

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 un-influenced 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.