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December 3, 1956

ATOMIC ENERGY COMMISSION

Meeting No. 1250

3:00 p.m., Wednesday, November 28, 1956

EXECUTIVE SESSION

PRESENT:

Lewis L. Strauss  
Thomas E. Murray  
W. F. Libby  
Harold S. Vance

K. E. Fields  
William Mitchell

W. B. McCool  
Richard V. Willit

Harold L. Price

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may be true. It may be necessary for us to change our organizational setup as a result of it.

COMMISSIONER LIBBY: I am not willing to pay any such price. I don't think it is necessary.

CHAIRMAN STRAUSS: Tom, do you want to comment on this?

COMMISSIONER MURRAY: I think I have said everything for the record I want to say about it at previous meetings.

CHAIRMAN STRAUSS: This as I take it, is a debate that we are going to defer this decision until there has been an opportunity to talk to Roger McCullough. I wonder if a good many of our decisions, Harold, do not affect the public safety, aside from this one, as to whether we use plutonium or U 235 in a weapon, decisions as to whether we test in Nevada or at the Pacific Proving Grounds, size, and other things.

COMMISSIONER VANCE: They do from one point of view, because we are dealing with a dangerous subject.

CHAIRMAN STRAUSS: Yes, but it is the same consideration that makes the reactor hazardous, too. If it were not for the fact that government has to go on after we are gone, and the Commission has to go on, and that there are lots of other reports which become -- advisory reports which become accessible, I wouldn't have any trouble with this thing at all. Let me direct this question to you, Bill:

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What would we do if the question should arise, has the General Advisory Committee ever commented on reactor safety and if so, let us see the reports of the General Advisory Committee to search them for such references?

MR. MITCHELL: I think our answer would be that the General Advisory Committee is not part of our ordinary procedure for reviewing safety. That we are providing these particular letters as illustrations of the functioning of the Reactor Safeguards Committee. We do not intend -- and this I think has a bearing on what Mr. Vance has said -- as a regular practice to make these recommendations of this committee available to the Joint Committee. If we are contemplating this, then I think we have a different situation.

MR. FIELDS: I think so, too.

MR. PRICE: I would like to explain my reference to Dr. McCullough's position that I concur in the reasons Mr. Fields has given for releasing these particular six in the context of the legislation that is pending. But I don't think that the kind of letters that we get from the committee are useful as informational documents for the public.

