

1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

3  
4 DISCUSSION OF OIA/OGC INQUIRY IN  
5 TESTIMONY OF THE EXECUTIVE DIRECTOR  
6 FOR OPERATIONS

7  
8 (Closed to Public Attendance)

9  
10  
11 Chairman's Conference Room  
12 1717 H Street, N.W.  
13 Washington, D. C.

14 Monday, June 12, 1978

15 The Commission met, pursuant to notice, at 2:30 p.m.,  
16 Joseph Hendrie, Chairman of the Commission, presiding.

17 PRESENT:

18 Chairman Hendrie  
19 Commissioner Gilinsky  
20 Commissioner Bradford

21  
22  
23  
24 (Note: This transcript was prepared from a tape  
25 recording.)

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P R O C E E D I N G S

CHAIRMAN HENDRIE: You know, when I was younger, I used to be interested in military history and things like that and I remember reading the great strategists and there were two kinds: those who committed their reserves early in order to carry the maximum force forward, and those who never committed their reserves early and were always able to come in later in the game.

The next time we get in to one of these -- what this has to do with things is the next time we get in to one of these wrangles, let us remember that we never commit our final and ultimate investigating unit until very, very late. Otherwise, we will find ourselves once more with nobody left to investigate the people who have been most recently accused.

COMMISSIONER BRADFORD: Well, that's a sound principle, but at the same time there has to be some way to keep the final investigating unit in a posture in which they are unassailable, because otherwise, they too get swallowed up.

CHAIRMAN HENDRIE: Well, maybe we could quarter them in -- I don't know -- Atlanta. How about Atlanta.

COMMISSIONER GILINSKY: And constantly taking correspondence courses in ethics.

1 CHAIRMAN HENDRIE: On to the inquiry.

2 You had a suggestion that we start at the back of  
3 the Findings and Conclusions on more specific ones and work  
4 our way back to the more general one and hope that the  
5 more specific ones might be ---

6 COMMISSIONER GILINSKY: Well, we did deal with the  
7 Recommendation first, so ---

8 CHAIRMAN HENDRIE: Yes, and that -- and precisely for  
9 the same reason, too, I must say.

10 By the way, should we cite that result in any interim  
11 reply?

12 COMMISSIONER GILINSKY: I think you might, yes.

13 CHAIRMAN HENDRIE: It's public. You know, it is in  
14 the PDR and ---

15 COMMISSIONER GILINSKY: Well, by all means, yes.

16 CHAIRMAN HENDRIE: -- there seems little enough  
17 reason. Actually, that may turn out in the long run to be  
18 one the more useful products of the whole endeavor, actually.

19 Okay, why don't we turn to page 47 of the Inquiry  
20 Report, 80 percent of the way down the page, 4.

21 "No packet was offered to or refused by."

22 COMMISSIONER GILINSKY: You are really taking this  
23 literally by going backwards.

24 CHAIRMAN HENDRIE: Well, I wasn't there. Let's  
25 see. Do you remember anything contrary to that?



1 COMMISSIONER GILINSKY: Well, I was one of the  
2 people who didn't remember anything about a packet of  
3 information.

4 COMMISSIONER BRADFORD: Was there someone who thought  
5 that there was a packet of information?

6 COMMISSIONER GILINSKY: In the memo of the Mattson  
7 Task Force, which described a conversation they had with  
8 Bryan Eagle and possibly Peter Strauss, there was mention of  
9 this packet of information, I believe. And at some point this  
10 memo came up to us -- I guess it was in July of '77 Henry  
11 Meyers asked that it be declassified. So it was sent around  
12 to us to take a look at, and one of the things I noticed was  
13 this thing about a packet of information and I guess -- I don't  
14 know whether I had ever read it before or I guess I didn't  
15 notice it. And I sent Lee a note saying, I notice it said  
16 here something about a packet of information. I don't remember  
17 and would he please find out if there was one.

18 Then I guess they ended up not finding anything, then  
19 the thing surfaced again somewhere along the way. I guess  
20 Dingell picked it up or somebody picked it up. But in any  
21 case, I guess there were some people who thought there might  
22 have been one and others say they never heard of any.

23 I don't know whether it is a big deal one way  
24 or the other. I certainly didn't remember it.

25 CHAIRMAN HENDRIE: We have no reason not to agree with



1 the finding and the best evidence ---

2 COMMISSIONER BRADFORD: -- And we have no evidence.  
3 We have no evidence ---

4 COMMISSIONER GILINSKY: Well, I think the point is  
5 that the interviews speak to this point. And you can scan  
6 the interviews yourself and I think, I don't remember what  
7 they all say, I presume this is kind of a -- that at least  
8 51 percent of them didn't remember one but ---

9 CHAIRMAN HENDRIE: Yes, I think that's right.

10 Okay, I don't think we need to dwell on it.

11 COMMISSIONER GILINSKY: I don't think so.

12 CHAIRMAN HENDRIE: A: it is not all that important,  
13 B: as far as I can see we are in agreement.

14 Backing up one.

15 COMMISSIONER GILINSKY: "Mr. Gossick's absence  
16 from the February 1976 briefing was not due to any lack of  
17 confidence in him."

18 I don't think it was ever made clear why Lee was  
19 not at that meeting. Now, it is not clear to me here, why  
20 they relate this to the question of the lack of confidence in  
21 him.

