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UNITED STATES ATOMIC ENERGY COMMISSION

VOLUME XIX

In the Matter Of:

J. ROBERT OPPENHEIMER

Place - Washington, D. C.
May 6, 1954

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UNITED STATES ATOMIC ENERGY COMMISSION
PERSONNEL SECURITY BOARD

 In the Matter of :
 :
 J. ROBERT OPPENHEIMER :
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Room 2022,
 Atomic Energy Commission,
 Building T-3,
 Washington, D. C.
 Thursday, May 6, 1954.

The above entitled matter came on for hearing,
 pursuant to recess, before the Board, at 9:30 a.m.

PERSONNEL SECURITY BOARD;

MR. GORDON GRAY, Chairman.
 DR. WARD T. EVANS, Member.
 MR. THOMAS A. MORGAN, Member.

PRESENT:

ROGER ROBB, and
 C. A. ROLANDER, JR.

J. ROBERT OPPENHEIMER.
 LLOYD K. GARRISON,
 SAMUEL J. SILVERMAN, and
 ALLAN B. ECKER, Counsel for J. Robert Oppenheimer.
 HERBERT S. MARKS, Co-counsel for J. Robert Oppenheimer.

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P R O C E E D I N G S

MR. GRAY: Before Mr. Garrison's summation, there are a couple of things I would like to take care of which I do not think will take very long. One concerns the 1947 AEC activities with respect to Dr. Oppenheimer's clearance, and I believe Mr. Marks has a statement that he would make with respect to that matter, inasmuch as he was at that time the General Counsel of the Commission, as I understand it.

MR. MARKS: That is correct.

As the Chairman will recall, I mentioned to him in the course of these proceedings some time ago, during one of the recesses, I believe, that in view of the questions that the Board was asking about the 1947 clearance, I thought it might wish me to state, either on the record or otherwise, what recollection I had of the events connected with that matter. I mentioned this subject again this morning informally to the Board, and ascertained that they would be interested in my stating what my memory was, and I am glad to do this because, while I think that what I have to report will not add much, if anything, to what the Board already has heard, I would prefer for them to judge it, rather than me.

Soon after the Hoover letter to the Commission about the Oppenheimer case, I learned about that letter. This would have been, as the proceedings here have brought out, in March of 1947. Whether I was told about the letter by Mr.

Volpe or by the then Chairman of the Commission, or at a Commission meeting, I do not recall. I believe that at about that time Mr. Volpe told me of the derogatory information concerning Dr. Oppenheimer as transmitted to the Commission with Mr. Hoover's letter.

I believe also that it was I who then first suggested that consideration be given to establishing a board to review the case. In that proposal, I suggested that such a board might include distinguished jurists. I would not have recommended that members of the Supreme Court be included. Whether I made this suggestion to Mr. Volpe with the expectation that he would communicate it to the Commission, whether I made it to the General Manager or to the Chairman of the Commission or at a Commission meeting, I do not recall. I certainly made it under circumstances where I expected it to be considered by the Commission.

As General Counsel for the Commission, I was naturally concerned with questions of procedure in personnel security cases. At the same time, I believe I am correct in my memory that in this matter I had a quite minor role. This was partly because Mr. Volpe, who was Deputy General Counsel, and as such my first assistant, was handling the matter to the extent that the Office of General Counsel was concerned, but perhaps more importantly, because Mr. Volpe, as a result of his experience with the Manhattan District, was in those

early days of the Commission organization looked to by the Commission for assistance in security matters, and aspects of security matters outside of the sphere of the Office of General Counsel.

I have no independent recollection, but there certainly must have come a time when I was aware that the idea of a board had not been adopted, and there must have been a time also when I was aware that the Oppenheimer case had in some way been disposed of by the Commission. I have no independent recollection of the Commission meeting of August 6, 1947, or of the other documents concerning this matter that have come into these proceedings, except that I have a vague memory that I knew that Mr. Lilienthal, and I believe Mr. Volpe, had visited Mr. Hoover about the matter, and I also have a memory that there was consultation or correspondence with Dr. Conant, Dr. Bush, Mr. Patterson and General Groves about the matter.

I should say also that when I was in Washington during the year I was General Counsel in 1947 either Mr. Volpe or I, or both of us, attended regular Commission meetings. If the meeting of August 6 was of that character, it is quite possible that one or both of us attended. Seldom, if ever, did I attend executive sessions of the Commission. I think it quite possible that on one or more occasions this case might have been the subject of conversation between the Chairman

of the Commission and me, although I have no memory of it. I rather doubt that there were any extensive discussions either between Mr. Lilienthal and me, or the Commission, because I was surprised to find in one of the documents that came into this proceeding that the idea of a board of review included the notion of having Supreme Court Justices be members. I would certainly have opposed any such idea, simply because I have long felt that the Supreme Court Justices should not take assignments off the court.

If the Board has any questions, I would be glad to try to answer them.

MR. GRAY: Thank you very much, Mr. Marks. I should say that I recall very clearly that you mentioned this matter to me several days ago, and also, of course, you came informally to us this morning and we discussed it again. I think it appropriate that your statement be made.

I would like to ask a couple of questions.

Do you recall whether you were asked to review the file in the case at that time? Do you have a recollection of whether the material which, I guess, came to the Commission from Mr. Hoover was submitted to you for study and comment?

MR. MARKS: As to the material that came to the Commission initially from Mr. Hoover, I was certainly told the nature of the derogatory information by someone. I seem

to remember that on one occasion Mr. Volpe had that Hoover letter with attachments when he was talking to me. I think he showed me the Hoover letter, and that I may have flipped through the pages of the attachment, but I have no recollection of studying the information in the sense in which I think you inquired, and I doubt very much that I did.

MR. GRAY: I asked the question because, as I recall the testimony here, the recollection of former Commissioners as to whether they saw the file or what kind of a file they saw was very hazy. I think it is of interest to this Board to know how extensively this file really was reviewed by members of the Commission and their principal advisors at the time.

MR. MARKS: My memory, Mr. Chairman, is that what I saw would have been more or less contemporaneously with the communication from Mr. Hoover, and whether I am now going on my memory or my memory is refreshed by questions that have been asked by Mr. Robb, certainly the impression that I have of the bulk of that particular document is consistent with the questions which Mr. Robb has asked. That is to say, that it was certainly not a document of 100 pages; it was a document of a half inch or quarter thick, speaking now of the Hoover letter, and what was attached to it.

MR. GRAY: I have asked you this question informally, but I should like to ask you again, you are sure

that you did not prepare this unidentified memorandum about which we had very considerable discussion earlier in these proceedings? You know the one to which I have reference which I characterized as not being signed or initialed in any way.

MR. MARKS: I am quite sure that I did not prepare that. I doubt very much that I ever saw it. It is hard for me to say without not now seeing the document whether I ever saw it, but the description of it here --

MR. GRAY: It would not have been your practice to prepare a memorandum for the file and put it in the file without in some way indicating that you had seen it or authored it?

MR. MARKS: Certainly not. I think I was quite meticulous about such matters.

MR. GRAY: In this connection, I think that Dr. Oppenheimer and counsel ought to know that an effort has been made to learn the authorship of this document that we discussed, and the people who are concerned now in the Commission I think just don't know who prepared it. It was not prepared by Mr. Jones, whose name has come into these hearings, or by Mr. Menke or by Mr. Uanna. Also, Mr. Belcher did not write it, he says, and nobody can furnish any information that is of any real value apparently as to the identity of the person who wrote the summary or memorandum. The best guess

of the people connected with it is that it was probably written by Mr. Volpe, but that is pure guess and speculation. I suppose as far as this proceeding is concerned, the author of the memorandum will remain unidentified. We have done all that is reasonable to do to find out.

MR. MARKS: I think I ought to say that I would have expected that if Mr. Volpe had prepared a memorandum of the kind that was described here that he would have mentioned it to me. I have no recollection of his ever having done so, or ever having prepared a memorandum of that kind.

MR. GRAY: Thank you very much, Mr. Marks.

Do you want to proceed, Mr. Robb?

MR. ROBB: Yes, Mr. Chairman.

After the Board adjourned yesterday, we received three documents which I think should be made a part of the record. The first and second of these documents respectively are photostats of a letter from Haakon Chevalier to Mr. Jeffries Wyman, dated February 23, 1954, and the response to that letter from Mr. Wyman to Mr. Chevalier dated March 1, 1954. I will ask to have these read into the record by Mr. Rolander, if you please, sir. I am sorry we haven't copies of these. These just came in this morning.

MR. ROLANDER: The address is "19, rue du Mont-Cenis, Paris, 18e

"February 23, 1954

"Mr. Jeffries Wyman

"7, Cité Martignac

"Paris, 7e

"Dear Mr. Wyman,

"My friend --- and yours --- Robert Oppenheimer, gave me your name when he was up for dinner here in our apartment early last December, and urged me to get in touch with you if a personal problem of mine which I discussed with him became pressing. He gave me to understand that I could speak to you with the same frankness and fullness as I have with him, and he with me, during the fifteen years of our friendship.

"I should not have presumed to follow up such a suggestion if it had come from anyone else. But as you know, Opje never tosses off such a suggestion lightly.

"If you are in Paris, or will be in the near future, I should, then, like to see you informally and discuss the problem.

"On rereading what I have written I have a feeling that I have made the thing sound more formidable than it really is. It's just a decision that I have to make, which is fairly important to me, and which Opje in his grandfatherly way suggested that I shouldn't make before consulting you.

"Very sincerely, Haakon Chevalier."

There is a signature and then typed name.

The second letter:

"American Embassy, Paris

"March 1, 1954

"Mr. Haakon Chevalier

"19, rue du Mont-Cenis

"Paris (18e)

"Dear Mr. Chevalier:

"I have just received your letter of February 23.

I shall be delighted to see you and talk over your problem with you. Would you care to have lunch with me at my house on Thursday, the 4th of March at one o'clock? The address is 17, rue Casimir P^{er}rier, Paris (7^e), third story. (The telephone is Invalides 00-10)

"Time being rather short, will you let me know your answer by telephone either at my house or preferably here at the embassy (Anjou 74-60, extension 249). If the time I suggest is not convenient we will arrange for another.

"You will notice that my address is not that given you by Bob Oppenheimer. I have moved since he was here.

"Yours sincerely, Jeffries Wyman, Science Attache."

MR. ROBB: Mr. Chairman, the third document is an affidavit dated May 4, 1954, signed and sworn to by Ernest O. Lawrence. Would you read that, please?

MR. ROLANDER: "May 4, 1954.

"I remember driving up to San Francisco from Palo Alto with L. W. Alvarez and Dr. Vannevar Bush when we

discussed Oppenheimer's activities in the nuclear weapons program. At that time we could not understand or make any sense out of the arguments Oppenheimer was using in opposition to the thermonuclear program and indeed we felt he was much too lukewarm in pushing the overall A.E.C. program. I recall Dr. Bush being concerned about the matter and in the course of the conversation he mentioned that General Hoyt Vandenberg had insisted that Dr. Bush serve as Chairman of a committee to evaluate the evidence for the first Russian Atomic explosion, as General Vandenberg did not trust Dr. Oppenheimer. I believe it was on the basis of the findings of this committee that the President made the announcement that the Soviets had set off their first Atomic bomb."

Signed "Ernest O. Lawrence", typed "Ernest O. Lawrence". His signature appears twice signed.

In the bottom left hand corner, "Subscribed to and sworn before me this 4th day of May, 1954" the signature of Elizabeth Odle, the name, and then typed, "Notary public in and for the County of Alameda, State of California. My Commission Expires Aug. 26, 1956."