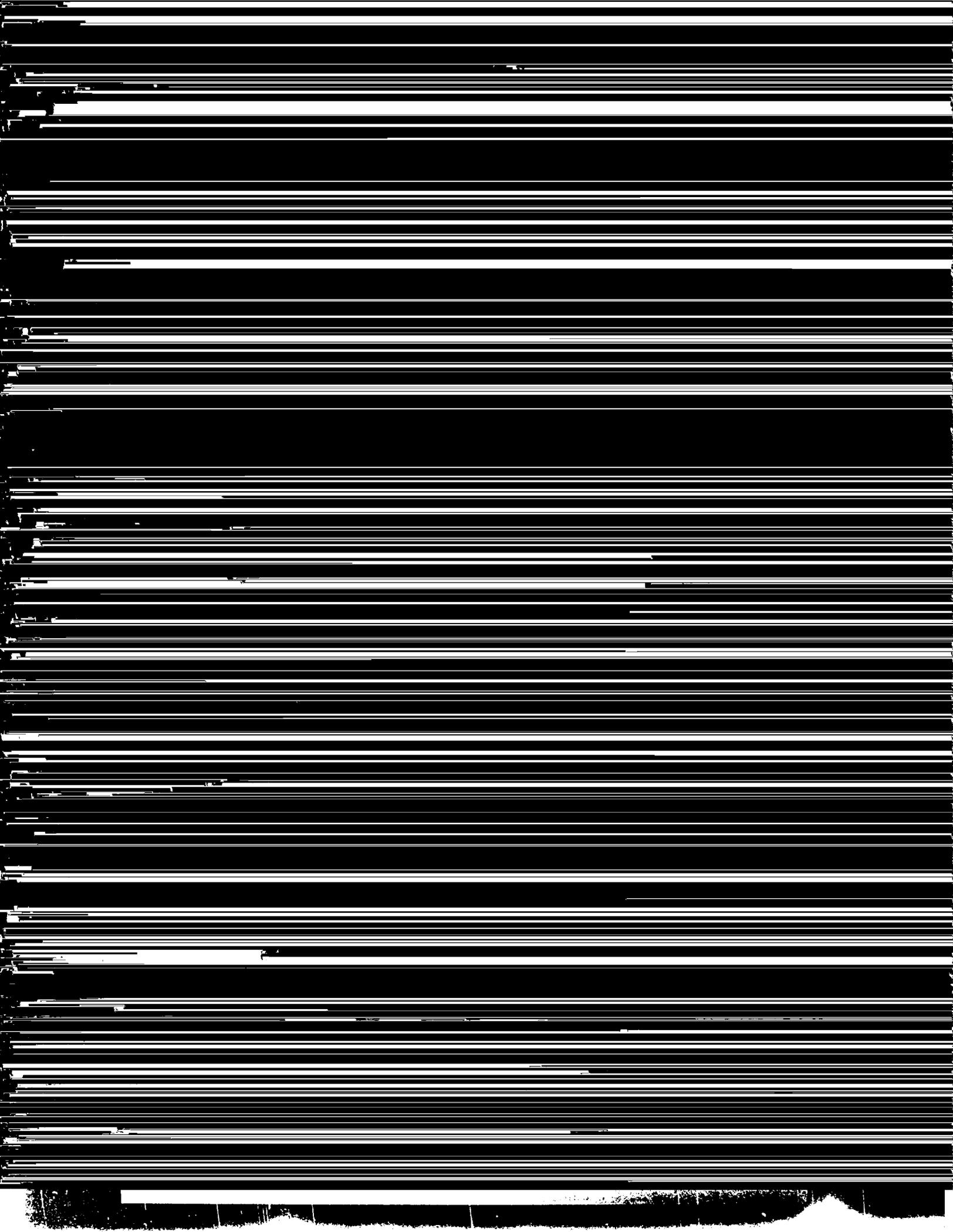
MR. FIELDS: I don't think so, either. Perhaps you should see these letters. We have Verifax copies of

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I would think all of this could be accomplished without necessarily publishing the text of the report itself,

COMMISSIONER LIBBY: I would agree with that, I am protecting the privilege. I am not protecting the information.

MR. PRICE: I would like to mention on the cases we have pending and the reason that no one has been up here for about two months is that we are proposing in line with previous discussions that every action from now on will be accompanied by a fairly complete statement of pertinent information relevant to the action that the Commission takes.

COMMISSIONER LIBBY: This is fine, but don't let it delay any project.

MR. PRICE: It would not include any copies of committee letters or any other internal documents. It would be something prepared for publication.

COMMISSIONER LIBBY: This is fine, but don't let it delay any important projects.