22 COMMISSIONER BRADFORD: It is a funny thing to  
23 highlight, but it seems to me that that conclusion sort of  
24 rhymes or falls on the testimony of whoever it was who  
25 decided who should be invited to the meeting, which is probably

1 Bill Anders.

2 COMMISSIONER GILINSKY: And I don't remember his  
3 interview very well, but my impression is that he was not  
4 clear as to why Lee was not there. I don't think anybody was  
5 clear and Lee's calendar has never been straightened out.  
6 He thought he might have been at a hearing, but he wasn't  
7 sure. I think it has just never been resolved.

8 CHAIRMAN HENDRIE: Do you disagree with the Finding?

9 COMMISSIONER GILINSKY: I just have no idea.

10 COMMISSIONER BRADFORD: That and -- I guess really,  
11 on both of those I just don't have much in mind.

12 COMMISSIONER GILINSKY: I would just say, it is  
13 just not clear why he was not there.

14 It is not clear to me what point they are making.  
15 Why is it important whether or not it had something to do  
16 with lack of confidence in him?

17 CHAIRMAN HENDRIE: It came up in some of the  
18 interviews, it seems to me.

19 COMMISSIONER GILINSKY: But in writing those up,  
20 they seemed to slant things the other way and I ---

21 CHAIRMAN HENDRIE: Well, in a couple of interviews,  
22 people commented that they didn't think there was any lack  
23 of confidence in Lee, that he wasn't brought in to the briefing,  
24 but rather it was a matter of limiting the number of people to  
25 strict "need-to-know" or whatever.

COMMISSIONER GILINSKY: Well, I must say that was not

1 my impression of the meeting -- of the attendance at the  
2 meeting. In other words, I thought there were rather more  
3 people than you would have expected, rather than that it was  
4 something that was very, very closely held. For example,  
5 John Davis was there. That's kind of a surprise. And in fact,  
6 there are several places where ---

7 CHAIRMAN HENDRIE: Was the head of Inspection there?

8 COMMISSIONER GILINSKY: Well, he was the head at  
9 that time. He was the acting head.

10 CHAIRMAN HENDRIE: I see.

11 COMMISSIONER GILINSKY: But nevertheless, I mean,  
12 still it seemed a bit odd. I mean, if in fact this was  
13 something that was very, very closely held.

14 My impression, which may have been wrong, was that  
15 in fact there were that many people there in order to make  
16 sure that everybody got the message, that the situation was  
17 really all right. And Andres and others were -- well, in  
18 any way, Andres got a surprise with the outcome. And certainly  
19 was surprised that the CIA briefer went on as he did to an  
20 audience as large as was in the room.

21 So I don't think -- it just doesn't make sense that  
22 Lee was kicked out because it was so closely held. I just  
23 have no idea why he wasn't there.

24 COMMISSIONER BRADFORD: Page 21 of the Summary  
25 Volume summarizes everyone's different reasons for why Lee



1 wasn't there and some stuff about "need-to-know" and "... a  
2 strong or a weak Executive Director..." and that really all  
3 should be conjecture because none of them really made the  
4 decision.

5 COMMISSIONER GILINSKY: Yes. I mean, if -- it is  
6 pretty hard to explain why John Davis was there and why Lee  
7 wasn't. It may well have been that ---

8 COMMISSIONER BRADFORD: Chapman said Andres asked  
9 him to set up the briefing and I think he decided not to  
10 invite Lee.

11 COMMISSIONER GILINSKY: Well, there are different  
12 stories as to who set up the briefing.

13 COMMISSIONER BRADFORD: Was Lee at the ERDA  
14 briefing?

15 COMMISSIONER GILINSKY: Yes, I believe so.

16 And I might say, you know, the original closely  
17 held informations group was the one on nuclear explosive  
18 devices, and it is the one that Conran complained about, and  
19 in fact, the one that I set up, very good or ill, and  
20 originally it didn't include Lee. That was in fact to limit  
21 it to the smallest number of people, but then he was informed  
22 about it and he asked to be included and he was.

23 CHAIRMAN HENDRIE: So what do I write down about this  
24 Finding?

25 COMMISSIONER GILINSKY: I would say I have no  
view on -- you know -- why he was or was not excluded.

1 I don't even know how the meeting was set up and  
2 the stories in the interviews conflict. I don't know that  
3 it is terribly important, anyway.

4 CHAIRMAN HENDRIE: Well, if the Task Force writes  
5 this report and they come to a finding that Gossick's  
6 absence from the briefing was not due to any lack of confidence  
7 if the Commission backs away from that as a Commission  
8 finding, I think it ought to do so with some care.

9 What I find is that Anders, in his interview and  
10 his statement, said in his letter -- he has a separate letter  
11 to Mr. Udall and a copy was furnished to us, and so did Marc  
12 Rowden when he was Chairman. Both of them speak very highly  
13 of their confidence in Gossick and in the interviews here  
14 Strauss and Kennedy, Eagle come around to the limitation on  
15 some other ground than lacks confidence ---

16 COMMISSIONER GILINSKY: Other ground?

17 CHAIRMAN HENDRIE: Primarily the "need-to-know".  
18 All of them mentioned the need-to-know.

19 COMMISSIONER GILINSKY: I guess I don't see any  
20 need to raise the question of confidence. I don't know what  
21 it has to do with his not being at the briefing. I mean, I  
22 have no idea why he wasn't there. He certainly wasn't  
23 excluded. He was apparently not invited. I don't know who  
24 did the inviting.

