resulting from the refusal of this employee to testify before Congressional Committees, justified defendant in immediately discharging such employee for obvious cause.

It can be seen from a review of all of these illustrative cases that the decision of an arbitrator in these situations is not easily reached. There are a great many facets that have not been explored for lack of time. But there is sufficient food for thought and discussion which should provoke much comment on the permutations of this very delicate problem.

Discussion—

ISRAEL BEN SCHEIBER

New York City

If Ben Roberts' paper on the arbitration of alleged security cases makes any one thing clear, it is that he cannot, by any stretch of the imagination, be called "The Answer Man".

Against a broad frame of reference, he has presented for your consideration various stimulating and provocative questions, thereby neatly passing the well-known buck. However, since his paper shows much thought and very careful preparation, I am certain that if you should turn the tables on him by asking him for the answers to some of his questions, you will find him well prepared.

His paper establishes a frame of references which factually is like a pudding enriched with raisins, but one more raisin won't hurt, and so I would like to refer to an item which can perhaps be developed somewhat further than has been done. This is the "confidential" category of classified information which you have heard described as a catch-all category and defined as all information and material the unauthorized disclosure of which would be prejudicial to the defense interests of the nation.

It should be noted that while the government itself investigates and clears or refuses to clear all employees whom the employer wishes to use for secret or top secret work, the contractor himself is obli-

gated to clear those who are to be given access to information classified as confidential.

It would therefore appear that considerations of administrative convenience have apparently resulted in the delegation to the employer of the right of giving clearance in the large area of work classified as confidential.

Even in this classification, however, the employer has neither the contractual authority to evaluate derogatory reports which come to his attention, nor the authority to form judgments which would result in a withdrawal of clearance. Thus, once even a confidential clearance has been given, only a government agency may withdraw it, and upon its withdrawal the employee has recourse to a government-administered review procedure.

This situation, it may be assumed, is based on the grounds that government agencies have much better facilities for acquiring the evidence necessary to make such judgment than do private employers; that government agencies can do so with greater objectivity and impartiality; and, finally, that they can protect the employee against errors in judgment and injustices, by the establishment of a quasi-judicial review system.

At this point, it may perhaps be proper to stress the fact that the elastic, all-inclusive term, "security risk" does continue to include persons of unquestioned loyalty, and that these words have become a misnomer which condemns many people to social and economic disaster because of some youthful indiscretion, or because of the fact that they well may have relatives in Russia or Russian-dominated countries.

If the word "disaster" should appear extreme, we have only to look at the recent press report of the experience of the group of men with an average of ten years of seniority who were let out by one large manufacturer more than a year ago as security risks, and who are still looking for steady jobs, with no employer willing to hire them, and with the local United States Employment Service having in recent months ceased even to refer them to openings.

Within recent weeks, the *New York Times,* which is not generally regarded as a radical publication, stated editorially under the heading of "Security Risks":

> Of course, the government must have security. But security becomes insecurity when the government fears to take the most minute risk in order to achieve an entirely mythical degree of safety.
>
> A "security risk" covers such a multitude of real or imagined sins that the term does not have much significance any more.
>
> When employees are discharged because of "subversive data in their files"—what does this mean? What kind of data? A long lost relative still behind the Iron Curtain? An association with someone who was associated with an organization in the 30's that was declared subversive in the 50's. A subscription to a pro-Communist publication 20 years ago? . . . How silly, how scared can we get in our quest for security?

However, the importance of a good industrial security program (and I stress the word "good") should not be overlooked.

You will perhaps be interested in a graphic picture that was painted by Robert L. Applegate, the Director of Industrial Security of the Department of Defense, in his talk at the 7th Annual Conference on Labor Problems which was sponsored by New York University.

It appears that when the Roman soldiers marched across the plains of Normandy on their way to conquer the tribes that lived in what we now call England, each man carried equipment weighing from 50 to 70 pounds. Outside of a few carts of headquarters equipment, this constituted the entire logistic support of the expedition.

During World War II when our combined forces landed on Utah Beach on D-Day to march again across the same plains of Normandy, each man carried approximately the same weight of equipment, but for each man that hit the beach in this modern war, there were ten tons of equipment piled up in England ready for his use.

This should point up the close relationship between the military departments and industry in the defense of our country, and the importance of a good industrial security program.

In trying to arrive at the correct answers to the various questions which Ben Roberts has posed, we, as arbitrators, under the present program, are caught in the middle of a situation of strains and stresses, involving national security and the rights of the individual, *including his all important right to work and to live.*

It is to be devoutly hoped, in the best interests of the national security and of both labor and management, as well as because our tasks as arbitrators would be lightened thereby, that, as urged in the concluding paragraph of the *New York Times* editorial previously mentioned, "before long, the entire security program should be given a thorough revision", even though it is very doubtful that we can attain either the will-o-the-wisp called 100% security for the nation, or the absolute freedom in the exercise of their democratic rights for its workers.

Discussion—

DEAN LAWRENCE J. ACKERMAN

School of Business Administration
University of Connecticut

May I say just a few words to you about Ben Roberts' paper. I want to talk primarily about the cases and not the first part of his paper.

As I see it, and as has been pointed out here, the problem is not a simple issue. It is a complex one with tangled roots. One can't indulge in lump-concept thinking. You have a variety of situations each of which calls for distinct and specially adapted reasoning.

Some of the variations which will affect one's analysis are:

1. Is the type of work engaged in of direct import to national defense? An illustration of the collective bargaining provisions which might be employed, as well as the reasoning utilized, in this type of framework can be found in the *Arma Corporation* case cited in 22 *LA* 325.