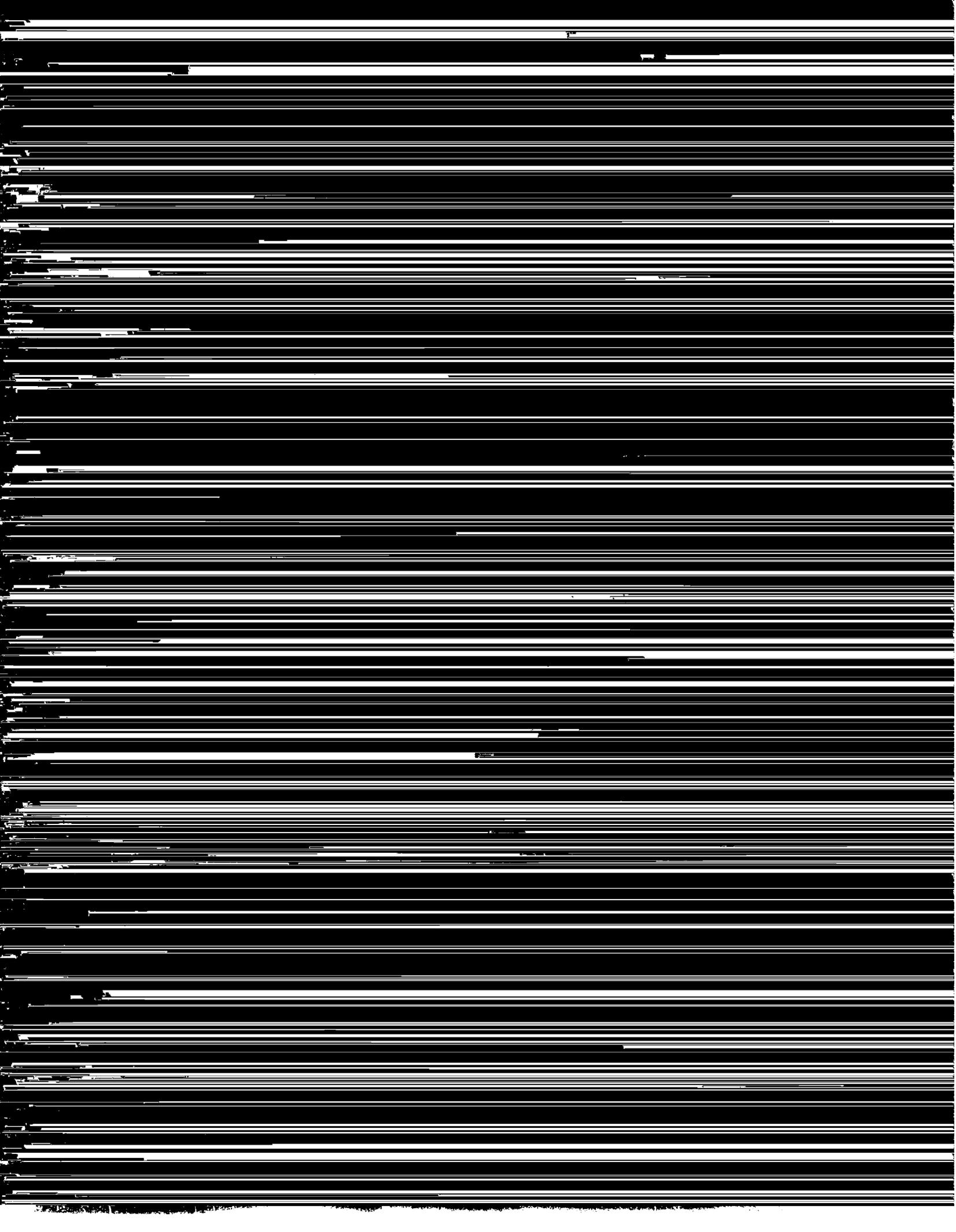
MR. PRICE: It has delayed them for a little while, but they are about ready to move.

COMMISSIONER LIBBY: Back to the main issue, I think we ought to be able to furnish all the pertinent information without furnishing the exact documents.

CHAIRMAN STRAUSS: Who has been in contact with the committee staff on this? You, Harold?

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of giving the paraphrase to the committee. We will show you the report and the paraphrase so that you satisfy yourself that it is correct, accurate, a complete statement of everything that is in it. We want to preserve the status quo with respect to privileged documents, but we want you to be satisfied that you can assure the committee that everything that is in this report is in this paraphrase, not one fact omitted."

That would at least indicate whether this was, as I believe it to be, a desire for information, or whether it was an intention simply to breach the wall of executive privilege.