The seal appears thereon.

MR. ROBB: That is all, Mr. Chairman.

MR. GRAY: Mr. Garrison, do you want to have a recess for a conference?

MR. GARRISON: It may be a minute or two of

discussbn.

MR. GRAY: By all means, take it. We will take a short recess.

(Brief recess.)

MR. GARRISON: I think Dr. Oppenheimer would like to make a very short statement.

MR. GRAY: Before he does, I would like to say something about this affidavit which was offered by Mr. Robb. It will be recalled that when Dr. Bush came back before this Board as a rebuttal witness, the Chairman of the Board asked him the question whether if you substitute the name Vandenberg for Truman whether his recollection would be the same, and Dr. Bush said emphatically that his recollection would be the same. I wish it known that there is no way that Dr. Lawrence could have known of my question to Dr. Bush. I wish it also known that I had no knowledge of Dr. Lawrence's affidavit, or that there was to be an affidavit at the time I put the question.

MR. GARRISON: Mr. Chairman, I think it is correct that Dr. Bush testified on May 4, I believe this affidavit is dated May 4. I assume Mr. Robb, you communicated with Dr. Lawrence about it?

MR. ROBB: I asked Mr. Rolander to communicate with Mr. Lawrence, yes.

MR. GARRISON: Did you tell him Dr. Bush's testimony?

MR. ROLANDER: I communicated with Dr. Lawrence through Dr. Alvarez, during which I asked Dr. Alvarez to check with Lawrence, and ask Lawrence to prepare a statement as to his recollection of the conversation that took place in this automobile trip from Palo Alto.

MR. GARRISON: Did you tell Mr. Alvarez about the nature of the discussion here before the Board?

MR. ROLANDER: I am quite sure that I told him there was some question as to what did take place, but I am also quite sure I did not mention the name "Vandenberg".

MR. GRAY: Mr. Garrison, are you prepared now to proceed with your summation?

MR. GARRISON: I would like to clear up just one procedural matter, and then I think Dr. Oppenheimer has a very brief comment to make on the matter of his dinner with Mr. Chevalier.

MR. GRAY: He will be given that opportunity.

MR. GARRISON: At the session yesterday, Mr. Chairman, you said to me that the General Nichols letter of December 23 contained some detail about the so-called Chevalier incident. The letter did not however refer to a matter about which the Board has had a good deal of testimony, and that is the fabrication of the Pash and Lansdale interviews. You informed me that we should know that the Board considers this an important item, that it would be one of the innumerable

things that would be taken into consideration when you begin your deliberations. You wanted to avoid any misunderstanding about the question whether the letter should be broadened to contain the point about that aspect of the episode, and you asked me if I had a comment to make on that.

My comment is, Mr. Chairman, that in Dr. Oppenheimer's letter of response to General Nichols in which he refers to Eltenton's approaching people on the project through intermediaries and then recounts his own conversation with Chevalier, it is quite clear that he was indicating that he had fabricated the story which he had told, and therefore, Mr. Chairman, we do not suggest or request that the letter of General Nichols be broadened to contain this point.

MR. GRAY: I see.

MR. GARRISON: It is at the bottom of page 22. He has previously in the preceding paragraph described his conversation with Chevalier in which it is clear that he did not believe that Chevalier was seeking information.

MR. GRAY: Yes. I think you have answered the question which I asked you.

MR. SILVERMAN: Mr. Chairman, while Mr. Garrison has been making his statement, we have been checking the transcript to see what the testimony is on this business of Chevalier's discussion with Dr. Oppenheimer, and with Mr. Wyman.

MR. GRAY: Yes.

MR. SILVERMAN: As Mr. Garrison said, Mr. Oppenheimer was going to take the stand again for a minute to tell what he knows about it, but we find in looking at the transcript that he has already said what he has to say. I would simply call your attention to page 2990 of the transcript. I will wait a moment for you, Mr. Robb.

MR. ROBB: I have it.

MR. SILVERMAN: In which Mr. Chairman, you were questioning Dr. Oppenheimer. I am reading only a part of the questioning on this point, but it is the part I think is material.

"Is it clear to you in your visit in the late fall of 1953 to Paris you did not in any way get involved in Dr. Chevalier's passport problems as of the present time?"

"THE WITNESS: I don't believe I became involved in them. I am not even sure we discussed them.

"MR. GRAY: You say he did discuss them with you?"

"THE WITNESS: I am not even sure he discussed them with me. I am sure he discussed one point with me at length which was his continued employment at UNESCO."

MR. GRAY: If Dr. Oppenheimer wishes to add to that, we should be glad to hear it.

MR. GARRISON: I think he would just for a moment. Would you care to comment on this?

Whereupon,

J. ROBERT OPPENHEIMER

a witness having been previously duly sworn, resumed the stand and testified further as follows:

THE WITNESS: I understand that I am under oath.

The problem that most of the evening with Chevalier was spent in quite scattered talk, there was one thing that was bothering him and his wife. Either a large part or a substantial part of his present employment is as a translator for UNESCO. He understood that if he continued this work as an American citizen, he would be investigated, he would have to be cleared for it, and he was doubtful as to whether he would be cleared for this. He did not wish to renounce his American citizenship. He did wish to keep his job, and he was in a conflict over that. This occupied some of the discussion. This is the only problem that I knew about at that time. I don't know what the problem is that he did consult Wyman about. I believe I should also say that the sense of the sense that the Chevalier letter to Wyman gives, that Wyman should act as a personal confidant assistant to him and not as an officer of the government could not have been anything that I communicated. It was precisely because Wyman was an officer of the government that it would have appeared appropriate to me for Chevalier to consult Wyman, precisely because anything that was said would be reported to

the government and would be quite open. That is about all I can remember.

MR. SILVERMAN: May I add one thing. I note at page 462, when Mr. Robb was originally questioning Dr. Oppenheimer about this matter, let me read the question and answer that I refer to:

"Did you thereafter go to the American Embassy to assist Dr. Chevalier getting a passport to come back to this country?"

"A. No."

That is the context of this matter.

THE WITNESS: Thank you.

MR. GRAY: Thank you, Dr. Oppenheimer.

(Witness excused.)

MR. GRAY: Will you proceed, Mr. Garrison?

SUMMATION

MR. GARRISON: Mr. Chairman and members of the Board: I would like to thank you again for waiting over until this morning to give me a little more time to prepare what I might say to you. I want to thank each of you also for your great patience and courtesy and consideration which you have extended us all through these weeks that we have been together.

I think I should take judicial notice of the fact that unless Dr. Evans has some possible question, that I understand that you did not seek the positions which you are

here occupying, and I appreciate the fact that you are rendering a great public service in a difficult and arduous undertaking.

As we approach the end of this period in which we have been together, my mind goes back to a time before the hearings began when the Commission told me that you were going to meet together in Washington for a week before the hearings began here to study the FBI files with the aid of such staff as might be provided. I remember a kind of sinking feeling that I had at that point -- the thought of a week's immersion in FBI files which we would never have the privilege of seeing, and of coming to the hearings with that intense background of study of the derogatory information.

I suggested two things to the Commission. One, that I might be permitted to meet with you and participate with you during the week in discussions of the case without, as I knew would have to be the case, actual access to the FBI documents themselves, but at least informally participating with you in discussions about what the files contained.

This the Commission said was quite impractical because of the confidential nature of the material, and I then suggested that I meet with you at your very first session in Washington to give you very informally a little picture of the case as we saw it, so that you might at least have that picture as you went about your task, and also that

we might have a chance to explore together the procedures which would be followed in the hearings. That request likewise was not found acceptable.

It was explained to me that the practice in these proceedings was that the Board would conduct the inquiry itself and would determine itself whether or not to call witnesses and so forth, and it was therefore necessary for the Board to have a thorough mastery of the file ahead of time.

We came together then as strangers at the start of the formal hearing and we found ourselves rather unexpectedly in a proceeding which seemed to us to be adversary in nature. I have previously made some comments upon this procedure. I don't want to repeat them here. I do want to say in all sincerity that I recognize and appreciate very much the fairness which the members of the Board have displayed in the conduct of these hearings, and the sincere and intense effort which I know you have been making and will make to come to a just understanding of the issues.

I would like now to discuss very briefly the legal framework in which it seems to me you will be operating. You have two basic documents, I suppose, the Atomic Energy Act of 1946 and Executive Order 10450. The essential provisions of these two enactments are contained in summary form in General Nichols' letter of December 23 in the second paragraph, in which the question before the Board is put, I think, in

this way. General Nichols in the second paragraph of his letter of December 23 says that, "As a result of the investigation and the review of your personnel security file in the light of the requirements of the Atomic Energy Act and the requirements of Executive Order 10450, there has developed considerable question whether your continued employment on Atomic Energy Commission work will endanger the common defense and security" -- that is the language of the Act -- "and whether such continued employment is clearly consistent with the interests of the national security." That is the language of the Executive Order. So that they are both together in that sentence.

Now, I think that the basic question -- the question which you have to decide, -- can be boiled down to a very short form. Dr. Oppenheimer's position is that of a consultant. He is to give advice when his advice is sought. This is up to the Atomic Energy Commission as to when and where and under what circumstances they shall seek his advice. That, of course, is not a question that this Board is concerned with. The basic question is whether in the handling of restricted data he is to be trusted. That, it seems to me, is what confronts this Board, that bare, blunt question.

In trying to reach your determination, you have some guides, some things that you are to take into consideration. The statute speaks of character, associations

and loyalty. Certainly loyalty is the paramount consideration. If a man is loyal, if in his heart he loves his country and would not knowingly or willingly do anything to injure its security, ~~ten~~ associations and character become relatively unimportant, it would seem to me.

I suppose one can imagine a case of a loyal citizen whose associations were so intensely concentrated in Communist Party circles --it is hard for me to suppose this of a loyal citizen, but I suppose one might reach a case where the associations were so intense and so pervasive -- that it would create some risk of a chance word or something doing some harm, a slip, and so forth.

In the case of character, I suppose that a loyal citizen could still endanger the national security in the handling of restricted data if he were addicted to drunkenness or to the use of drugs, if he were a pervert. These conditions, we of course don't have here.

I would like to skim through with you, because it seems to me to illuminate the nature of the task before you, the Commission's memorandum of decision regarding Dr. Frank Graham, because this was a case which involved a consideration of loyalty and associations. I have the memorandum of the decision here, which was one, I think, of only two that the Commission has thought it desirable to publish. This is dated December 18, 1948. If the Board would like copies of it,

I would be glad to pass them up to you. I don't propose to read it all, Mr. Chairman, but to point out what seems to me significant in it.

I would direct your attention to paragraph 4, which follows the brief recital of Dr. Graham's character and it cites the sentence from the Atomic Energy Act with which we are familiar, and refers to the FBI report on character, associations and loyalty. Then it goes on to describe their examination of the security file:

"The five members . . . are fully satisfied that Dr. Graham is a man of upright character and thoroughgoing loyalty to the United States. His career as a leading educator and prominent public figure in the South has, it appears, been marked by controversy, engendered in part by his role in championing freedom of speech and other basic civil or economic rights.

"6. In the course of his vigorous advocacy of the principles in which he believes, Dr. Graham has allied himself, by sponsorship or participation, with large numbers of people and organizations all over the country. In this way he has been associated at times with individuals or organizations influenced by motives or views of Communist derivation. These associations, which in substance are described in various published material, are all referred to in the security file.