25 CHAIRMAN HENDRIE: Well, I think under the

1 circumstances if you are not invited you are excluded.

2 COMMISSIONER GILINSKY: Oh, I don't think so.  
3 I mean, in fact, Anders says that -- if I remember correctly --  
4 they thought Lee had some important things to do in Bethesda  
5 or something like that. I mean, I just -- I don't know. Is  
6 it clear to you how the meeting was set up and who did the  
7 inviting and why people were included or not included? It  
8 certainly is not clear to me.

9 CHAIRMAN HENDRIE: It is certainly not clear to me  
10 either. On the other hand, we have got the statements of a  
11 number of people who were involved and I haven't found anybody  
12 in those statements, that I can recall, who suggests Gossick  
13 wasn't -- because there was a lack of confidence in him. Okay.

14 Now, the team who took the interviews, they say:  
15 "One of our findings says that Gossick's absence was not due  
16 to any lack of confidence in him." You notice that they  
17 stay away from saying: "We have determined that it was because  
18 of the need-to-know limitation." They have simply said, we  
19 have talked to enough people who have expressed the view that  
20 it wasn't a lack of confidence that we set that finding down.

21 COMMISSIONER GILINSKY: I guess I just have to say  
22 I don't know, because you know, I have these interviews by  
23 us and old Bill Anders and I remember things that got said and  
24 I just don't know. It is possible, it might be right, might  
25 not be right, might not have anything to do with it.



1 I don't know why -- you know -- you need to have  
2 a system's confidence in Lee turn out of whether or not he  
3 was at that meeting. I just don't know what the facts are.

4 CHAIRMAN HENDRIE: I have to deal with it because  
5 it is in this report. If I don't deal with it, I will have  
6 a letter from downtown saying, "What about Finding C-3,  
7 Mr. Hendrie; say exclusively whether you agree with it or  
8 don't agree with it?"

9 Now, I have already said I agree with it --

10 COMMISSIONER GILINSKY: I guess I haven't said, I  
11 don't know.

12 CHAIRMAN HENDRIE: -- and you know.

13 COMMISSIONER BRADFORD: What I would say about that  
14 one, really, No. 4 as well, is that I was not here doing that  
15 time and the most I can say is that the Finding represents, in  
16 both of these cases, an accurate summary of the evidence.

17 CHAIRMAN HENDRIE: Available.

18 COMMISSIONER BRADFORD: The evidence in the report.

19 COMMISSIONER GILINSKY: Now, they seem to be  
20 missing a point, too.

21 CHAIRMAN HENDRIE: Yes.

22 COMMISSIONER GILINSKY: Which makes you wonder.

23 COMMISSIONER BRADFORD: Oh, shit. What does one  
24 say about point No. 2.

25 CHAIRMAN HENDRIE: I think -- I'll tell you what I

1 think. I think they got the thing mis-numbered.

2 We have got A a general category and B, July 29th  
3 testimony and category with five items, and C on August 8th  
4 testimony category, and I think 3 and 4 should have been  
5 D and E or something like that.

6 COMMISSIONER GILINSKY: That's right, because they  
7 are really ---

8 CHAIRMAN HENDRIE: Of a different character.

9 COMMISSIONER GILINSKY: Yes, of a different character.

10 CHAIRMAN HENDRIE: What's the lack of confidence,  
11 the briefing got to do with the testimony on August 8th. It  
12 really ought to be ---

13 COMMISSIONER GILINSKY: In fact, it is not clear  
14 why they wrote it in there. Well, the CIA packet, I guess I  
15 mean.

16 CHAIRMAN HENDRIE: There were things, probably  
17 which either a member of the inquiry team or member of one  
18 of the Congressional staffs that were consulted. If you  
19 remember, the team had frequent communications in the days  
20 it was going forward, with the Committee staff and they did  
21 a certain amount of shaping of the thing to meet the comments  
22 and questions. But this should have been a "D" category.

23 COMMISSIONER GILINSKY: I think that's right.

24 CHAIRMAN HENDRIE: Okay, back up to C-1.

25 COMMISSIONER BRADFORD: The only difficulty that I have

1 with C-1 is the suggestion that Lee could have cured the  
2 defect by using adjectives such as "conclusive" or "hard."

3 COMMISSIONER GILINSKY: I didn't understand that at  
4 all, frankly.

5 COMMISSIONER BRADFORD: The problem with that is  
6 that if you link it in with the business about the Commission  
7 reaffirming the judgment, you can't make sense of it. The  
8 Commission didn't say -- the Commission said no evidence.  
9 Lee couldn't have read the words "conclusive or hard" in to  
10 that. So that it seems to me that the only way to have  
11 cured the problem would have been to limit his testimony to  
12 the post-'68 period. And all of that stuff about -- there  
13 was no way to say what Lee was saying and use adjectives  
14 like "conclusive" or "hard." That wouldn't make any sense of  
15 the thing.

16 COMMISSIONER GILINSKY: I think that's right, and  
17 he could not easily at the post-'68, because he went on and  
18 said you should know that they said this after having briefed  
19 and so on. So he very clearly stuck it on the earlier period.

20 They also don't deal with the question as to whether he  
21 was personally informed of the matter before August 8th.

22 COMMISSIONER BRADFORD: What is one to make of --  
23 Lee was present at the ERDA briefing. It says that the ERDA  
24 briefer disagreed with the CIA briefer. If the ERDA briefer  
25 disagreed with the CIA briefer how could Lee not have known



1        what the CIA briefer had said?