COMMISSIONER VANCE: I think that might be a very happy solution to the thing. I would like to say in explanation of what I said this afternoon, when we discussed this matter last week, I was of the opinion we should politely decline to disclose any of this information. Following the meeting I sat down with Mr. Ferguson to redraft paragraph 8, which I thought was not sufficiently explanatory -- and that redraft appears here-- and then I was very much taken aback when Mr. Ferguson explained to me that as we had rewritten paragraph 8, saying that we felt that there was involved here the question of disclosing privileged information, not just this isolated situation, he pointed out to me that we had made exceptions

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in the past, and that therefore we were not consistent in taking that position. We have made exceptions in the past. I understood from General Fields also we have.

MR. FIELDS: There have been exceptions.

COMMISSIONER VANCE: I would say in this particular area, which is a very sensitive one dealing with public safety, that we should not stand on anything except the broadest ground.

COMMISSIONER LIBBY: Consider how we have done the fallout problem.

COMMISSIONER VANCE: I think the suggestion you have made, Mr. Chairman, would cover the situation.

MR. MITCHELL: I am a little disturbed about this, frankly. What if they ask for a paraphrase of my recommendations to the Commission or paraphrase of minutes of meetings which we held internally.

CHAIRMAN STRAUSS: In other words, you think I am opening a bigger door?

MR. MITCHELL: Yes.

MR. FIELDS: I think you waive it on this and that is it.

CHAIRMAN STRAUSS: I thought my suggestion was wonderful when I offered it.

MR. PRICE: They would be satisfied to come down and look. That is what they want. They said if we

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let the staff come down and open the papers, they will be satisfied, and we were afraid to open that door.

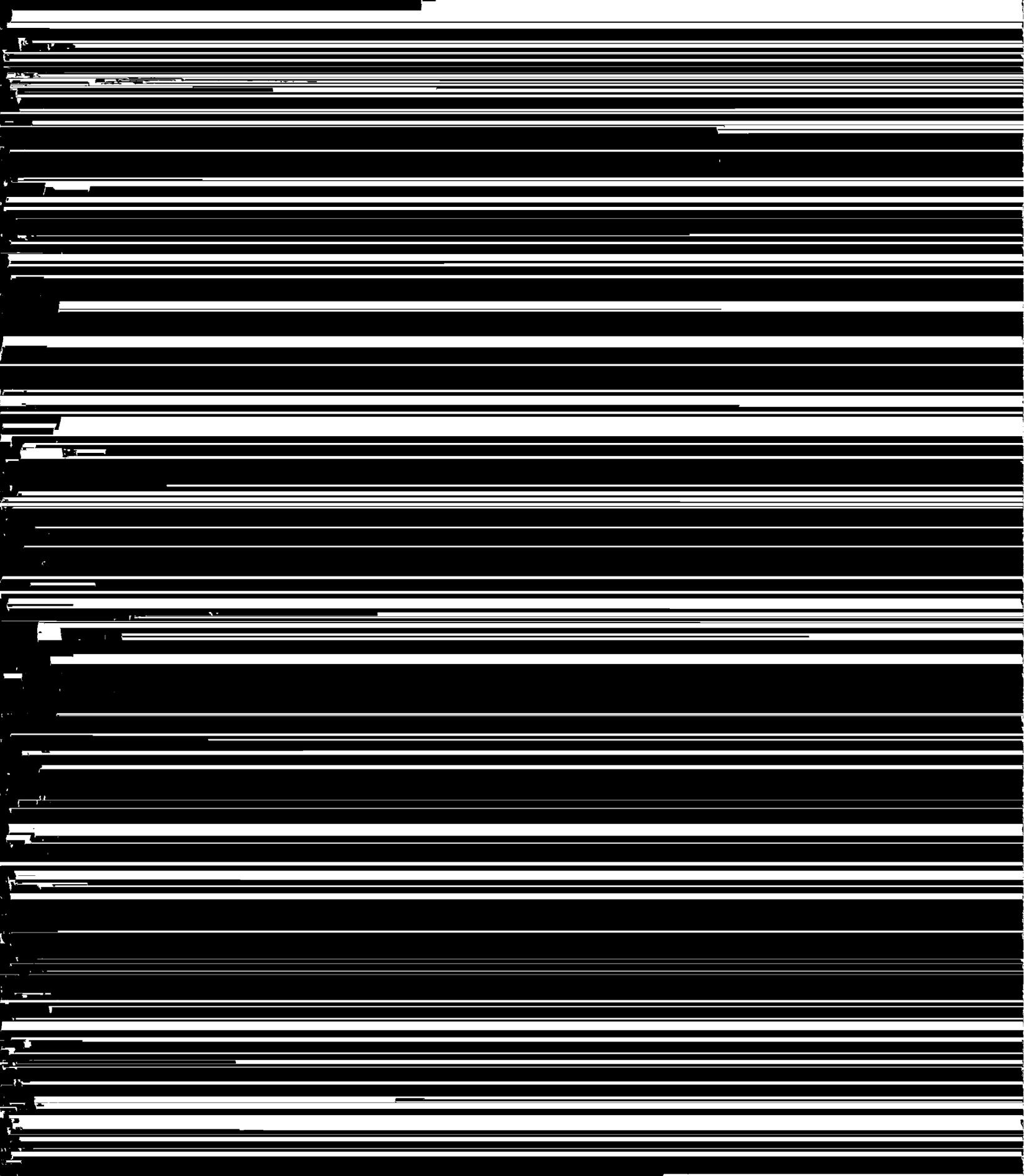
MR. FIELDS: They will want to do this on everything,