"7. 'Associations' of course have a probative value

in determining whether an individual is a good or bad security risk. But it must be recognized that it is the man himself the Commission is actually concerned with, that the associations are only evidentiary, and that common sense must be exercised in judging their significance. It does not appear that Dr. Graham ever associated with any such individuals or organizations for improper purposes; on the contrary, the specific purposes for which he had these associations were in keeping with American traditions and principles. Moreover, from the entire record it is clear in Dr. Graham's case that such associations have neither impaired his integrity, nor aroused him in the slightest sympathy for Communist or other anti-democratic or subversive doctrines. His record on controversial issues has made this abundantly clear, and his course of conduct during the past two decades leaves no doubt as to his opposition to Communism and his attachment to the principles of the Constitution.

"8. All five members of the Commission agree with the conclusion of the General Manager that, in the words of the Atomic Energy Act of 1946, it 'will not endanger the common defense or security' for Dr. Graham to be given security clearance, and that it is very much to the advantage of the country that Dr. Graham continue his participation in the atomic energy program. Our long range success in the field of atomic energy depends in large part on our ability to attract

into the program men of character and vision with a wide variety of talents and viewpoints."

So I say to you, Mr. Chairman and members of the Board, that in the Commission's own view of the matter, it is the man himself that is to be considered, common sense to be exercised in judging the evidence, and that it is appropriate to consider in the final reckoning the fact that our long range success in the field of atomic energy depends in large part on our ability to attract into the program men of character and vision with a wide variety of talents and viewpoints.

The factors of character, associations and loyalty are not the only ones that are set forth in the catalog of things that you are to consider. Section 4.16(a) of the Atom Energy Commission Rules and Regulations contains two paragraphs about the recommendations of the Board, and the very first sentence says that the Board shall consider all material before it, including the reports of the Federal Bureau of Investigation, the testimony of all witnesses, the evidence presented by the individual and the standards set forth in "AEC Personnel Security Clearance Criteria for Determining Eligibility", 14 FR 42.

That, it seems to me, means that the standards set forth in this document entitled "AEC Personnel Security Clearance Criteria for Determining Eligibility" are all to be considered. It is, as Mr. Robb pointed out, true that this

document in many places refers to the General Manager, and what the General Manager shall take into account. I think that it is both sensible and logical and clearly intended by section 4.16(a) that you, in making your recommendations to the General Manager, would take into account the things which he has to take into account in arriving at the decision.

MR. GRAY: May I interrupt?

MR. GARRISON: Yes.

MR. GRAY: I am very much interested in this point, Mr. Garrison. You earlier, I believe, suggested that the usefulness of a man to the program of the Commission was something that the General Manager had to consider. Does this most recent observation you made mean that this Board must take into account that kind of thing also, because if you say that this Board takes into account everything the General Manager takes into account, then it seems to me that is inconsistent with an earlier portion of your argument.

Please don't misunderstand me. I am not arguing with you but I want to have your views clearly on this point because it may be an important one.

MR. GARRISON: I think, as I said earlier, that in the case of a consultant where it is up to the Commission to decide what advice to seek from him, and when that a common sense reading of this document would leave that question of the appraisal of his usefulness as an advisor necessarily to

the Commission. I should think that would be true. I would not want to make a rigid argument that every sentence in this document must be literally applied in arriving at your opinion. Indeed, what I am going to end up in a moment is, having eliminated all of the things that appear in here, when you add to those the words that appear in the statute, you have really in the end no way of arriving at a judgment except by a common sense overall judgment, which is what is emphasized in the personnel security clearance document and in the regulations.

If I might just pursue that for a moment, the personnel security clearance criteria include references to the past association of the person with the atomic energy program and the nature of the job he is expected to perform. It is there, I think, that the fact that this is a consultant position does come into the consideration. It goes on to say that the judgment of responsible persons as to the integrity of the individuals should be considered. A little later it talks about the mature viewpoint and responsible judgment of Commission staff members, and then it goes on to list these categories (a) and (b) with numerous sub-headings.

I don't think there should be any mystery about these categories. Category (a) does not differ from Category (b) except to the extent that items that are established under Category (a) create a presumption of security risk,

and a presumption, of course, is something which is rebuttable by other evidence. If there is any doubt on that point, I hope the Board will let me know.

It would be, I think, a complete misreading of this document to say that if you should find an item established under category (a), let us say, that disposes of the case, because everything in the document and in Section 4.16 to which I shall return in the Rules and Regulations, emphasize that everything in the record is to be considered.

For example, this document entitled the criteria says that the decision as to security clearance is an overall common sense judgment made after consideration of all the relevant information as to whether or not there is risk that the granting of security clearance would endanger the common defense or security.

The next paragraph says that cases must be carefully weighed in the light of all the information and a determination must be reached which gives due recognition to the favorable as well as unfavorable information.

Then 4.16(a) provides that the members of the Board as practical men of affairs should be guided by the same consideration that would guide them in making a sound decision in the administration of their objectives. It goes on to instruct the Board to consider the manner in which witnesses have testified, their credibility, and so forth,

Then that if after considering all the factors that they are of the opinion that it will not endanger the common defense and security to grant security clearance, they should so recommend.

So I think we come down in the end, Mr. Chairman, to the basic acid question before the Board, whether in the overall judgment of you three men, after considering and weighing all the evidence, that Dr. Oppenheimer's continued right of access to restricted data in connection with his employment as a consultant would endanger the national security and the common defense, or be clearly inconsistent with the national security.

It would seem to me that in approaching that acid question the most impelling single fact that has been established here is that for more than a decade Dr. Oppenheimer has created and has shared secrets of the atomic energy program and has held them inviolable. Not a suggestion of any improper use by him of the restricted data which has been his in the performance of his distinguished and very remarkable public service.

Now, at this moment of time, after more than a decade of service of this character, to question his safety in the possession of restricted data seems to me a rather appalling matter.

I would like to tell you what this case seems to me to

look like in short compass. I wish we could dispose of it out of hand on the basis of the fact that I have just mentioned to you, that for more than a decade Dr. Oppenheimer has been trusted, and that he has not failed that trust. That in my judgment is the most persuasive evidence that you could possibly have. But I know that you will have to go into the testimony and the evidence, the matters in the file before you, and I would like to sum up, if I may, that it looks like to me to be like.

Here is a man, beginning in 1943 -- beginning in 1942, actually -- taken suddenly out of the academic world in which up to that time he had lived, and suddenly in 1943 put in charge by General Groves of the vast and complex undertaking of the establishment and operation of the laboratory at Los Alamos, a man who suddenly finds himself in administrative charge of the scientific direction of some 4,000 people in a self contained community in a desert. He performs by common consent an extraordinary service for his country, both administratively and militarily. After the war he hopes to go back to his academic work, back to physics, but the government keeps calling upon him almost continuously for service. Secretary Stimson puts him on his Interim Committee on Atomic Energy, the Secretary of State puts him on the consultant group in connection with the program for the control of atomic energy before the UN, he writes a memorandum

to Mr. Lillienthal within a month of his appointment which contains the essence of the plan which the United States is to adopt, a plan which would have called for the breaking down of the Iron Curtain, and which was to prove extremely distasteful to the Russians. He serves Mr. Baruch at the United Nations and after Mr. Baruch retires, he served General Osborne, and General Osborne has told us here of his firmness and his realism and his grasp of the problems of the conflict and the difficulties of dealing with the Russians.

He makes speeches and he writes articles setting forth the American program and the essence of it, and supporting it. Some of those you have heard before you.

The President appoints him to the General Advisory Committee in January of 1947, and then he is elected Chairman by his fellow members, and he serves on that for six years. He helps to put Los Alamos back on its feet. He has earlier supported the May-Johnson Bill as a means of insuring that this work at Los Alamos or the work on atomic weapons wherever it be conducted can go forward.

He backs in his official work every move calculated to expand the facilities of the Commission, to enlarge raw material sources, to develop the atomic weapons for long range detection, so that we may find out what the Russians are doing, if and when they achieve the atomic bomb.

After Korea when we are in the midst of an actual

shooting war with a military establishment then found to be very depleted, he interests himself in the development of atomic weapons for the battlefield in connection not merely with our problems of intervention in situations like Korea, but more importantly for the defense of Europe against totalitarian aggression.

Finally, he interests himself in continental defense as a means of helping to preserve the home base from which both strategically and tactically any war must be fought. In these and in other ways through half a dozen other committees he gives something like half his time to the United States Government as a private citizen.

Now he is here in this room and the government is asking the question, is he fit to be trusted.

How does this case come about? Why is Dr. Oppenheimer subjected to this kind of a scrutiny by the government he has served so long and so brilliantly? Two main things stand out. His opposition to the H-bomb development in 1949 in the report in which he joined with the other members of the GAC, and his left wing associations and related incidents through 1943. I emphasize that period because it is there that the real searching questions have been put. These are the two main things, and I am going to concentrate in the remarks that I have to make chiefly on these two main facets of the case.

I would digress for a moment to make a short comment on Mr. Borden's letter. I will say this merely. It appears that this letter was before the Atomic Energy Commission at the time that General Nichols wrote his letter to Dr. Oppenheimer; that to the extent that the items in Mr. Borden's letter are covered in General Nichols' letter, there is adequate testimony before the Board in our judgment to shed light on all of them. To the extent that there are items in Mr. Borden's letter not covered by the Nichols letter, I just assume that they were not worthy of credence by the Atomic Energy Commission, and are not worthy of credence here.

Finally, I would point out that the matters contained in his letter are matters of opinion and conclusions without evidentiary testimony or facts.

Now, returning to the two central elements in this case, of the H bomb opposition and the left wing associations and the related incidents through 1943, I would say this in the shortest possible compass about the H bomb opposition in 1949 -- that on the whole record here it represented simply an honest difference of opinion. I don't see how it is possible to arrive at any other conclusion than that; that there are on this record no acts of opposition to this program once the President decided to go ahead with it, and that finally there is evidence of affirmative support for the program, particularly after new inventions had established

the practical possibility or the near possibility of the creation of the bomb for the first time.

In respect to the left wing associations and their related incidents through 1943, I would say in all basic essentials they were known to General Groves, and they were known to Colonel Lansdale, and these two men trusted Dr. Oppenheimer. I propose to show in a moment that in all basic essentials they were known to the Atomic Energy Commission in 1947, and that the Commission cleared him, as I shall argue, and as I believe to be the case from the records.

This perhaps might be enough, and surely should be enough, but in addition, we have the testimony of a long series of witnesses here who have worked with Dr. Oppenheimer and have known him for many years and who have arrived at the kind of judgment of the whole man which is the real task before us.

I would like, if I might, how to develop these very shortly stated observations about first the H bomb and then the left wing associations. I hope the Board will interrupt me at any point at which you would like to put questions. I hope you will interrupt me at any point when you feel you are getting tired listening to me, and you would like a recess or a few minutes of relaxation.

MR. GRAY: I would just put a question to you now, Mr. Garrison. Did I understand you to say that you feel that

the clearance in 1947, which you are prepared to argue, is clearly established, is sufficient?

MR. GARRISON: No, I didn't mean to suggest in any way that it forecloses the judgment of this Board, or that you are not under a responsibility to consider the whole record. If I conveyed any other impression, I didn't intend to. That is your task. I would have thought as an original proposition that this proceeding ought never to have been instituted in the light of this history and in the light of the clearances and of the whole record. But it has been and it is before you, and it is your responsibility and it is your task. When I said this should have been enough, I meant it should have been enough and this proceeding should never have been brought.