2                COMMISSIONER GILINSKY: Well, I don't think we  
3        discussed this CIA briefing and the ERDA briefing.

4                COMMISSIONER BRADFORD: Well, the summary says that  
5        the ERDA briefer disagreed with the CIA briefer.

6                COMMISSIONER GILINSKY: Well, I think he just had  
7        a different view.

8                COMMISSIONER BRADFORD: Does that mean he just said  
9        something different? He didn't say we disagree with the CIA  
10       on this?

11               COMMISSIONER GILINSKY: Yes, I believe that that's  
12       right, yes.

13               COMMISSIONER BRADFORD: And after that the FBI came  
14       to see Lee, asked him what he knew about material missing.  
15       NUMEC had said that they had an investigation going of a  
16       potentation version.

17               COMMISSIONER GILINSKY: When was that?

18               COMMISSIONER BRADFORD: Some time between '76 and  
19       '78. I'm sorry, between '76 and July of '77.

20               I'm fairly comfortable with Item 1, as far as it  
21       goes, up to the mid-point of the second paragraph. From  
22       then on where it says what should have been done to cure the  
23       problem, I guess I would have to see the specific questioning  
24       and his responding to, but I think my view is that he would have  
25       been a lot better off at that point to have said -- just to have

1 simply said, Ah, that we should go into Executive Session  
2 if you want to pursue this any further or to have said that  
3 there was one episode on which the evidence was ambiguous.

4 COMMISSIONER GILINSKY: Well, they didn't have to  
5 pursue it. I mean, it was really all gratuitous. He was  
6 asked: you haven't had access to intelligence data, have you?  
7 and he said, no. And the guy said, then you really can't,  
8 you know, on you own say ---

9 COMMISSIONER BRADFORD: Was that the question asked?

10 COMMISSIONER GILINSKY: -- clearly, you know, whether  
11 or not something had happened and he just went in to this  
12 monologue, instead of just saying, yes or no, or whatever the  
13 right answer was.

14 COMMISSIONER BRADFORD: Okay, now this is the point  
15 at which Smith and Burnett are sitting by his elbow? This is  
16 Dingell now?

17 COMMISSIONER GILINSKY: Yes.

18 COMMISSIONER BRADFORD: But they hadn't been at  
19 the briefing either, of course, because they hadn't even been  
20 in the agency.

21 COMMISSIONER GILINSKY: That's right.

22 COMMISSIONER BRADFORD: Now, what did they know?  
23 Have they ever given any indication whether ---

24 COMMISSIONER GILINSKY: Whatever they got in the  
25 two August 2 meetings.

1 COMMISSIONER BRADFORD: I see.

2 COMMISSIONER GILINSKY: Plus whatever Conran -- you  
3 know -- I mean, whatever weight you attach to Conran's state-  
4 ments.

5 COMMISSIONER BRADFORD: Or that he had told them?

6 COMMISSIONER GILINSKY: Yes, plus the newspapers.

7 COMMISSIONER BRADFORD: Has the newspaper said  
8 anything about NUMEC by that ---

9 COMMISSIONER GILINSKY: Oh, sure. Oh, yes. There  
10 was a series in the Star every day.

11 COMMISSIONER BRADFORD: About NUMEC?

12 COMMISSIONER GILINSKY: Sure.

13 COMMISSIONER BRADFORD: Of course, at that time I  
14 was still reading the Agusta -- Ironbec Journal rather than  
15 the Washington --

16 COMMISSIONER GILINSKY: I think you have to  
17 probably agree that here is a higher threshold for leaping  
18 out of the audience ---

19 COMMISSIONER BRADFORD: And crashing forward.

20 I don't know what the CIA was, was he up there  
21 alone or was it one of those things where there were three of  
22 them up in a row?

23 COMMISSIONER GILINSKY: I wasn't there. I don't  
24 know. Dingell would know that.

25 CHAIRMAN HENDRIE: Was Smith at that ---



1 COMMISSIONER BRADFORD: One now has to go back in to  
2 the Conran matter.

3 COMMISSIONER GILINSKY: Well, he was one of the  
4 two or -- are you asking whether he was ---

5 COMMISSIONER BRADFORD: I think it was the Dingell  
6 one that they were all at, but I'm not sure.

7 COMMISSIONER GILINSKY: Let me ask you something  
8 about the first line. It says: "We have no information  
9 indicating this was done with intent to deceive or mislead  
10 the subcommittee."

11 Do we have information for the contrary proposition?

12 CHAIRMAN HENDRIE: We have Gossick's statements and  
13 the character references at the right point and no ---

14 COMMISSIONER GILINSKY: I don't think you can  
15 resolve the factual questions with these character references.

16 COMMISSIONER BRADFORD: I think that one can safely  
17 say that Mr. Gossick's intent was no different of whoever  
18 originally framed the no-evidence formula over at ---

19 COMMISSIONER GILINSKY: Well, I don't know. It is  
20 very hard to know what was in his mind. I don't know whether  
21 he is clear on what was in his mind.

22 COMMISSIONER BRADFORD: The best conjecture I have  
23 heard on that was to the effect that he wasn't going to be  
24 the first person in the U.S. Government to break ranks.

25 COMMISSIONER GILINSKY: Well, but this is his second

1 time around.

