I would," he said, "very much regret any action to retard or hinder" the development of nuclear science.

Dr. Evans declared that, even though Oppenheimer's judgment was "bad in some cases and most excellent in others," it was better now than it was in 1947, and that, therefore, he could not "damn" Oppenheimer at this time and "ruin" his career.

Unanimous Findings

In appraising the significance of their unanimous findings concerning Oppenheimer's loyalty, all three members of the special review board agreed that:

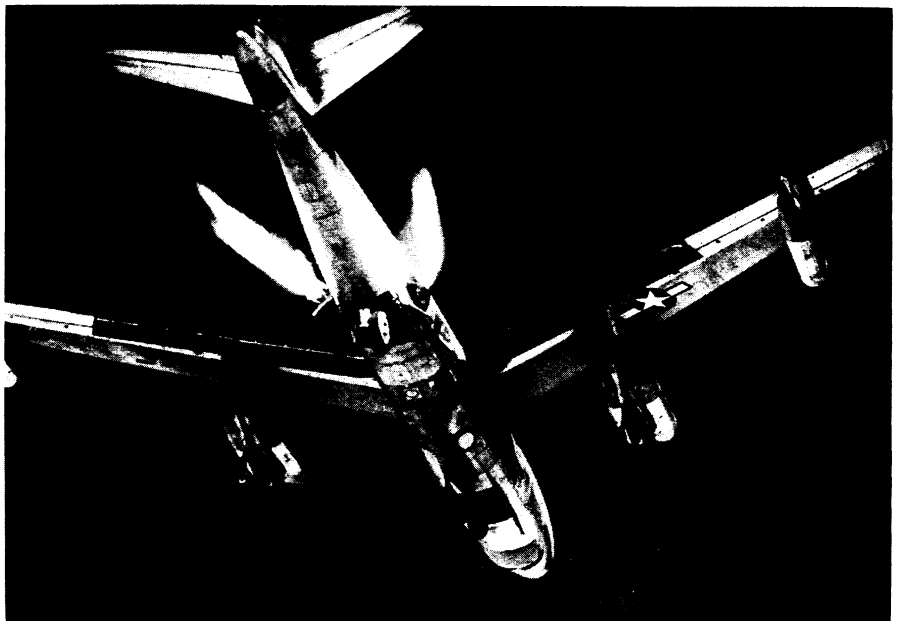
"The facts referred to in General Nichols' letter (informing Dr. Oppenheimer of the board's findings) fall clearly into two major areas of concern.

"The first of these (23 in number) involves primarily Dr. Oppenheimer's Communist connections in the earlier years and continued associations arising out of those connections.

"The second major area of concern is related to Dr. Oppenheimer's attitudes and activities with respect to the development of the hydrogen bomb.

"The board has found the allegations in the first part of the Commission's letter to be substantially true."

By his own admission, the board states, he seems to have been an active fellow traveler. According to him, his sympathies with the Communists seem to have begun to taper off somewhat after 1939, and very much more so after 1942.



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"However, it is not unreasonable to conclude from material presented to this Board that Dr. Oppenheimer's activities ceased as of about the time he executed his personnel security questionnaire in April, 1942.

"He seems to have had the view at that time and subsequently that current involvement with Communist activities was incompatible with service to the Government. However, it also would appear that he felt that former Communist Party membership was of little consequence if the individual concerned was personally trustworthy.

"Dr. Oppenheimer's sympathetic interests, seemed to have continued beyond 1942 in a diluted and diminishing state until 1946, at which time we find the first affirmative action on his part which would indicate complete rejection.

"In October, 1946, he tendered his resignation from the Independent Citizens Committee of the Arts, Sciences, and Professions, Inc., and he now says it was at this time that he finally realized that he could not collaborate with the Communists, whatever their aims and professed interests.

"We would prefer to have found an affirmative action at an earlier date.

Early Involvements Noted

"The Board takes a most serious view of these earlier involvements. Had they occurred in very recent years, we would have found them to be controlling and, in any event, they must be taken into account in evaluating subsequent conduct and attitudes.

"The facts before us establish a pattern of conduct falling within the following Personnel Security Clearance criteria:

"Category A, including instances in which there are grounds sufficient to establish a reasonable belief that an individual or his spouse has (1) Committed or attempted to commit or aided or abetted another who committed or attempted to commit any act of sabotage, espionage, treason, or sedition. (2) Establish an association with espionage agents of a foreign nation . . . (3) Held membership or joined any organization which had been declared by the Attorney General to be . . . Communist, subversive. . . . These criteria under the AEC procedures establish a presumption of security risk.