Let me return to the topic of the H bomb. You have had an enormous quantity of evidence, some of it quite technical and some of it quite complicated, about the pros and cons of proceeding with an intensified H bomb program in 1949, and I am not going to dream of attempting at this time to recapitulate that evidence. I just want to pick out a few salient points and enlarge on them a little bit.

I want to stress at the outset what I am sure this Board must feel, and that is that the members of the General Advisory Committee who appeared here and testified before the Board were men deeply convinced of the rightness as of 1949 of the judgments which they then made. Certainly

that those judgments were honest judgments, that they were arrived at by each individual, each in his own way. No two men put the case to you in quite the same fashion as to what was in their minds. I am sure you must credit each of them with sincerity, with honesty and with having made a genuine effort in 1949 to say, and to recommend what each believed to be in the interests of America. Surely that was true of Dr. Conant, who expressed his own views while Dr. Oppenheimer was still not quite certain of his before the meeting of the GAC, and I think Dr. Alvarez or somebody testified to that effect, who was as strong in his opposition as a man can be, who drafted the majority annex with Dr. DuBridge, and whose rugged and independent character is well known to the country and must be apparent to all of us here.

Dr. Fermi, who spoke of the soul searching for all of us which they went through at that time, and to whom Dr. Conant looked for technical appraisals, who surely must have given this Board of the sense of the struggle that they went through at the time to do what they believed to be the right thing.

Dr. Rabi, now Chairman of the General Advisory Committee, Mr. Oliver Buckley, who made that very sincerely felt and separately stated statement on September 3 to make sure that the very most precise sense of what he believed was on the record. And of Mr. Hartley Rowe, who told you among other things of his experience with Communists and

Communism in the Latin American countries, and who certainly felt deeply what he was up to in 1949. And then Dr. Oppenheimer, who by the account of all of the members, did not attempt in any way to impose his own views, to dominate the sessions. On the contrary, there is evidence quite to the contrary of the extent to which he welcomed and stimulated discussion of the most protracted character from all concerned, who unquestionably had the influence which goes with great mastery of the subject and of a character that carries weight and meaning and significance in itself.

But the picture that some would paint of a Svengali or a mastermind manipulating men to do his will just falls apart when one actually hears and sees and talks with the members who served with him on the General Advisory Committee. Honest judgments honestly arrived at by Dr. Oppenheimer and all the others.

I would like to stress now the thoroughgoing nature of the consideration which they brought to this subject. This was not a snap decision. Before the meeting the record now shows that Dr. Oppenheimer had discussions with all kinds of people, including Dr. Teller, who was of course very much for the program, Dr. Bethe, Dr. Serber came to see him, Dr. Alvarez. Not only that, but all around in the government this thing was being discussed and considered. General Wilson has described to us the meeting on October 14 of the Joint

Chiefs with the Joint Committee on Atomic Energy, with General Vandenberg for the Joint Chiefs urging the development of the H bomb. This is two weeks before the GAC meeting. General Wilson has described how on the same day the Chairman of the Military Liaison Committee informed that committee of his visit with General McCormack and Dr. Manley to Dr. Oppenheimer at Princeton where they had discussed the super and other problems to be taken up by the General Advisory Committee.

I quote that verbatim from General Wilson's testimony at page 2354. The Chairman of the Military Liaison Committee goes with General McCormack, and with Dr. Manley to see Dr. Oppenheimer at Princeton where they discuss the super and other problems to be taken up by the General Advisory Committee.

Then on October 17, the Joint Congressional Committee writes a letter to the Atomic Energy Commission requesting further information on the super. A copy of this goes to the Military Liaison Committee. Then we have Dr. Alvarez talking with all the members of the GAC, and with most of the AEC Commissioners a couple of days before the meeting, and also a couple of days before the meeting, we have a joint meeting of the Atomic Energy Commission and the Military Liaison Committee, and in General Wilson's testimony, the Atomic Energy Commission -- and I am now quoting verbatim -- "announced that it had asked the General Advisory Committee to consider the super weapon in the light of recent

developments."

Then we have the meeting itself beginning on October 29, and running for three days, beginning with a joint session with the Atomic Energy Commission. There was for a little while some doubt in the record which puzzled the Chairman particularly as to how the question of the super arose in the Commission. It was the recollection of Dr. Oppenheimer and of Mr. Rowe, and Mr. Lilienthal, Mr. Dean, none of them perhaps very sharp, that at this joint meeting the Chairman of the Atomic Energy Commission, for the Commission, raised the question. Mr. Lilienthal testified about Admiral Strauss' memorandum of October 5 or 6, which asked that this be considered by the General Advisory Committee. But I think General Wilson's testimony, it is quite apparent that informally no doubt this matter was actually at the top of the agenda for the General Advisory Committee.

Then you have this three days of discussion, consultation with the State Department, with Intelligence, and the Military Liaison Committee, and after all this is over, these gentlemen of the General Advisory Committee sit down and draft their report, and the annexes expressing their individual points of view. Not a snap decision; a decision arrived at after the most intense kind of discussion with people representing the whole gamut of points of view about it.

And then not content with that, at this December

meeting of the General Advisory Committee, the matter is reviewed once more in the light of all the discussion and reactions that have taken place since October.

We have to take into account in measuring or appraising whether Dr. Oppenheimer, which is the only question you have here, whether his own advice, unlike that of every other member of the GAC, was motivated by a sinister purpose to injure the United States of America, and to help our enemy -- the mere utterance of that proposition is somehow shocking to me. But it is the question that has been posed and because it is a shocking question, we have to deal with it in direct and blunt terms.

Not one scrap of evidence to indicate that he differed in his purposes from the other honorable Americans who served on this committee and who went into this matter at such length.

There were other leading men in the country who formed the same kind of judgments. This was not an isolated piece of advice that the General Advisory Committee gave. This was a very, very close, difficult and warmly debated subject, debated by all kinds of men. You heard Dr. Kennan, the author of our containment policy, former Ambassador to Russia, describe his own thinking for the State Department Policy Planning Committee on the subject. You have heard Mr. Winne of the General Electric, giving in retrospect his views, and

Dr. Burke giving in retrospect his, and Hans Bethe and Dr. Lauritsen and Dr. Bacher, Mr. Pike of the AEC, Mr. Lilienthal, men of the most varied outlooks, experiences and backgrounds themselves troubled by the whole business of going forward to make this super weapon.

Then you heard also from other men who, while they favored going forward with the H bomb program, were not in the slightest critical of those like Dr. Oppenheimer who favored the other course. On the contrary, they expressed themselves of the extraordinarily difficult nature of the problem. Gordon Dean, who favored going ahead with the H bomb program, joining with Admiral Strauss on the Atomic Energy Commission in that, gave us his view of the difficulty of the decision that confronted everybody. Norris Bradbury, who likewise favored moving forward with it, giving similar testimony. And Dr. von Neumann, in the same vein, Professor Ramsey, who was then with the Science Advisory Committee of the Air Force, describing the closeness of the 55-45 in his own mind.

Now, let us come down to Dr. Oppenheimer himself and the honesty of his own judgment, which seems to me impossible to doubt. Even the most active pro-H bomb advocates, the strongest critics of the position which Dr. Oppenheimer took in 1949, have not questioned his loyalty, although they have, some of them, in strong terms questioned the wisdom of his judgment. Dr. Teller, Dr. Alvarez, Dr. Pitzer, Professor Latimer,

General McCormack, General Wilson. If you will read the record, you will find that all of those men, critics as they were and strong critics of the position taken, did not doubt Professor Oppenheimer's loyalty in the advice that he gave with his fellows on the GAC.

It seems to me that in the face of all of the long catalog of efforts of Dr. Oppenheimer since 1945, let alone at Los Alamos, but since 1945, to strengthen our defenses, to build up Los Alamos, to expand the weapons program, to make us strong in atomic energy, and strong in weapons and strong in defense, it is fantastic to suppose that in the face of all those efforts he should be harboring a motive to destroy his own country in favor of Russia. Just the mere proposition is unthinkable on its face.

Then, in spite of his strong feelings on the subject, when the President has made the decision to go ahead, the record shows whatever might be the situation in his heart about this matter, difficult for a man to change what is in his mind and his convictions, but no opposition in this record to the carrying forward of the program. On the contrary, affirmative evidence that all members of the GAC including Dr. Oppenheimer went along with it, and when it became by process of unexpected inventions something that could really be talked about in terms of production, Dr. Oppenheimer chairs the meeting and presides over the meeting at Princeton which is

called together to really put the stuffing in this program. Dr. Teller himself paid tribute to Dr. Oppenheimer's attitude and efforts that he made at that meeting to get the program going.

What can be made of this H bomb argument? The only thing that has been suggested has been an alleged pattern of opposition which somehow is intended to imply a sinister and un-American attitude toward the whole safety of the military program of the country. This alleged pattern of opposition comes down to the Lincoln summer session, to the Vista Project, to the second laboratory. Those are the three main things that one witness here at least suggested constituted a pattern of opposition which troubled him about Dr. Oppenheimer.

Now, we have looked at these. We have looked at the Lincoln summer session. We have seen that the suspicions that that was somehow going to do something that would impair the Strategic Air Force was unfounded. There was no change in the program at all. It was a matter of suspicion that was simply shown to be completely groundless. Over and above that, the affirmative contributions that the thinking and the planning that went on at that session made to the Lincoln Project, which is warmly supported by the Air Force as has been brought out.

Now, in Vista, the business of the atomic weapons

for the battle front. Such minor differences as may have existed between the thinking of the group in which Dr. Oppenheimer took a certain but not a leading part were adjusted, the report came out to the satisfaction of all concerned, and the testimony of those who criticized what may have been some suggestions in some portions of the report, although the record is very unclear about the whole business, the testimony was that this Chapter 5, the whole business of developing these atomic weapons for the battlefront was a great contribution to the country. Actually the work that was done in Lincoln and Vista has become the official policy of the Military Establishment of the country.

Dr. Oppenheimer, if anything could be said about him, could be said that he was a little ahead of his time.

The second laboratory controversy comes down likewise to a difference of opinion about the building of a new Los Alamos in the desert. Dr. Oppenheimer's position in the matter, as Chairman of the GAC, was no different from that of Dr. Bradbury at Los Alamos, whose respect Dr. Teller testified so warmly about. Dr. Oppenheimer supported the Livermore Laboratory when that was found to be the solution to the whole matter, and in the end the bomb that we have been exploding was produced at Los Alamos.

So this alleged pattern of opposition really falls apart upon examination, and it is the only shred of a

suggestion of evidence that Dr. Oppenheimer was pursuing an unpatriotic course.

Now, the alleged opposition by Dr. Oppenheimer after President Truman's go-ahead has also vanished under the microscope of the testimony, that he caused to be distributed the GAC report to top personnel to discourage them from working on the H bomb. That I take by common consent has been dropped out of this because its origin in an unfounded suspicion by Dr. Teller has been made quite apparent. Dr. Hanley and Dr. Bradbury have explained precisely how those reports came to be distributed by order of the General Manager of the Atomic Energy Commission.

We have gone over the evidence about recruitment and the suggestion in the letter that Dr. Oppenheimer was instrumental in persuading people not to work on the project has no foundation of fact, and on the contrary, the evidence shows that he took affirmative steps to help in that direction, the difficulties of Dr. Teller as an administrator being recognized as one of the problems that made recruitment difficult, until the Livermore Laboratory was set up, and the administration was handled under Dr. Lawrence's direction.