2 In other words, this is August 8th. It weighed on  
3 his mind that he had made this statement on July 29th.

4 COMMISSIONER BRADFORD: How heavily did it weigh?

5 COMMISSIONER GILINSKY: Well, he was concerned  
6 about it, and he could have done one of two things. He could  
7 have corrected it or he could have done what he did, which is  
8 just to wrap himself in the Commission.

9 COMMISSIONER BRADFORD: Now, what happened after  
10 this, Vic, did he come back and say -- did he come back to the --  
11 well, I guess at this point I was just about here, so I ought  
12 to know, but did he then report back and say Dingell raised  
13 the same questions and he had given the same answer and the  
14 whole thing then just went undiscovered until, the Congress--  
15 Udall letter much letter?

16 COMMISSIONER GILINSKY: Yes, from one of these, July  
17 29th or August 8th, I think it was the July 29th. Kammerer  
18 sent around a note, I don't think that was the case here.  
19 But actually, I didn't see it until Udall wrote a letter.

20 COMMISSIONER BRADFORD: And then Lee's ---

21 COMMISSIONER GILINSKY: In fact, I didn't see it  
22 until Gossick's letter of response ---

23 COMMISSIONER BRADFORD: Lee's response where he  
24 said it is okay, because I said the same thing to Dingell.

25 COMMISSIONER GILINSKY: Right.

1 CHAIRMAN HENDRIE: Smith wasn't at the August 8th  
2 hearing. Neither Smith nor Burnett reviewed either of the  
3 transcripts.

4 COMMISSIONER BRADFORD: He was at the July 29 meeting?

5 CHAIRMAN HENDRIE: I think he probably was.

6 COMMISSIONER GILINSKY: Well, I remember the Udall  
7 committee complaining that if the other staff members didn't  
8 correct their testimony, so I think he must have been at that  
9 one.

10 CHAIRMAN HENDRIE: He probably complained about them  
11 not correcting the March 8th -- the August 8th, wasn't it?

12 COMMISSIONER GILINSKY: Well, but I think they  
13 expected them to actually leap up.

14 CHAIRMAN HENDRIE: At the meeting?

15 COMMISSIONER GILINSKY: At the meeting.

16 CHAIRMAN HENDRIE: Fine.

17 COMMISSIONER GILINSKY: Or at least tug at Lee's  
18 elbow.

19 CHAIRMAN HENDRIE: It's damned hard to go back  
20 through these volumes and reconstruct this stuff.

21 Okay, C-1. Testified incorrectly.

22 Now, there is a little glitch in that -- at the top  
23 of page 47 the inquiry, people keep citing the MUF Report.

24 COMMISSIONER GILINSKY: Now, in fairness to Lee,  
25 he claims that he was not referring to the MUF Report. I



1 believe that's what he claims, that he was referring to  
2 some other Commission position.

3 CHAIRMAN HENDRIE: There is a memo -- well --  
4 page 5 of the thing. It says, "No reference was made by  
5 Mr. Ward in his question or by me in my answer to the  
6 Commission to the release of our MUF Report. I understood  
7 Mr. Ward's question to go beyond the post-'68 time period  
8 and believe he was aware of and referring to the no-evidence  
9 statements he knew had been made or approved by the  
10 Commission throughout the '76-'77 period."

11 COMMISSIONER GILINSKY: Well, I didn't regard that  
12 to be his response. I thought it was pretty clear it dealt  
13 with that MUF Report.

14 CHAIRMAN HENDRIE: Huh?

15 COMMISSIONER GILINSKY: I thought it was pretty  
16 clear that it dealt with that report.

17 CHAIRMAN HENDRIE: That what?

18 COMMISSIONER GILINSKY: I thought it was pretty  
19 clear that it dealt with that report, the findings.

20 CHAIRMAN HENDRIE: His response?

21 COMMISSIONER GILINSKY: Yes. It is the only  
22 report ever in need of the word "ever".

23 Was he saying he had something specific in mind,  
24 or that it was just some vague recollection or he thought  
25 that is what the Commission had been saying?

1           Anyway, what does it matter what the -- well, of  
2       course, I guess he is talking about a Commission position.

3           CHAIRMAN HENDRIE: It matters only that you need to  
4       take note of the fact that Gossick's comment, in fact, his  
5       only comment on the inquiry report was that he believed  
6       that they were in error in ascribing that piece of the  
7       Dingell testimony so closely to the MUF Report.

8           The MUF Report, indeed, wasn't -- the language that  
9       the inquiry used is. in fact, -- Page 47. It is in the  
10      end of the second -- third line, if you deleted the words:  
11      "in releasing the MUF Report," that is, "... testified  
12      incorrectly when he agreed that the Commission has," quotes,  
13      di-di-da. I guess, take the quotes out. Then, delete "referring  
14      to the same report" and just leave, "Gossick also testified  
15      incorrectly in stating..." di-di-da, then, Gossick presumably  
16      wouldn't have felt compelled to write this. Then, similarly,  
17      on down the next paragraph ---

18           COMMISSIONER GILINSKY: Yes.

19           CHAIRMAN HENDRIE: -- The next paragraph is  
20      incorrect because he failed to take into consideration the  
21      fact the MUF Report and so on, and so on. What he is saying  
22      is, I was thinking not only of the MUF Report statement, which  
23      I agree was post-'68, but other Commission statements in  
24      the period which appeared to me to cover the whole time.