No Indication of Disloyalty

"The Board believes, however, that there is no indication of disloyalty on the part of Dr. Oppenheimer by reason of any present Communist affiliation, despite Dr. Oppenheimer's poor judgment in continuing some of his past associations into the present. Furthermore, the Board had before it eloquent and convincing testimony of Dr. Oppenheimer's deep devotion to his country in recent years and a multitude of evidence with respect to active service in all sorts of Governmental undertakings to which he was repeatedly called as a participant and as a consultant.

"We feel that Dr. Oppenheimer is convinced that the earlier involvements were serious errors and today would consider them an indication of disloyalty. The conclusion of this Board is that Dr. Oppenheimer is a loyal citizen.

"With respect to the second portion of General Nichols' letter, the Board believes that Dr. Oppenheimer's opposition to the hydrogen bomb and his related conduct in the post-war period until April, 1951, involved no lack of loyalty to the United States or attachment to the Soviet Union."

"The Board was impressed by the fact that even those who were critical of Dr. Oppenheimer's judgment and activities or lack of activities, without exception, testified to their belief in his loyalty.

"The Board concludes that any possible implications to the contrary which might have been read into the second part of General Nichols' letter are not supported by any material which the Board has seen.

"The Board wishes to make clear that in attempting to arrive at its findings and their significance with respect to the hydrogen bomb, it has in no way sought to appraise the technical judgments of those who were concerned with the program."

The review board's unanimous decision ends at this point. For Dr. Evans' dissent from the following remarks, see p. 371.

Support Not "Enthusiastic"

After stating that Oppenheimer's relation to the H-bomb program cannot be dismissed with the finding that "his conduct was not motivated by disloyalty to the United States" because our security interests were clearly involved, whatever his motivations, the two-man majority states:

"We believe that, had Dr. Oppenheimer given his enthusiastic support to the (H-bomb) program, a concerted effort would have been initiated at an earlier date. Following the President's decision (Jan. 31, 1950), he did not show the enthusiastic support for the program which might have been expected of the chief atomic adviser to the government under the circumstances."

The Oppenheimer influence in this matter, Mr. Gray and Mr. Morgan state, was "far greater than he would have led the board to believe." Therefore, they "reluctantly concluded that Dr. Oppenheimer's candor left much to be desired in his discussions with the board of his attitude and position in the entire chronology of the hydrogen bomb problem.

"We must make it clear that we do not question Dr. Oppenheimer's right to the opinions he held with respect to the development of this weapon. They were shared by other competent and devoted individuals, both in and out of Government.

"We are willing to assume that they were motivated by deep moral conviction. We are concerned, however, that he may have departed his role as scientific adviser to exercise highly persuasive influence in matters in which his convictions were not necessarily a reflection of technical judgment, and also not necessarily related to

the protection of the strongest offensive military interests of the country."

Attorneys' Appeal

In answering Gen. Nichols' letter, the attorneys, Mr. Garrison and Mr. Davis, point out that Oppenheimer's AEC consultant's contract expires on June 30, and his clearance expires automatically at the same time. This situation leaves the security question "moot" and confusing, they note.

This, the lawyers state, would "not be in the public interest," and, therefore, they waived Oppenheimer's right to appeal to

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Issues Oppenheimer Case Raises

the AEC personnel security review board, requesting permission to present a brief and argue orally before the present AEC commissioners.

Issues of basic importance, their letter states, could adequately be presented only in this way. In outlining these issues, the two lawyers say:

Reasoning Processes Questioned

"To begin with, the majority's conclusion not to recommend the reinstatement of Dr. Oppenheimer's clearance stands in such stark contrast with the board's findings regarding Dr. Oppenheimer's loyalty and discretion as to raise doubts about the process of reasoning by which the conclusion was arrived at.

"All members of the Board agreed:

"1. That the nation owed scientists 'a great debt of gratitude for loyal and magnificent service' and that 'this is particularly true with respect to Dr. Oppenheimer.'

"2. That 'we have before us much responsible and positive evidence of the loyalty and love of country of the individual concerned,' and 'eloquent and convincing testimony of Dr. Oppenheimer's deep devotion to his country in recent years and a multitude of evidence with respect to active service in all sorts of governmental undertakings to which he was repeatedly called as a participant and as a consultant.'

"3. That 'even those who were critical of Dr. Oppenheimer's judgment and activities or lack of activities, without exception, testified to their belief in his loyalty.'

"4. That 'we have given particular attention to the question of his loyalty, and we have come to a clear conclusion, which should be reassuring to the people of this country, that he is a loyal citizen. If this were the only consideration, therefore, we would recommend that the reinstatement of his clearance would not be a danger to the common defense and security.'

"5. That 'It must be said that Dr. Oppenheimer seems to have had a high degree of discretion reflecting an unusual ability to keep to himself vital secrets.'

Friendship Criticism "Strange"

"In spite of these findings of loyalty and of discretion in the handling of classified data, the majority of the board reached the conclusion that Dr. Oppenheimer's clearance should not be reinstated.