The Princeton meeting I have already referred to and I shall not mention it again, but as an evidence of the affirmative help to the H bomb program, I might just mention a little item of Dr. Bradbury's testimony, that the GAC and

Dr. Oppenheimer were willing to go farther in pushing the new invention than the laboratory itself was at the time. You will find that at page 1582 of the record.

You have also testimony by Gordon Dean and by Dr. Bradbury of the help to the staff at Los Alamos that Dr. Oppenheimer and his colleagues gave. The GAC went to Los Alamos in the summer of 1950 when the H bomb project was at its lowest point, when there was grave doubt whether the thing could ever be built at all, and went out there to help Dr. Bacher and see what they could do.

In general you have testimony from numerous people -- Hartley Rowe, General McCormack, and others -- that there was no holding back when the President's decision was made.

Now, just a word about the myth of delay. I trust that Dr. Bradbury's testimony will be studied with particular care by this Board, because of all the men who testified here he is the one who knows the most about the actual work at Los Alamos, about the problems of producing the H bomb at the place where it actually has been produced, and I think that his testimony completely destroys the myth of delay. I shall say no more about that because in any event, it has really nothing to do with the question of Dr. Oppenheimer's clearance. Indeed, none of this has to do with it at all. This whole H bomb controversy, all of the rest of these things, Vista, Lincoln

and all the rest of them, that we have been talking about, except as an indicating and affirmative attitude, as I believe, toward the strengthening of the United States, have nothing to do with the question of Dr. Oppenheimer's clearance unless you are willing to believe to me the unthinkable thought, and I am sure to you, that in spite of everything he had done to help this country from 1945 on, he suddenly somehow becomes a sinister agent of a foreign power. It is unthinkable.

I think, Mr. Chairman, that you would like a recess.

MR. GRAY: I was about to ask if we may recess for a few moments.

(Brief recess.)

MR. GRAY: You may resume, Mr. Garrison.

MR. GARRISON: Mr. Chairman, I would like to turn now to the topic of left wing associations and related incidents through 1943. In my previous summary of this topic, I said that the basic facts about Dr. Oppenheimer's background and his actions in relation to persons themselves of left wing background had been known to General Groves and Lansdale, and that they trusted him knowing these basic facts.

These basic facts I have listed as follows:

1. That Dr. Oppenheimer's wife and brother and sister in law had been Communists.
2. That Dr. Oppenheimer had a number of left wing associations and friends.

3. That Dr. Oppenheimer had brought certain persons with former left wing associations to Los Alamos.

4. That Dr. Oppenheimer had assigned Hawkins to write the history, with General Groves' consent.

5. That Dr. Oppenheimer had protested Lomanitz's draft deferment, with a notation as I go along, that Dr. Oppenheimer's knowledge of Lomanitz's indiscretions, which is the word used throughout the Lansdale and the Pash interviews by them themselves, whatever these indiscretions may have been, that his knowledge of them came from the security officers as is apparent from those interviews, and that in asking deferment for Lomanitz he took notice of the existence of the objections. He said he understood the objections, but Lomanitz's value as a physicist was so and so.

Parenthetically I will observe here that Colonel Lansdale brought out quite forcibly the acute manpower problem in the scientific world that existed in those days, and he testified how persons whom the security officers regarded as dangerous were in particular instances deliberately employed because they had to be. They had this great necessity for manpower, and they were then surrounded with extra special surveillance.

You have also in the record Dr. Ernest Lawrence's great urgencies about manpower for the Berkeley Laboratory. This is all part of the setting of the times which we must not

lose sight of.

6. That Dr. Oppenheimer had visited Jean Tatlow during the existence of the period of his work at Los Alamos.

7. That he may have made contributions to or through the Communist Party. This is in the Lansdale interview and appears from Lansdale's own statement.

8. That he had delayed in reporting Eltenton, but had delayed still longer in naming Chevalier, and had not told a frank story. I will come back to this in a moment.

At least the foregoing items and no doubt others were known to Groves and Lansdale. I don't think it would serve any purpose to refine this matter into any greater detail, but Groves and Lansdale certainly had before them these basic facts with which we are now concerned here once again after 11 years. They knew all about them and they trusted Dr. Oppenheimer.

I am going to discuss the Chevalier case in a little detail particularly because the Chairman has raised the question of the possibility that the Board intends to consider that the story which Dr. Oppenheimer told Pash and Lansdale was true and that his account to this Board of his Chevalier incident was not true.

I want to make the point to begin with that the Chevalier fabrication, if I may use that word, was the statement that there were three persons whom Chevalier had

contacted, or "X" as the course of the examination went. The question of the microfilm seems now to have been quite inconsequential.

In Dr. Oppenheimer's cross examination before the Pash transcript had been revealed, he was asked if Chevalier had talked about microfilm with him, and put in that way, creating an image of Chevalier coming about microfilm. He answered no, and he answered honestly. It rang no bell in his recollection. When we get to the actual Pash recording, what do we find, this not even in the typewritten transcript that Dr. Oppenheimer was confronted with -- not until we get to the recording do we find him saying to Colonel Pash that he understood that this fellow at the Consulate had some means, microfilm "or whatever the hell" of getting the information to Russia.

That is the most casual kind of remark -- microfilm or whatever the hell -- and might simply be regarded as another means of saying that this fellow has means of getting secret information to Russia. To blow that up into a lie to this Board I think it utterly unfair and not warranted by the course of the proceedings here.

The reference to the Russian consulate, it seems to me, is likewise an inconsequential matter. If Eltenton was a spy, if he was seeking information, it would be perfectly natural that he should have a contact at the Consulate whether

he did or not. I would like to point out that neither this reference to the Consulate nor the reference to the microfilm or whatever the hell appears in the Lansdale interview. It just is of no account.

Dr. Oppenheimer's final testimony to this Board, going over this matter again with you, was that it was the very best of his recollection that Chevalier did not mention the Consulate, but it was conceivable that he knew that Eltenton had some connection with the Consulate, although he doesn't remember it. Both of these things seemed to me to be of no significance. The way in which these separate items of the story were broken down and converted into separate lies, and the phrase in cross examination put into Dr. Oppenheimer's mouth that he told a tissue of lies, I think is a most false characterization of what happened. I think his own characterization is the right one, that the story he told was a fabrication, but it was one story, and it was not a separate series of lies each of them to be held up and looked at with the way one looks at that sort of thing.

Now, as to the story about the three contacts which I think this really all boils down to, the record indicates the Chevalier did contact only one person, as Dr. Oppenheimer stated to this Board. Lansdale testified that in the end the number of contacts by Chevalier definitely came down to only one. The only doubt left in the recollections of himself

and General Groves is whether that one was Frank Oppenheimer or Robert Oppenheimer. Lansdale testified that there was only one. He believes according to his testimony that it was Frank. But this he had from General Groves. And he conceded that General Groves may have told him not that Robert Oppenheimer had named Frank to General Groves, but only that General Groves thought that when Robert Oppenheimer named himself, he was really protecting his brother Frank who was the one, a suspicion in Groves' mind. But again it is one person.

General Groves testified that his own recollection of what Dr. Oppenheimer told him is in a complete state of confusion.

When we leave out Colonel Pash's speculations about which is the truth and which is the false story, his investigations again bear out or support Dr. Oppenheimer's testimony that the story he told to this Board is the truth and what he told Colonel Pash was the invention, because when he was asked if they had ever established that there were any other contacts, Colonel Pash testified, "No, sir."

I submit to you, Mr. Chairman, that upon this close examination of the evidence, looking upon it as reasonable men searching for the truth of the matter, as I know you will, you will reach only the conclusion that Dr. Oppenheimer told you here the truth, and that he did in fact in his anxiety to protect Chevalier invent, embroider a story, fabricate a

story, to Colonel Pash and Lansdale.

Now, this whole Chevalier incident has, I am convinced, assumed undue importance, and must be judged in perspective. It has been so extensively analyzed here in cross examination, in the reading of transcripts of interviews of 11 years ago, the hearing of a recording, Colonel Pash's presence here, it is almost as if this whole Chevalier case brought into this room here at 16th and Constitution Avenue in 1954 had happened yesterday in the setting of today, and that we are judging a man for something that has happened almost in our presence.

I get that illusion of a foreshortening of time here which to me is a grisly matter and very, very misleading. This happened in 1943. It happened in a wholly different atmosphere from that of today. Russia was our so-called gallant ally. The whole attitude toward Russia, toward persons who were sympathetic with Russia, everything was different from what obtains today. I think you must beware above everything of judging by today's standards things that happened in a different time and era.

The next perspective about this story is that Dr. Oppenheimer has surely learned from this experience. People who have known him intimately over the years, who have worked with him as closely as anybody could work with people, have heard of this account with some pain, they have taken

it in their stride, they have given their own judgment to you that Dr. Oppenheimer would not today do what he did 11 years ago, and that like all good men and intelligent men, he can learn by the bitter fruits of experience. Surely you must have felt, as you listened to the cross examination here, the sense of guilt which he bore within himself about this incident, something that he does not like to think about back in his past, that God knows he has outlived in his service to this country and in the way in which he has deported himself as a servant of the United States.

Getting back again to the judgment of this thing in its perspective, General Groves certainly did not regard the matter as a very urgent one. He testified about the schoolboy attitude of Dr. Oppenheimer. That was the way he characterized this thing, this schoolboy attitude of not telling on one's friends which warped his whole judgment and led him into this unfortunate spinning of a story. He didn't seem to be pressed for time, General Groves. He testified that after the first interview with Dr. Oppenheimer -- now I am quoting the testimony -- about two months later, or some time later -- actually I think the record will show that it was three months -- after much discussion in trying to lead him into it and having then got the situation more or less adjusted, "I told him if you don't tell me, I am going to have to order you to do it, then I got what to me was the final story."

This is at page 542.

The final point of perspective is Groves' and Lansdales' own testimony as to their conviction of Dr. Oppenheimer's loyalty. General Groves was asked the question, "Based on your total acquaintance with him and your experience with him and your knowledge of him, would you say that in your opinion he would ever commit a disloyal act?" Answer, "I would be amazed if he did." That is at page 533.

Now, I know that this incident of 1943 has posed in the minds of some of you, perhaps all of you, this question: Did he put loyalty to a friend above loyalty to his country? He has given the straight answer that he did not in his own mind, which is what we are here analyzing, put loyalty to his friend above loyalty to his country. In his own mind, his friend was innocent and the investigation would be in no way benefited by knowing that it was Haakon Chevalier.

What his fault consisted in and what he has freely confessed to this Board was his arrogance, if I may use my own word, in putting his judgment as to what the interests of the country required at that point above the judgment of the security officers, but that he thought he was injuring the United States of America, that did not occur to him.

Now, it is true that Colonel Pash was put to some labor and wasted efforts. That was not known to Dr. Oppenheimer.

Perhaps he should have known of it. I am not apologizing for this incident. I am not condoning it. I am not saying it is something irrelevant and not to be taken into account. Of course it has to be. I am urging you to make the intellectual effort which, gentlemen, will require effort, to put this whole thing into the perspective where it ought to be and not judge it in the light of today's standards and to take into full account the testimony of General Groves and Lansdale about it.