25           Now, it is a fairly minor point, it seems to me.

1 COMMISSIONER GILINSKY: Well, it's pretty  
2 important, I guess, to him.

3 I suppose what the author should have said is  
4 that we believe, referring to the MUF Report, because that  
5 seems to be our conclusion.

6 COMMISSIONER BRADFORD: Well, don't you really  
7 have to have the transcript in front of you to really assess  
8 that? It depends a lot on what the question was.

9 COMMISSIONER GILINSKY: Yes, well, it is in that  
10 summary.

11 COMMISSIONER BRADFORD: What was the question that  
12 he was answering?

13 CHAIRMAN HENDRIE: Well, let's see.

14 COMMISSIONER GILINSKY: He was saying -- it says,  
15 "You have not seen the raw intelligence data, you really  
16 can't state of your own knowledge that..." something or  
17 other.

18 COMMISSIONER BRADFORD: But then you would also  
19 have to have the whole of his answer, because this is part  
20 of his answer ---

21 COMMISSIONER GILINSKY: Actually, there are a  
22 bunch of questions and answers, you are right. And, right.  
23 There is an exchange.

24 Ward does not refer specifically to the reports.  
25 That isn't the question.



1           CHAIRMAN HENDRIE: That's correct, nor did Gossick  
2 refer to it in his answer.

3           COMMISSIONER GILINSKY: On the other hand, that  
4 was what the subject of the hearing was, and Ward said, now  
5 the Commission has given assurance that, and he basically  
6 quotes a statement out of the report. I mean, you have got  
7 to decide whether that -- in that context that's what that  
8 means. Does it mean the report or did he ask him the general  
9 question or was Gossick responding. But the report was the  
10 subject of the hearing.

11           If in fact the Commission's or the organization's  
12 latest statement was careful to qualify the no-evidence  
13 statement, then even if he remembered other statements, why  
14 would he, before this committee, again without qualification of  
15 the earlier statement.

16           CHAIRMAN HENDRIE: If what?

17           COMMISSIONER GILINSKY: Well, if the last thing the  
18 NRC did is to say no evidence since '68, however, why would  
19 he say to them -- you know -- even if there were earlier  
20 no evidence that were unqualified, why would you respond with  
21 earlier statements? Not with your latest statement which  
22 reflects, you know, better information about the problem,  
23 except to contrast them or something like that.

24           COMMISSIONER BRADFORD: Well, what do we really  
25 need here, I mean, the general consensus, including, I guess,

1 Lee, is that in this particular instance he screwed up and  
2 there is some question as to the magnitude, but everybody  
3 from him through us and the Committee and everybody else  
4 feels that he should have answered the question differently.  
5 It seems to me that Udall, the only thing he is probably  
6 interested in at this point is what significance we attach  
7 to that circumstance. It is easy enough to say that, I should  
8 think, as a response to this one regardless of the precise  
9 questions and reference in context, this general agreement,  
10 these treasured words didn't convey the precise situation.  
11 Do we have to say a lot more than that?

12 I mean, at the end we have to come to the conclusions  
13 of what one does about all this, but in response to that  
14 particular finding.

15 COMMISSIONER GILINSKY: Well, you have to decide  
16 whether this is just a wrong view on this or whether he is  
17 misleading the Committee.

18 COMMISSIONER BRADFORD: Well, I think the point  
19 everybody is prepared to conceive is that he mislead the  
20 Committee, including me, at this point and that he should have  
21 said something else. We may have to decide whether it was  
22 intentional or not, but there is no dispute that the answer  
23 he gave in the context he gave it, mislead the Committee.

24 COMMISSIONER GILINSKY: Now, this report also --  
25 does that mean it does not deal with the question, as I say,

1 circumstances, including the August 2nd briefing and the  
2 meeting which followed, should have, in any event let Mr.  
3 Gossick to articulate those limitations in his testimony.

4 They just didn't address the question of whether --  
5 you know -- what they knew about all of this.

6 COMMISSIONER BRADFORD: And was discussed earlier,  
7 the limitations that they proposed here would not have actually  
8 solved the problem.

9 COMMISSIONER GILINSKY: Well, the limitation -- take  
10 out the word "Commission."

11 COMMISSIONER BRADFORD: Well, the real answer to  
12 why does he say -- okay -- the real answer to Ward's question  
13 was at best, yes, I really have no basis for making this  
14 statement, but better still ---

15 CHAIRMAN HENDRIE: Or ---

16 COMMISSIONER GILINSKY: He could have said that in  
17 our latest report ---

18 COMMISSIONER BRADFORD: -- to the '68 period and  
19 there was an ambiguous episode earlier.

20 COMMISSIONER GILINSKY: Yes. Or something like that.

21 COMMISSIONER BRADFORD: I hate to leave this item  
22 unresolved here, but I've got to go.

23 CHAIRMAN HENDRIE: Holy mackerel, it is way past.  
24 I didn't realize we were stretching you out so close.

25 COMMISSIONER BRADFORD: Just like some mornings when



1 I'm late ---

2 CHAIRMAN HENDRIE: Like normal.

3 COMMISSIONER BRADFORD: Yes.

4 CHAIRMAN HENDRIE: Let's see, let me just settle it.

5 The Q and A sequence ascribes to the Commission  
6 assurance that no significant quantities have ever been  
7 diverted or stolen, to include pre- and post-'68. That's  
8 takes some careful phrasing.