"How can this be?"

"The majority advanced four considerations (previously outlined, see page 371) as controlling in leading them to their conclusion."

Mr. Garrison and Mr. Davis then state that the first two allegations are not "justified by the record," and, in that light, will be reviewed in their brief.

Nevertheless, they call attention to two incidents involved in the testimony to point

out "the care with which we think the record would be reviewed by the Commission." They then state:

"The majority held it against Dr. Oppenheimer, apparently as an example of his supposed susceptibility to influence, that despite a severe attack on him by Dr. Edward Condon in 1949, in a letter which appeared in the press, Dr. Oppenheimer is now prepared to support Dr. Condon in the latter's pending loyalty investigation (see p. 374).

"It seems to us strange that a man should be criticized for refusing to let his personal feelings stand in the way of his giving evidence on behalf of a man he believes to be loyal.

Recommendation Challenged

"The majority further criticized Dr. Oppenheimer for his continuing associations and supposed disregard of security requirements in that 'In 1946 or 1947 he assisted David Bohm [a former student] in getting a position at Princeton and, at least on a casual basis, continued his associations with Bohm after he had reason to know of Bohm's security status. He testified that today he would give Bohm a letter of recommendation as a physicist, and, although not asked whether he would raise questions about Bohm's security status, he in no way indicated that this was a matter of serious import to him.'

"Dr. Evans' comment on this incident

was: 'I think I would have recommended Bohm as a physicist. Dr. Oppenheimer was not asked if he would have added that Bohm was a Communist.'

Concerning the third item (see p. 371), the two lawyers state that the "Board's unanimous findings of fact (mostly referring to points outlined on p. 372) again stand in stark contrast with the conclusion of the majority."

Effect on Other Scientists

Therefore, they state, that without "taking into account the factual evidence, which in our opinion should have led the Board to an opposite conclusion, we submit that the injection into a security case of a scientist's alleged lack of enthusiasm for a particular program is fraught with grave consequences to this country.

"How can a scientist risk advising the government if he is told that at some later day a security board may weigh in the balance the degree of his enthusiasm for some official program?

"Or that he may be held accountable for a failure to communicate to the scientific community his full acceptance of such a program?

"In addition to Dr. Oppenheimer's alleged lack of 'enthusiasm,' there are indications that the majority of the Board may also have been influenced in recommending against the reinstatement of Dr. Oppenheimer's clearance by judgments they had formed as to the nature and quality of the advice he gave to the AEC.

"While the majority of the Board stated—with sincerity, we are sure—that 'no man should be tried for the expression of his opinions,' it seems to us that portions of the majority opinion do just that.

Emotional Involvement

"For example, the opinion says that while the Board can understand 'the emotional involvement of any scientist who contributed to the development of atomic energy and thus helped to unleash upon the world a force which could be destructive of civilization,' nevertheless, 'emotional involvement' of this sort in the current crisis 'must yield to the security of the nation;' and government officials 'who are responsible for the security of the country must be certain that the advice which they seriously seek appropriately reflects special competence on the one hand, and soundly based conviction on the other, uncolored and uninfluenced by considerations of an emotional character.'

"Does this mean that a loyal scientist called to advise his government does so at his peril unless, contrary to all experience, he can guarantee that his views are unaffected by his heart and his spirit?"

"The opinion further stated that defense officials 'must also be certain that under-



LARGEST PLASTIC BALLOON—
Roller launching arms hold helium-filled plastic balloon prior to launching for cosmic ray studies 22 miles above the earth's surface.

lying any advice is a genuine conviction that this country cannot in the interest of security have less than the strongest possible offensive capabilities in a time of national danger.'

"Does this mean that a loyal scientist called to advise his government does so at his peril if he happens to believe in the wisdom of maintaining a proper balance between offensive and defensive weapons?"

"It would appear . . . that the majority . . . assume affirmative answers to both of the foregoing questions.

"This poses a serious issue.

"If a scientist whose loyalty is unquestioned may nevertheless be considered a security risk because, in the judgment of a board, he may have given advice which did not necessarily reflect a bare technical judgment, or which did not accord with strategic considerations of a particular kind, then he is being condemned for his opinions.

"Surely our security requires that expert views, so long as they are honest, be weighed and debated and not that they be barred."

Fundamental Question Begged

The two lawyers agree with the review board that it is "ill-advised" to state that all scientists and intellectuals must consider themselves under attack because of the review board's decision in the Oppenheimer case.

Nevertheless, they argue, this statement begs the "fundamental question as to what are the appropriate limits of security under existing statutes and regulations, and under a government of laws and not of men—a question of concern not merely to scientists and intellectuals but to all our people."