I think at this point I might just remind you of General Groves' letter to Dr. Oppenheimer of May 18, 1950, just after the Paul Crouch testimony. I am not going to read it to you because you have heard it read, but I want to remind you that this letter was volunteered by General Groves and sent on his own initiative out of feelings about Dr. Oppenheimer that were in his system when this incident occurred in California. Why did he do it if he didn't believe Dr. Oppenheimer to be a loyal American citizen? He authorizes him to make a public statement, and the public statement he authorizes him to make is that General Groves has informed me, Dr. Oppenheimer, that shortly after he took over the responsibility for the development of the atomic bomb he reviewed personally the entire file and all known information concerning me, and immediately ordered that I be cleared for all atomic information in order that I might participate in the

development of the atomic bomb. General Groves has also informed me that he personally went over all information concerning me which came to light during the operations of the atomic project-- and that includes the whole Chevalier business-- and that at no time did he regret his decision.

Colonel Lansdale's conviction about Dr. Oppenheimer's loyalty and basic integrity is to the same effect.

Their judgment about this whole matter should not lightly be disregarded by this Board. It should indeed be taken to heart, because their judgment was made in the context of the times and their judgment took into account all that Dr. Oppenheimer was then doing and then thinking, his life, his surroundings, everything about him, viewed from a more intimate standpoint than any that can now be reconstructed. We cannot here reconstruct Robert Oppenheimer's life and activities in the sense of the time and the pressures under which he was working and laboring and all the rest of it. That is gone forever. No one can reconstruct that. But Groves and Lansdale have that in their minds, and in their memories, and they lived with it, and they have testified about it, and they have given you their solemn sworn testimony about the way they viewed that incident.

Dr. Oppenheimer comes out of the war, he embarks on this continuous career of service to the government. Like the jobs which Dr. Evans, you, Mr. Gray, and Mr. Morgan now

fill, he did not seek those positions. The government called him into service as it has called you into service, and he goes forward.

He becomes Chairman of the GAC and the Atomic Energy Commission has then occasion to consider his clearance under the Atomic Energy Act, which we are here bound by. You asked me to pay particular attention to that, and I therefore am going to discuss it in rather meticulous detail. I am going to begin with the entry in the minutes.

The first sentence, which was the basis of the stipulation which the Commission entered into with us and which we put on the record at the start of these proceedings, and which has been found to have been half of the action that was taken and not all of it. Mr. Bellsley called the Commission's attention to the fact that the Commission's decision to authorize the clearance of J. R. Oppenheimer, Chairman of the General Advisory Committee, made in February, 1947, had not previously been recorded.

I want to say a word about February 1947. There has been a suggestion and at first I myself thought it was the correct suggestion, that before we had the whole story from the documents which were doled piecemeal during the cross examination and which were subsequently given to us in so far as they are available at our own request afterwards. But before all that, I had credited the suggestion that the

Commission took formal action to clear Dr. Oppenheimer in March and that they had not then recorded it, and woke up to the fact in August that they had not and made a minute to that effect, and that the reference to February was a clerical error.

Now, upon a closer examination of the documents in the case, it seems to me that the rational explanation of this overwhelming probability is that February 1947 was correct. Mr. Pike made the suggestion, or offered the guess that in February 1947, the Commission which was then just getting going, acted upon Dr. Oppenheimer's name and cleared him as a matter of course. They knew him, they knew a great deal about him, he had been appointed by the President, they had no occasion to raise any question, and they cleared him.

Then what happened was that in March, Mr. J. Edgar Hoover raised the question in his letter to Lillienthal, and sent over material about him and so forth, and that precipitated an inquiry into Dr. Oppenheimer's associations, background and so forth, and they in effect opened up the whole question and then disposed of it at the August 6 meeting which I shall come to a little later, and said in substance we have examined all this material from the FBI, we have talked with Dr. Bush and Conant and Groves, and so forth, we have thought about this, we see no reason to alter our original action of February in clearing him, which is, I think, an affirmative act of judgment.

MR. GRAY: You think that the March memorandum of Mr. Wilson, who was then the General Manager, as I recall it, from which it was indicated that the Commission was concerned with this matter for two days, one meeting and then a subsequent meeting; that the August statement which you refer to as the second half of the action referred all the way back to the March --

MR. GARRISON: To February.

MR. GRAY: I am talking about March now.

MR. GARRISON: No, I say it did not. I originally thought it did. I originally thought from Mr. Lilienthal's testimony which he had told me about before I called him as a witness and reconstructed this from his diary as best he could, I thought from his statement of the affair that there had been clearance in March. I assumed that this February thing was therefore an error, and that the first time it came up was in March. But then under cross examination of Mr. Lilienthal when these documents began to come out, and when we obtained further documents later on, it now seems to me to have been, as Mr. Sumner Pike suggested, and not as Mr. Lilienthal suggested -- and I would like to trace through those documents with you.

MR. GRAY: I would like to get back to your statement that the August 5th minutes in effect say in the second sentence that we have examined the FBI documents --

MR. GARRISON: I was attempting to say what I thought the Commissioners had done.

MR. GRAY: I am not quarreling with your interpretation. I am asking you for my own clarification whether you mean by that, that in August they made a minute referring to action which they had actually taken in March?

MR. GARRISON: No, I don't think they took action in March, except to study the FBI files and to discuss the matter. They took some action in March.

MR. GRAY: Not action, but the study took place in March, and they waited until August to way --

MR. GARRISON: No, I think the study as again will be shown probably stretched over quite a period of time because the staff went to work, as these documents show, they got the whole file from Mr. Hoover, and the staff got to work on that. There is a memorandum here that everything in the file, all the reports were seen with the exception of two memoranda that I will come to in a moment. So there was study going on. Nobody knows whether it was in June or July or when it was. But I think it certainly shows that it stretched well beyond March.

MR. GRAY: Is there anything that reflects any action or activity of the Commission between March and August?

MR. GARRISON: I would like to come to that, if I may.

MR. GRAY: All right.

MR. GARRISON: To answer your question, yes.

MR. GRAY: I am trying to get the straight of it

MR. GARRISON : I really don't think it is so complicated, although it has to take a sort of stepping stone approach.

I am proceeding on the assumption that in February 1947 there was what might be called a sort of an off the cuff clearance of Dr. Oppenheimer simply based on the knowledge of him, the fact that the President had appointed him.

Then comes a letter from Mr. Hoover to Mr. Lillienthal dated March 8, 1947, which sends over and draws to his attention the attached copies of summaries of information about Dr. Oppenheimer and his brother Frank. That then comes before the Board.

DR. EVANS: You mean the Commission.

MR. GARRISON: Comes before the Commission. Thank you, Dr. Evans.

In Mr. Wilsch's memorandum of March 10 it shows that the Commission met. The actual FBI file says that the file was delivered to Mr. Jones by the FBI on Saturday morning, March 8. But I don't want to make any point now of what was in the particular documents, and I will limit myself to the summaries of information which, for the moment, Mr. Hoover sent over on March 8. The Wilson memorandum says each of the Commissioners read the rather voluminous summary after they met.

You know what happened. They called in Dr. Bush and they called in Dr. Conant. They had rather a long discussion of the matter. They tried to reach General Groves. That ultimately was accomplished by Secretary Patterson. There is set forth here the views of Drs. Bush and Conant, not based apparently on an examination of the summary -- at least they don't recall it -- they were testifying merely from their knowledge of Dr. Oppenheimer as to his loyalty and the serious consequences that failure of clearance would have and so forth.

Then on March 11, the Commission meets again. They have two days of meetings. They arrive at the conclusion on March 11 that Dr. Oppenheimer's loyalty was prima facie clear despite the FBI, and that there was no immediate hazard or any issue requiring immediate action, but that a full and reliable evaluation should be made of the case so that it can be disposed of. It is quite clear that at this meeting they are not trying to dispose of it. They say evaluation should be made. Then they decide to seek written views from Drs. Bush and Conant and General Groves, and they instruct the Chairman to confer with Dr. Bush and Mr. Clifford concerning the establishment of an evaluation board. They go to the White House on that mission, and we know all about that.

MR. GRAY: Do we know the outcome of that?

MR. GARRISON: No. I am going into that. I mean we know about the proposal for the Board, the discussion with

Clifford, and their coming back to the meeting that same afternoon and reporting the results of their discussion with Mr. Clifford.

Then we have this entry. At that meeting, that is five o'clock in the afternoon of March 11, the General Manager reported that a detailed analysis of the FBI summary was in process of preparation by the Commission's security staff as an aid to evaluation. So they have put their staff to work on the FBI summary to make an evaluation of it.

The next thing that happens is Mr. Lilienthal's minute about his telephone conversation with Clark Clifford about the proposal that they had made. It appears from this that Clifford reported the matter to Truman, that Truman wanted to think about it, that he was busy with the Mediterranean crisis, that Clifford said that the Commission had done all that they were under any reasonable obligation to do, and presented the matter and he would take it up with the President, but if Mr. Lilienthal did not hear from him, he should call and remind him about it.

The next document that throws light on this subject is the memorandum from Mr. Jones, the security officer, to the file, dated March 27. I might say perhaps at this point that as we know, there is no more in the record about what happened to this proposal at the White House. Either the President considered it and thought it quite unnecessary to

have a board to evaluate Dr. Oppenheimer's qualifications as a loyal citizen of the United States, and that this was reported to the Commission in some way or other, or that in the press of his affairs the President never got around to doing anything about it, and either Mr. Lilienthal didn't call up Mr. Clifford in the end to check or find out, or he may have called him up and Mr. Clifford said, "Well, we are not going to take any action on it." Nobody can remember what happened, and there is no documentary evidence to show.

Now, I want to resume the story of what the Commission and its staff were doing. This next thing is this Jones memorandum of March 27, which talks about Mr. Lilienthal going to see Mr. J. Edgar Hoover on March 25 with representatives of the AEC and the FBI. This meeting was attended both by Mr. Lilienthal and Mr. Hoover, and there was a discussion of the case.

I now want to read to you what seems to me particularly in the light of the discussion of the Chevalier incident to be quite a significant passage in this memorandum which I think has escaped our attention until just now. It says, and this is the third paragraph of the memorandum, and the page in the transcript that this appears is 1231, I think: "In the case of J. Robert, those present all seem keenly alive to the unique contributions he has made and may be expected to continue to make. Further there seems general agreement on his

subversive record . . . that while he may at one time have bordered upon the Communistic" -- this is all language of the security officer -- "indications are that for some time he has decidedly moved away from such a position. Mr. Hoover himself appeared to agree on this stand with the one reservation, which he stated with some emphasis, that he could not feel completely satisfied in view of J. Robert's failure to report promptly and accurately what must have seemed to him an attempt at espionage in Berkeley."

Now, we know from the record that the files of the Manhattan District went to the FBI. We know from the record that the transcript of the Pash and Lansdale interviews went to the FBI. So that all of this must be presumed to have been known to Mr. Hoover when he participated in this conference, and he says that Dr. Oppenheimer's failure to report promptly and accurately what took place has given him pause, and that is the only thing apparently in the record that troubled him.

MR. GRAY: Where does he say this?

MR. GARRISON: This is as reported by Mr. Jones, the security officer of the AEC in his memorandum of March 27, 1949, from which I have been reading, which is in the record. It is not a verbatim quote from Mr. Hoover. It is obviously Mr. Jones' recollection of the conversation that took place there. Mr. Jones was the security officer of the

AEC and he says Mr. Hoover was troubled about Dr. Oppenheimer's failure to report promptly and accurately. This is one more piece of evidence, Mr. Chairman, that Dr. Oppenheimer's story about the Chevalier incident contained the elements of fabrication that we have talked about and that this was known to General Groves and Lansdale as it was known to J. Edgar Hoover.