9 I think we come eventually to a conclusion that  
10 will come to a conclusion that we ought to write Mr. Dingell.  
11 But what we say will be very interesting. I'm unable to tell  
12 what was on the mind of the five Commissioners who composed  
13 the body which -- whose opinion Lee thought he was reflecting  
14 on these two days. Okay?

15 The five of you left no verifiable trace, their  
16 interviews ---

17 COMMISSIONER GILINSKY: Yes. First of all, the first  
18 day he wasn't referring to the Commission's views, he was  
19 giving his own views. He's saying these don't differ from  
20 statements made by others.

21 The second day he is giving -- he is representing  
22 the Commission's views. What Commission, I don't know. At  
23 that time there were two Commissioners and whether he was  
24 talking about three Commissioners, other Commissioners,  
25 earlier times with the AEC. I think it is pretty clear that

1 he is talking about that report, the present. It seems to  
2 me it was a straightforward interpretation.

3 CHAIRMAN HENDRIE: Well, he says, though, this  
4 is not the case.

5 COMMISSIONER GILINSKY: But at any rate -- right.  
6 Well, that's right. We have to make a judgment on a lot of  
7 that.

8 But, when you say the Commission, you have to refer  
9 to some -- you can't sort of collect different Commissioners  
10 at different times. I mean, it has to be like the Commission's  
11 statement, the Commission's views and I guess he has things ---

12 CHAIRMAN HENDRIE: Just so.

13 COMMISSIONER GILINSKY: -- that he points to and so  
14 on.

15 CHAIRMAN HENDRIE: He has a body of material which  
16 he points to, none of which constitutes any sort of clear  
17 Commission statement in a collegial fashion, and says, I  
18 gathered from all of this, these bits and pieces, that the  
19 collegial Commission view was thus and so.

20 COMMISSIONER GILINSKY: At a certain time. I mean,  
21 in other words, at some time they had this view.

22 CHAIRMAN HENDRIE: Yes. And presumably running  
23 back in the period '76 ---

24 COMMISSIONER GILINSKY: And it must have been right  
25 up to the time he had testified, because if it wasn't, you

1 would think he would give them the latest view, or at least  
2 up to that time the Commission went out of business.

3 CHAIRMAN HENDRIE: Yep. True.

4 My impression is that the staff and Lee felt they  
5 didn't discern any difference over the opinion.

6 Now, what I'm saying there is no way to tell,  
7 the Commission left no clear -- now, there isn't a paper that  
8 appears for the first time to see the light of day which  
9 says, "We the Commission," you know, signatures to the role,  
10 "believe it is possible."

11 It seems to me then that the way we address ourselves  
12 to Mr. Dingell is to say, we believe it appropriate in view  
13 of the testimony on August 8th and the questions that have  
14 been raised about it or the inquiry report, believe it is  
15 appropriate that the present Commission make or clarify that  
16 record or put a statement on the record now which says, you  
17 know, for whatever those other fellows may have thought  
18 collegially or not thought collegially, that is now pretty  
19 hard to determine in an objective way. And what we can do is  
20 to say what we think now, put that on the record. And ask  
21 that you consider that our statement here, in this letter,  
22 represent the Commission's views and not what Mr. Gossick  
23 said he believed the Commission's view to be back on August  
24 8th.

25 COMMISSIONER GILINSKY: Well, but are you taking any



1 view of what he said? Are you just sort of finessing  
2 that or are you ---

3 CHAIRMAN HENDRIE: Well, ---

4 COMMISSIONER GILINSKY: I mean, I have a view about it.

5 CHAIRMAN HENDRIE: Yes?

6 COMMISSIONER GILINSKY: (inaudible)

7 CHAIRMAN HENDRIE: I think it was an unfortunate  
8 piece of testimony, you know, who knows why people say things ---

9 COMMISSIONER GILINSKY: Well, but you know. God  
10 knows I've said dumb things at hearings, but there is a way  
11 to deal with it. You correct it.

12 Here was one where he just insisted on sticking to  
13 the story, and digging the hole deeper and deeper and deeper,  
14 you know, didn't stop on August 8th. You know, look, he  
15 could have corrected this July 29th testimony, I mean, stuck  
16 a word in, testified differently on August 8th. There was  
17 just no need for any of this. Now, something impelled him  
18 along this line, I guess. I don't know, what, you know, old  
19 soldiers standing with their -- I just don't know.

20 I mean, the normal bureaucratic instinct is to be  
21 cautious, it is not to make flat-out statements. Normally,  
22 our language is hedged in a million different ways, and when  
23 the bureaucrats go out and make blanket statements, it is  
24 because he feels somehow the pain of doing the other -- you  
25 know -- is greater than -- he overcomes his natural, sort of

1 disinclination to make blanket statements. In other words,  
2 it was the party line and he was not going to break ranks,  
3 I guess. I don't know. But I think he knew better than to  
4 say those things, I really do.

5 CHAIRMAN HENDRIE: I think he felt that, in turning  
6 to us as to what the Commission's position was.

7 COMMISSIONER GILINSKY: How could he think that?  
8 We just had a roaring argument, you know, several days before.

9 CHAIRMAN HENDRIE: Well, other people came out of  
10 that roaring argument with a less-than-clear description.

11 COMMISSIONER GILINSKY: Listen, you didn't catch  
12 Cliff Smith saying things like that or Burnett, even though  
13 they claimed they don't remember what they got told.