The lawyers' report then noted that, although the majority opinion called Oppenheimer's lack of candor into question, Dr. Evans, as the lone dissenting member, said the atomic scientist's statements were "extremely honest" and are therefore to Oppenheimer's benefit.

The attorneys state that they will direct the AEC commissioners' attention to the fact that only three specific instances of lack of candor, each of which has to do with the hydrogen bomb program, were specifically mentioned.

Much Material Undisclosed

The two lawyers point out that "much information which we thought relevant" came out in the hearings but usually only in the course of cross-examination or "too late to assist" in their presentation.

Some information that was denied for use before the hearing was declassified only at the "moment of cross-examination or shortly before and was made available to us only during cross-examination or after," they state.

"Voluminous" material, Oppenheimer's attorneys note, was not disclosed. Although in the hearings the board heard 40 witnesses and compiled over 3,000 pages of testimony, the board states that in addition it read the same amount of file material.

The lawyers urge that in weighing testimony where the relevant material was produced only on cross-examination, the AEC commissioners should constantly keep in mind that "the natural fallibility of memory may easily be mistaken for disingenuousness."

They ask that the five commissioners also be conscious of the "unreliability of ex parte reports which have never been seen by Dr. Oppenheimer or his counsel or tested by cross-examination."

GENERAL SCIENCE

"Oppy" Findings Scored

► THE SECURITY board's decision on Dr. J. Robert Oppenheimer is "very perturbing," Dr. Hans Bethe, a long-time Atomic Energy Commission consultant and physics professor at Cornell University, has declared.

"Any official adviser of the government must have the right to express his own opinion," Dr. Bethe said. "If Dr. Oppenheimer's lack of 'enthusiasm' was indeed a major factor in the board's decision, the reasoning by which such a conclusion was reached would seem to be in very great error."

Dr. M. Stanley Livingston, physics professor at Massachusetts Institute of Technology, charged that the special review board's decision had been made in "the attitude of suspicion" prevailing today.

This attitude, Dr. Livingston said, totally neglects "positive security" in favor of the "negative idea of secrecy for the sake of secrecy."

"Secrecy as an end in itself," he stated, "will only insure sterility of expression and, therefore, of thought.

"The vital thing that is being forgotten is that the present security program is doing a great deal of damage to the strength and morale of our scientific laboratories."

The present mania for secrecy, he charged, is cutting down our government's opportunities to get "the advice of top-flight scientists, and is thereby greatly reducing our country's real security."

The way the review board's report was phrased is inconsistent in itself, Dr. Livingston pointed out. Oppenheimer is judged "loyal and his integrity is unquestioned, yet he is accused of not showing enough 'enthusiasm.'

"It is an attempt at thought control to deny security clearance to a man because of his lack of 'enthusiasm' for a government program."

Dr. Livingston urged that all five present commissioners should make the final decision on the question of reinstating Oppenheimer's security clearance.

When asked his opinion of the review board's decision, a top government scientist who was a career employee for 15 years before his present appointment, said, "Any government scientist who comments on this case at this time must have lots of good job

The lawyers further ask that previously unclassified documents, which might be relied on during the commissioners' considerations and which are going to be disclosed in any event, "be so disclosed before any final decision is made."

Final point of Oppenheimer's two attorneys is to request that the case be reviewed in the "true perspective of history—a history through which Dr. Oppenheimer has lived and which in part he has helped to create."

Science News Letter, June 12, 1954

offers." Obviously, this scientist cannot be named.

His reply, however, shows clearly that many persons are becoming more and more afraid "to express their opinions for fear they may be unjustly attacked for them," according to a non-government scientist who asked that his name not be mentioned, since he is a Defense Department consultant.

Dr. Bethe said that, in one respect, the board's finding that "Oppy's loyalty is 'without question' is a relief."

He stated that it was hard to understand how the same board, having found him "loyal," would not reinstate his security clearance.

His own personal experience had proved, Dr. Bethe said, that Oppenheimer carefully obeyed all AEC regulations for keeping documents safe, and that "Oppy never talked about the atomic energy program to any persons not specifically authorized by the AEC to receive classified information."

Dr. E. U. Condon, research director of Corning Glass Works, made the following statement concerning his mention in the published documents of the Oppenheimer case:

"I have no comment to make on references to me in the opinion in the Oppenheimer case, except to say that my right of continued access to classified information of the government is under review by the security authorities of the Department of Defense, and that while this review is pending, I am working exclusively on non-military projects involving no access to classified information.

"Prior to taking my present position, I had the fullest clearances as director of the National Bureau of Standards, being cleared by both the Department of Defense and the Atomic Energy Commission. In view of the fact that my security clearance is now under study by the Defense Department, any statement on the merits of the application for clearance is inappropriate other than to say that my loyalty and devotion to the United States is not an issue, and there has been no suggestion that I ever breached security regulations or that I was indiscreet in the handling of classified information."

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