The next thing that happens -- this is March 27, now -- is a memorandum again from the security officer, Mr. Jones, and this is at page 1409 of the transcript, a memorandum from Mr. Jones to Mr. Bellsley dated July 18. We are now in the middle of July. This memorandum to Mr. Bellsley, the Secretary of the AEC, says, "Herewith a complete investigative file on J. Robert Oppenheimer upon which it is believed the Commission may not have formalized their decision. If the Commission meeting minutes contain indication of Commission action, would you kindly so advise. If they do not, I presume you will wish to docket this case for early consideration."

Now comes the sentence I want to stress:

"Each Commissioner and the General Manager have seen every report in this file with the exception of the summary of July 17, and my memorandum for the file dated July 14, 1947."

That memorandum for the file of July 14 is in the record. It is an account of a discussion with Lansdale in

which Lansdale vouches for Robert Oppenheimer's loyalty as an American citizen. So whether they saw that or not does not affect the matter, because it was favorable to Dr. Oppenheimer and not derogatory.

What this summary of July 17th contained, which they may or may not have seen, Mr. Volpe in his sort of return memorandum here, suggests that it be circulated among the Commissioners if Mr. Jones thinks it ought to be. We don't know whether they saw it or not. We don't know what is in it because when we asked that it be produced here, we were told that it was confidential and could not be. The record shows here that each Commissioner and the General Manager had seen every report in this file with the exception of this summary of July 17, and the Lansdale transcript saying Dr. Oppenheimer was loyal. This cannot have amounted to anything very important, because Mr. Volpe, whose job then was security matters as well as Deputy General Counsel, left it to the security officer whether it was important enough to send to the members of the Board. So presumably it was not much of a document. And the thing that stands out starkly here is that every report in this file except for this probably not important document had gone to each Commissioner and the General Manager, and that they had seen them. They have seen every report in this file, not just that they received them.

It is this memorandum which leads me to suppose that

that after the two meetings in the middle of March, the staff which was at work, as we know, had sent the reports in the investigative file to the members of the Commission. I think this may account, sir, for the testimony here which had a ring of veracity to it, by Dr. Bacher, by Mr. Lilienthal, by Mr. Pike, that what they remembered going through was a thick document -- a thick document -- it stuck in their memories that this thing was thick.

I think in giving credit to that testimony, as one should that presumably that thick stuff they went through was all the reports in this file that the staff had sent around in the course of time. Again whether this was April, May, June or when, that these things were sent around and reviewed, I don't know. The record does not show. But that there was more than they had before them, the 12 page summary that Mr. Robb identified here, at the March 10 and 11 meeting, seems to me pretty clear on the face of the record.

Dr. Bacher testifies explicitly that what they saw "was first a summary of information from the FBI and later a quite voluminous file, the file being a fairly thick document", at page 2126. That seems to me what had happened here. They testify, these gentlemen, that they treated this matter seriously. Mr. Pike said they all treated it as a serious thing. I am sure we all did. They would indeed have been derelict in their duty if they had not.

Here they were, operating under the Atomic Energy Act, a new thing, laying duties upon them, conscientious men, J. Edgar Hoover's putting them on notice, his explicit reserve about the Chevalier incident, the staff at work on this, the reports in the file, voluminous, going to them -- how can we conclude anything but that they took this seriously as they said they did and acted upon it.

Now I come back to the minutes of that August 6th meeting and read the last sentence of the minutes; this, you will remember, follows the memorandum of July 18, in which Mr. Jones, the security officer, asks that a check be made to see what the Commission has done about this in a formal way, and evidently they did make this check and they saw that no formal action had been taken with respect to the matters that had come from Mr. Hoover.

The Commission then on this meeting of August 6 which follows in due course after this July 18 memorandum, Mr. Bellsley calls their attention to the fact that the decision made in February, which I think we must take as the right date, had not previously been recorded. The Commission directed the Secretary to record the Commission's approval of security clearance in this case, and now here are the key words that were not in the stipulation from the Commission when we asked for information about all this, "and to note that further reports" -- that means further FBI reports which

we are talking about here -- "concerning Dr. Oppenheimer since that date (since February) had contained no information which would warrant reconsideration of the Commission's decision."

If that is not action by the Commission, I will eat my hat. They are saying that they got reports after this business in February, they got FBI reports, that they contained no information which would warrant them to go back and re-do what they had done in February. That surely means, as nearly as words can, that this was considered by the Commissioners, as all the documents here indicate, and that they took a serious action upon the matter, saying, "We have gone all through this stuff, we have looked at it all, we have considered this whole thing, and we will let the February action stand." It is exactly the same thing as saying, "We have looked at it all and we hereby reaffirm what we did in February." There is no difference in it. It is just the form of verbiage.

I don't want to make too much of this action, but I think that this Board should not lightly pass over it. I want to tell you why.

It seems to me that you should give great weight to the judgment of these five men who bore the responsibility of the United States Government under the Atomic Energy Act in the administration of the program, the judgment that they

formed in 1947. This is not a light matter.

Considering one other factor about this whole business of security clearance, when a man is cleared it seems, as we see in this case, and as we have seen in other cases, that the matter can be brought up again and again and again. I think that is most unfortunate.. If a man is solemnly and seriously and deliberately cleared by responsible men, that ought to have a kind of sticking quality -- I don't say conclusive for all time at all, I say it can be re-examined in the light of what happens later on -- but where, as in this case, it seems to me that nothing has happened since 1947 of import, and I want to argue that in a minute, that the sticking quality of an action of this character should be taken seriously to heart and respected. I say this because this business of haling men before security boards is one of the most terrible ordeals that we can subject fellow citizens to. We all know that. It is not good for the country. It is not good for the whole operation of the country. Once a man has been cleared, unless there are serious things that have happened since, it ought to stick. That I urge upon you to take most seriously.

Needless to say in these proceedings, if a man's clearance is taken away from him, that action probably is final for all time. As a practical matter, when a man is branded as disloyal to his country or is not fit to be

trusted with classified data by a board of distinction and character and integrity, like this Board, and like the Commission in this case, if that happens to a man, that is the end of that fellow for the rest of his life. It is the end of the country's chance to use him, too. That can't be re-done. There are therefore hazards to the country and to the man in dragging him up again and again for these clearance ordeals. I urge upon you that consideration as an additional reason for giving the greatest weight to this action of the Commission in 1947.

Now, what did the Commission have before it? I know that question comes up, and it is a question I can't answer, because the files are not available to us, and I can't argue it. I do want to say that I think this aspect of the case, like all others, needs to be judged in the large and not to hang upon some detail. Supposing that in these reports that went to these Commissioners from this investigative file, supposing there was some document or other that gets into the file later that may not have been there, or some document at the time that was not in there, what are we dealing with here basically? We are dealing here with big facts about Dr. Oppenheimer. These basic facts, his wife had been a Communist, his brother had been a Communist, his sister in law had been a Communist, all these things that have happened that we are talking about here, can anybody suppose that those

things were not in the FBI files that went to the members of the Commission? That is the main thing. These big things were in there, the Chevalier incident, the whole thing, and they acted upon it. That seems to me is what we should go by. Just because we haven't a precise and meticulous enumeration of every document in the file that we can compare with the Nichols letter, I think that should not be regarded as of any moment. I will come to that later.

What has happened since 1947 that this Board has before it? There is the whole record of Dr. Oppenheimer's public service since 1947, his service on the GAC, on these various other boards and committees which we have talked about at the greatest length. There has been the controversy over the 1949 report on the H bomb. I think it was Dr. Conant who testified here, if I am not mistaken, that if the case in 1947 for clearance was strong, the case since 1947 is all the stronger in the light of the record of what Dr. Oppenheimer has done for the whole defense establishment, and the inference that he has made as a loyal American to help his country.

The Commission did not have Paul Crouch's testimony before it. I cannot suppose that that would be regarded as a change in the condition of substance though it has to be looked at, of course. I am not going to discuss that incident except to say that I am sure that if this Board had any substantial doubt on the validity and the accuracy of Dr.

Oppenheimer's sworn reply that Mr. Crouch would have been produced here. I venture the assertion that if he had, Dr. Oppenheimer's case would have become even stronger.

Now, what is left? Some associations, but awfully little, I want to bring this to a close soon, and I am going to say just a little word about Dr. Oppenheimer's associations. The point is really what are these associations now? There is no use going back into the days that now have been cut asunder, the whole Berkeley period, Los Alamos period is over with. What is the situation about these associations?

There have been so many names brought into this record in the form of questions, did you know X, no, did you know Y, no, did you know Z, no, questions put to witness after witness that I have gotten a little bit dizzy listening to all the catalogs of names whose significance I have absolutely no way of judging. But so far as Dr. Oppenheimer is concerned, and that is what we are talking about, his present contacts of a kind that this Board should consider are for the most part nearly all of the merely casual contacts inevitable to a man of Dr. Oppenheimer's prominence and professional standing -- he goes to a meeting of the Physicists once a year, some scientific meeting, and he bumps into a physicist there who may have had some past record of association with Communist causes. This is inevitable in the life of any scientist who goes to meetings,

that he will meet at these meetings some scientist here or there who at one time had some past associations with the Communist Party. But to say that because of that a man like Dr. Oppenheimer is not fit to be trusted with restricted data just seems to me to reduce the whole business to absurdity.

With respect to only two of the names can it really be said that his present association with them is more than a casual one. One of these is Dr. Chevalier whom Dr. Oppenheimer believes not to be a Communist, and whom he has seen twice in the last few years. He has described him as a friend. I think he has honored himself in describing him as a friend, and in not trying to say that it is just a casual matter. He has his loyalties, Mr. Chairman.

The other one is Dr. and Mrs. Serber. There has been quite a lot of talk about the Serbers. Dr. Serber, as we know from the record, is a distinguished scientist, professor of physics at Columbia University, consultant to the Atomic Energy Commission at Brookhaven Laboratory, and cleared by the Atomic Energy Commission as a result of a review by a board under the chairmanship of Admiral Nimitz, with John Francis Neyland on it. I have forgotten the third man. You know Mr. Neyland as the protagonist of the teachers' oath and the great controversy at the University of California, and counsel for William Randolph Hearst, and surely not a man soft on left wingers. He and Admiral Nimitz, and the third

man, General Joyce, went over the Serber case back in the late Forties for the Commission, and they said he is okay. This man is a loyal citizen, and give him his Q clearance. They have to take into account Mrs. Serber. If he is fit to associate with Mrs. Serber, I don't know what her background, but if Admiral Nimitz and Neyland and Joyce say that Dr. Serber is fit to associate with his wife and have a Q clearance and work for the Atomic Energy Commission, then why should there be any question about Dr. Oppenheimer once in a while seeing Dr. and Mrs. Serber as he does, maybe once or twice a year.

I am going to wind up, sir, in just a very few minutes. I want to mention and not make anything conclusive of it, but direct seriously to your attention the testimony of Dr. Walter Whitman, who in July 1953, as special assistant to the Secretary of Defense for Research and Development had to review Dr. Oppenheimer's file under this executive order that we are operating under, requiring a review of cases with derogatory information in it. He testified here that he went through the file, that it had maybe 50 or 60 pages in it. He read it and re-read it, he said, until he had the full significance of it. He examined very carefully General Nichols' letter. He said to the best of his recollection everything in it, except this controversy about the H bomb, was in this file. He reaches the mature conclusion

that Dr. Oppenheimer's clearance should be continued. He makes this recommendation to a review board consisting of Dr. Carnes, Dr. Thompson and General Hines, and to the best of his information, this Board agreed with his recommendation. Certainly the clearance was continued until this unfortunate episode in which we are engaged. I think that, too, is entitled to weight.