14 CHAIRMAN HENDRIE: They don't ---

15 COMMISSIONER GILINSKY: They were pretty careful.

16 CHAIRMAN HENDRIE: They didn't testify.

17 COMMISSIONER GILINSKY: I just don't think, you know ---

18 CHAIRMAN HENDRIE: God knows what they would have said.  
19 What they have said in their interviews is that they think  
20 maybe they would have fallen into the same place, because the  
21 language at the staff level is the language -- what was regarded  
22 as the safe and classic way to express the agency's view on  
23 this matter.

24 COMMISSIONER GILINSKY: Well ---

25 COMMISSIONER BRADFORD: Why would they not have just

1        gone up before Dingell on this one on the plot in itself?

2                COMMISSIONER GILINSKY: I don't know.

3                Unless the investigators in this report didn't  
4 really follow up on the question of what Gossick got informed.  
5 They didn't really cross-check or wanted to view it to another  
6 to see the clear discrepancies on, certainly our little  
7 meeting, when we talked to them about ---

8                CHAIRMAN HENDRIE: Of course there were discrepancies.

9                COMMISSIONER GILINSKY: Well, but there were some  
10 obvious things that they just didn't even ask the other guys  
11 about from one interview to another.

12               They really didn't address the question of what it  
13 was one can say about what Gossick did or didn't know.  
14 They just sort of let it go.

15               Well, you know, I didn't participate. I have my  
16 own view of the ---

17               CHAIRMAN HENDRIE: Of course.

18               COMMISSIONER GILINSKY: -- of the matter.

19               CHAIRMAN HENDRIE: But I also talked to the other  
20 four guys who were doing it, and I must say, going back to the  
21 time that I wrote the first response to Udall, it seemed very  
22 clear to me that other people had very much less than the  
23 clear impression when I talked to you, you felt, you know,  
24 that it certainly should have been well understood there,  
25 and well, I found in the other four, it just didn't reflect



1 that at all. And ---

2 COMMISSIONER GILINSKY: Well, this is really a  
3 side issue.

4 I don't think his testimony, the correctness or  
5 lack of it, turns on that. I mean, I think that, you know,  
6 sort of a larger meeting was ample and warned him not to  
7 speak like that, let alone that a month earlier or six  
8 weeks earlier Marc, in his last statement on the matter -- you  
9 know -- on this subject, cautioned them not to make such  
10 statements.

11 CHAIRMAN HENDRIE: But nothing ever recycled.  
12 The staff ---

13 COMMISSIONER GILINSKY: You know, we are using this  
14 argument that the man's an idiot. I mean, you have got to  
15 either conclude that he is incompetent or ---

16 CHAIRMAN HENDRIE: No, I don't think so.

17 COMMISSIONER GILINSKY: Well, I mean, how could he  
18 be so lacking in perception. I mean, this is a guy who has  
19 hung around with the Commissioners for the previous -- you  
20 know -- "x" years ---

21 CHAIRMAN HENDRIE: You ought to work for this outfit  
22 for a couple of years in close at the Commission level and  
23 see what the staff thinks of the ability of this body, of  
24 making sort of mind known in any shape or form.

25 COMMISSIONER GILINSKY: All right, okay. But the  
fact is ---

1 CHAIRMAN HENDRIE: I have listened to a good deal  
2 of that since I have come here and before, as a matter of  
3 fact, so I ---

4 COMMISSIONER GILINSKY: Well, I listen to a good deal  
5 of it too, I mean ---

6 CHAIRMAN HENDRIE: I must say ---

7 COMMISSIONER BRADFORD: But the end result of it  
8 isn't normally for staffers to go up and take an unequivocal  
9 position on the Hill if they find the Commission's intent to  
10 be equivocal. And I agree with you that there is ---

11 CHAIRMAN HENDRIE: That's right. Nor do I find  
12 Lee the sort of old innovator likely to take that kind of  
13 initiative.

14 COMMISSIONER BRADFORD: Okay, it cuts both ways.  
15 That is, a no-evidence statement is an unequivocal position ---

16 CHAIRMAN HENDRIE: Yes.

17 COMMISSIONER BRADFORD: -- and was on the other hand --  
18 it is not an unequivocal position as long as you believe that  
19 it is also the Commission's position. It is a kind of an  
20 unequivocal position after you have had a discussion which  
21 would raise questions about it.

22 COMMISSIONER GILINSKY: I mean, he's not going to  
23 run up there and say the Commission believes that there is  
24 absolutely no problem with disposable waste or something like  
25 that.

COMMISSIONER BRADFORD: He might, he might.

CHAIRMAN HENDRIE: Okay, more of C-1 and on.

But I think the place we have come out is that the record out to be clarified.

COMMISSIONER BRADFORD: I agree with that.

CHAIRMAN HENDRIE: I think we have an agreed basis to set that record straight in the light of what we are willing to say collectively, and the agreement we made on the recommendation, you know, that is, the language and this sort of thing.

COMMISSIONER BRADFORD: You have my vote to close.

CHAIRMAN HENDRIE: Oh, yes. I need to ask you to vote this one and the other one, if you please?

COMMISSIONER GILINSKY: Aye.

COMMISSIONER BRADFORD: Aye.

CHAIRMAN HENDRIE: So ordered.

Jolly good. Sorry to keep you so long over, Peter. These things are like fly paper, you just can't get out of them.

COMMISSIONER BRADFORD: I could have left earlier.

(Whereupon, the meeting was concluded at approximately 3:30 p.m.)