Now, I am going to make the briefest kind of mention of the men who have appeared here in Dr. Oppenheimer's behalf. We have had a whole lot of fellows here who have talked about Dr. Oppenheimer for three and a half weeks. Dr. Oppenheimer has sat here day after day and listened to the minute analysis of his character, mind, his background and his past. How he survived it all I don't know. I am not going to elaborate about these people. I want to say this, that they differ from the ordinary character witnesses that we are used to in judicial proceedings, where a man comes in and is asked, "Do you know the reputation in the community of the defendant for whatever it may be," and he says yes and they say, "What is that reputation," and he says, "It is good", or whatever he says about it. This has not been that kind of testimony. I can't emphasize that too much. Every one of these men who has appeared here have been men who have worked with Dr. Oppenheimer, who have seen him on the job and off the job, who have formed judgments about character which

is the way human beings do judge one another. How do we learn to trust one another except by knowing each other. How can we define the elements of that trust except to say I know that man, I have worked with that man? That is what it comes down to. How else can you express it? These men have known him and have worked with him, and have lived with him.

I am just going to mention one or two or three that I want to especially comment on. I would like to mention Gordon Dean for one, because among other things, he saw him not only in his relationship as an Atomic Energy Commissioner to Dr. Oppenheimer as the GAC Chairman, but he also went through this famous FBI file in 1950 and later. He made it his business to follow that file. He testified that if anything came along, whatever came along, he looked into it, and he took it very, very seriously, as to the responsibility that he bore. He came in here without a shadow of a reservation about Dr. Oppenheimer as a security risk and as a loyal American citizen. He considered the Chevalier incident, and he put it in its place, and looked at it as so many of these men of the highest probity and honor have looked at it and said, "Yes, that is there and we don't like it, but we know Dr. Oppenheimer and we trust him, and we trust him for the United States of America."

Here is Dr. Rabi, present Chairman of the GAC. He too read this file, 40 pages, he said it was, in January of

this year which Admiral Strauss gave him to read. He went all through it. He testified, as you know, of his complete and unwavering faith in Dr. Oppenheimer.

Here is Norris Bradbury, surely a man that this Board can tie up to and lean upon, a man of obvious deep probity, good judgment, sound fellow, who has lived at Los Alamos for about the whole shooting match than any other man you have seen here, including Dr. Teller, because he has had the whole thing in his hands, and everything to do with it that Dr. Oppenheimer has had he knows. If anybody was in a position to say this fellow impeded our progress or interfered with us, or was somehow sinister, it would be Bradbury. Exactly the reverse is the case.

I could go on and I think I won't. You will read the record, and I know that you will take these judgments deeply seriously. You had three and a half weeks now with the gentleman on the sofa. You have learned a lot about him. There is a lot about him, too, that you haven't learned, that you don't know. You have not lived any life with him. You have not worked with him. You have not formed those intangible judgments that men form of one another through intimate association, and you can't. It is impossible for you to do so. And I think that you should take most earnestly to heart the judgment of those who have.

Here he is now with his life in one sense in your

hands, and you are asked to say whether if he continues to have access to restricted data he may injure the United States of America, and make improper use of that. For over a decade that he has had this position of sharing in the atomic energy information, never a suggestion of an improper use of data, His life has been an open book. General Wilson, one of his critics, on the H bomb end of things, testified -- I have forgotten the exact words, but we probably have it around here -- that if anybody had demonstrated his loyalty by affirmative action, it is Dr. Oppenheimer, and this affirmative action runs all through his record.

You have a tough job of applying these rather complicated standards, criteria and so forth. I know that. I beg of you, as I wind up now my conclusion, to take the straightforward common sense judgment that the Commission took in the case of Dr. Graham, and look at the whole man, and you consider the case, "It must be recognized that it is the man himself that the Commission is actually concerned with. Associations are only evidentiary, and common sense must be exercised in judging their significance." There is the whole thing in a nutshell.

Now, the concluding sentence, indeed that whole memorandum of decision, breathes a kind of air of largeness of reality of practicality in dealing with this problem. The thing that I would most urge you not to do, in addition

to not bringing 1943 into 1954, is to get chopped up into little compartments of categories that will give to this case a perfectly artificial flavor of judgment, that you will treat it in the round and the large with the most careful consideration of the evidence, and then treat it as men would treat a problem of human nature, which can't be cut up into little pieces.

There is more than Dr. Oppenheimer on trial in this room. I use the word "trial" advisedly. The Government of the United States is here on trial also. Our whole security process is on trial here, and is in your keeping as is his life -- the two things together. There is an anxiety abroad in the country, and I think I am at liberty to say this to you, because after all, we are all Americans, we are all citizens, and we are all interested here in doing what is in the public interest, and what is best for our country. There is an anxiety abroad that these security procedures will be applied artificially, rigidly, like some monolithic kind of a machine that will result in the destruction of men of great gifts and of great usefulness to the country by the application of rigid and mechanical tests. America must not devour her own children, Mr. Chairman and members of this Board. If we are to be strong, powerful, electric and vital, we must not devour the best and the most gifted of our citizens in some mechanical application of security procedures

and mechanisms.

You have in Dr. Oppenheimer an extraordinary individual, a very complicated man, a man that takes a great deal of knowing, a gifted man beyond what nature can ordinarily do more than once in a very great while. Like all gifted men, unique, sole, not conventional, not quite like anybody else that ever was or ever will be. Does this mean that you should apply different standards to him than you would to somebody like me or somebody else that is just ordinary? No, I say not. I say that there must not be favoritism in this business. You must hew to the line and do your duty without favor, without discrimination, if you want to use that words.

But this is the point that if you are to judge the whole man as the Commission itself in its regulations and its decisions really lays upon you the task of doing, you have then a difficult, complicated man, a gifted man to deal with and in judging him, you have to exercise the greatest effort of comprehension. Some men are awfully simple and their acts are simple, That doesn't mean that the standards are any different for them. The standards should be the same. But this man bears the closest kind of examination of what he really is, and what he stands for, and what he means to the country. It is that effort of comprehension of him that I urge upon you.

I am confident, as I said, that when you have done all this, you will answer the blunt and ugly question whether he is fit to be trusted with restricted data, in the affirmative. I believe, members of the Board, that in doing so you will most deeply serve the interests of the United States of America, which all of us love and want to protect and further. That I am sure of, and I am sure that is where the upshot of this case must be.

Thank you very much.

MR. GRAY: Thank you, Mr. Garrison.

I would like to make a couple of observations. I think I should say that at some points in your sum-up, I believe you stated that you were assuming that the Board reached some conclusion, and therefore something didn't happen. I have in mind particularly your observation about the Crouch episode. I would have to say to you in the interest of the record that at those points my failure to interrupt and question you did not indicate acquiescence nor disagreement.

On one or two legal points, it was my recollection that in your reference to the executive order -- were you reading from notes on that point?

MR. GARRISON: I have the executive order here, Mr. Chairman.

MR. SILVERMAN: Mr. Chairman, if you are all thinking about the same thing, I think it was a slip of the tongue by

Mr. Garrison.

MR. GRAY: I am trying to clear it up. I would like to know. In any event, it was a distinction between what the department head should do with respect to clearing an individual or not clearing an individual, and it is my impression you said -- I am sorry. I think I would like to check and get the exact reference.

MR. GARRISON : I think I have the phrase here, Mr. Chairman.

MR. GRAY: All right. Where is that?

MR. GARRISON: "The head of the agency has to find that his reinstatement, restoration or reemployment is clearly consistent with the interests of the national security." If I misquoted that, I beg your pardon.

MR. GRAY: I believe you stated it in the negative. I just wanted to clear that up.

MR. GARRISON: Thank you, Mr. Chairman.

MR. GRAY: Finally, on the legal point involved, you made some argument in that respect. I think that you should know that the Board, as to these legal points involved has asked the opinions of attorneys for the Commission. This reflects some difference which emerged in the questioning of the witnesses. With respect to those persons who have been assisting the Board in the course of these proceedings, and particularly in response to a question which you have asked

about possible proposed findings of fact which might be submitted by Mr. Robb, Mr. Robb will not submit proposed findings of fact, and I would advert to implications which might be in the question.

The regulations under which this Board has operated or these proceedings have been conducted state that no person who has assisted the Board shall express an opinion as to the merits of the case, among certain other things stated in that regulation. This Board is to be governed by the procedures under which it operates, and we shall have to be the guardians of these duties and obligations put upon us.

I think I am required to make a statement to Dr. Oppenheimer at this point. As I think you know, you will have a copy of the transcript of this proceeding with certain exceptions which relate to classified material in the proceeding, and to certain deletions, I suppose they might be called, of testimony which have to do with security problems. Of course this Board will make its deliberations on the entire record of your case, and will submit its recommendations to Mr. K. D. Nichols, General Manager of the Atomic Energy Commission.

In the event of an adverse recommendation, you will be notified of that fact by letter from Mr. Nichols. In such event, you will have an opportunity to review the record made during your appearance before this Board, and to

request a review of such adverse recommendation by the Atomic Energy Commission Personnel Security Review Board prior to final decision by the General Manager.

Under those circumstances, you must notify Mr. Nichols by letter within five days from the receipt of notice of an adverse recommendation of your desire for a review of your case by the Atomic Energy Commission Personnel Security Review Board.

In the absence of such a communication by you to Mr. Nichols under such circumstances, it would be assumed that you do not desire further review.

You are further advised that in the event this Board or the General Manager of the Atomic Energy Commission desires any further information to be presented to the Board, you will be notified of the time and place of the hearing and of course will be given an opportunity to be present.

DR. OPPENHEIMER: Thank you, Mr. Chairman.

MR. GRAY: I believe that this completes the proceedings as of now.

MR. GARRISON: I have just a couple of details.

MR. GRAY: All right.

MR. GARRISON: There are in this transcript quite a number -- this is without criticism of our very able and efficient reporter -- inevitable garbles and mistakes, some of them quite unimportant, but I assume, Mr. Chairman, that if

we should get up a list of them and take it up with Mr. Robb or Mr. Rolander, if he wants to arrange it so, and if we should reach an agreement that a memorandum of errata corrections might be incorporated in the record.

MR. ROBB: When you are doing it, would you cover the whole record and not just the questions you asked?

MR. GARRISON: Yes, I will try to.

MR. GRAY: I assume there is no objection?

MR. ROBB: No, I think that is a good idea. If I had time, I would have done it, too, because that is inevitable in any long proceeding, no matter how good the reporter is.

MR. GARRISON: I have been meaning to give to the Board, and through inadvertence I haven't, a collection of excerpts from the speeches and writings of Dr. Oppenheimer, but they were handed in at different times. I have just bound them together, and I would be very glad to leave copies of these with you. It is a convenient way of getting at them. I have compared them carefully. I don't think there is anything that is not in the record except the top page, which is just my own.

MR. GRAY: We acknowledge receipt of the document you refer to.

MR. GARRISON: Mr. Chairman, may I thank you again for having borne so patiently with me and for the great

consideration you have shown to us throughout the proceedings.

MR. GRAY: Thank you.

MR. GARRISON: Mr. Morgan and Dr. Evans, the same.

DR. EVANS: Thank you.

MR. MORGAN: Thank you.

MR. GRAY: We now conclude this phase of the proceedings. I think that I have already indicated to Dr. Oppenheimer that if we require anything further, he will be notified.

We are now in recess.

(Thereupon at 1:30 p.m., the hearing was concluded.)