CHAIRMAN STRAUSS: Let me say that the example that was cited to you that this was breached in the past and we were not consistent is, I think, the best proof of the fact that however much we say we are not creating a precedent, it will be cited at some time in the future.

MR. FIELDS: I may be wrong, but I look at privilege this way. Unless you do on occasion waive it for reasons which you think are in the interests of the country, you have set up a barrier that nothing can flow across of this nature. I feel that here they are looking at such a critical question, how you regulate atomic energy in the future, that if there is anything of a nature that they need in that legislation, and I believe the functioning of this committee is one of the things they need, you are perfectly within your rights to waive it, and say it is not going to be a precedent. I must admit I am a novice in this field.

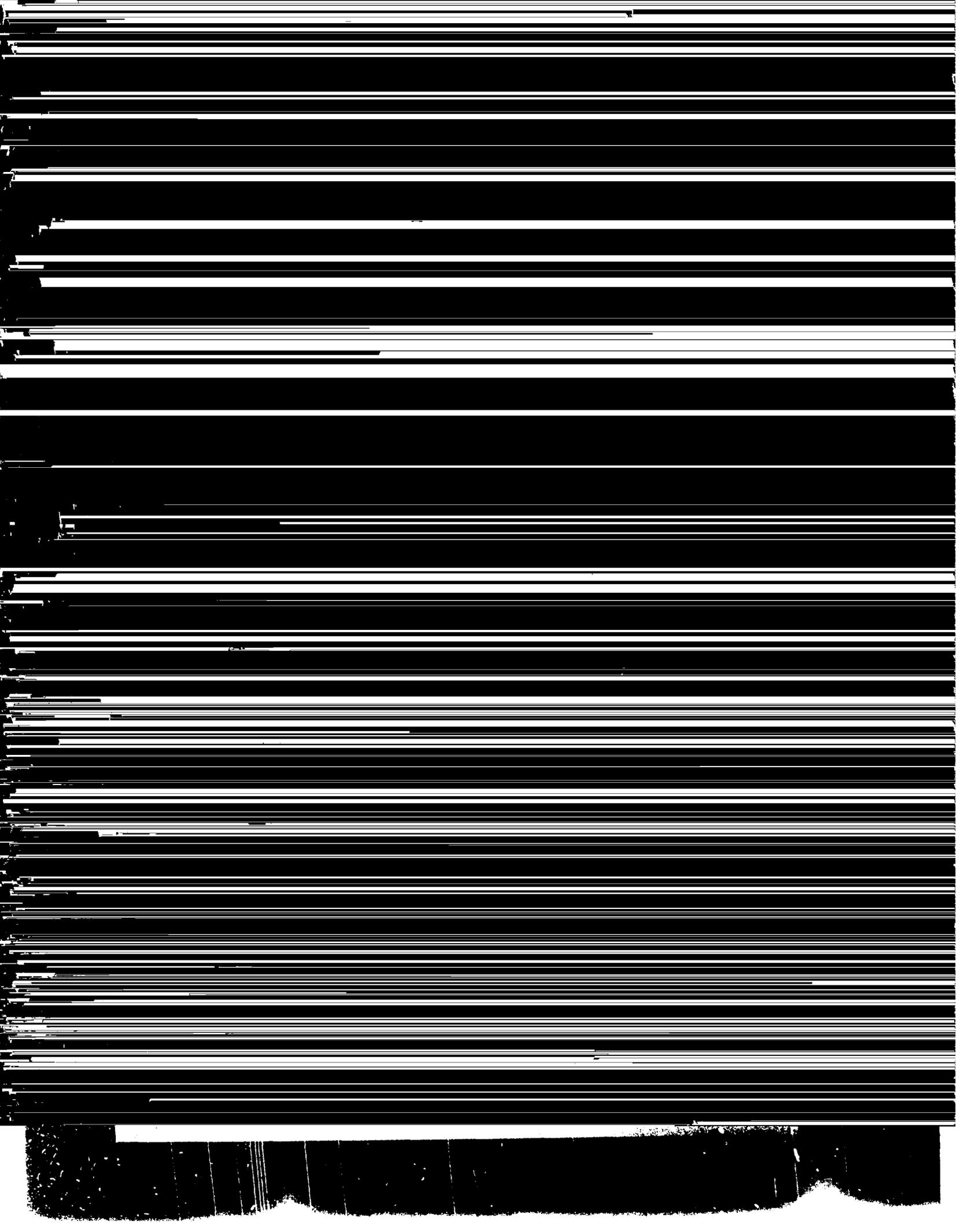
CHAIRMAN STRAUSS: We all are, I think.

MR. FIELDS: This is the way I arrive at it. I also say if we are going to function with an advisory committee in the future, we cannot function and publish



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these fellows are. If it consisted of people who are  
unlike in their qualifications for this job, then their  
judgment would be scientific and pertinent in that scientific  
sense. But you see the distinction, I would take the  
whole wheelbarrow full of backup technical reports and all  
that stuff. But as Mr. Price says, that is already done.

COMMISSIONER VANCE: I don't think there is any  
distinction in the layman's mind. You give a man an  
x-ray and what does he know about it? But the interpretation  
of that x-ray that some competent man gives is the important  
thing. So in this situation. It is not the array of  
scientific facts, but it is what competent people interpret.

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out of those facts, and that is the recommendation that is important to the layman.

COMMISSIONER LIBBY: We can even tell them that, if you wish, without transmitting the documents, as you suggested. We could in instances say the 'Reactor Safeguards Committee approved. In case it didn't approve, we could say on such grounds and cite such documents and so on. I jealously guard this matter of the documents themselves. Maybe I am just being a purist. The GAC, of which I was a member for some years, is very jealous of its papers, very jealous. I think if you did this to the GAC, you would lose half the membership.

COMMISSIONER VANCE: I agree with you.

MR. FIELDS: I think you stand to lose some membership here, too.

COMMISSIONER LIBBY : They are men of real interest and they say things and do things and talk freely. That way they help us more.

CHAIRMAN STRAUSS: Does anyone know whether they keep minutes?

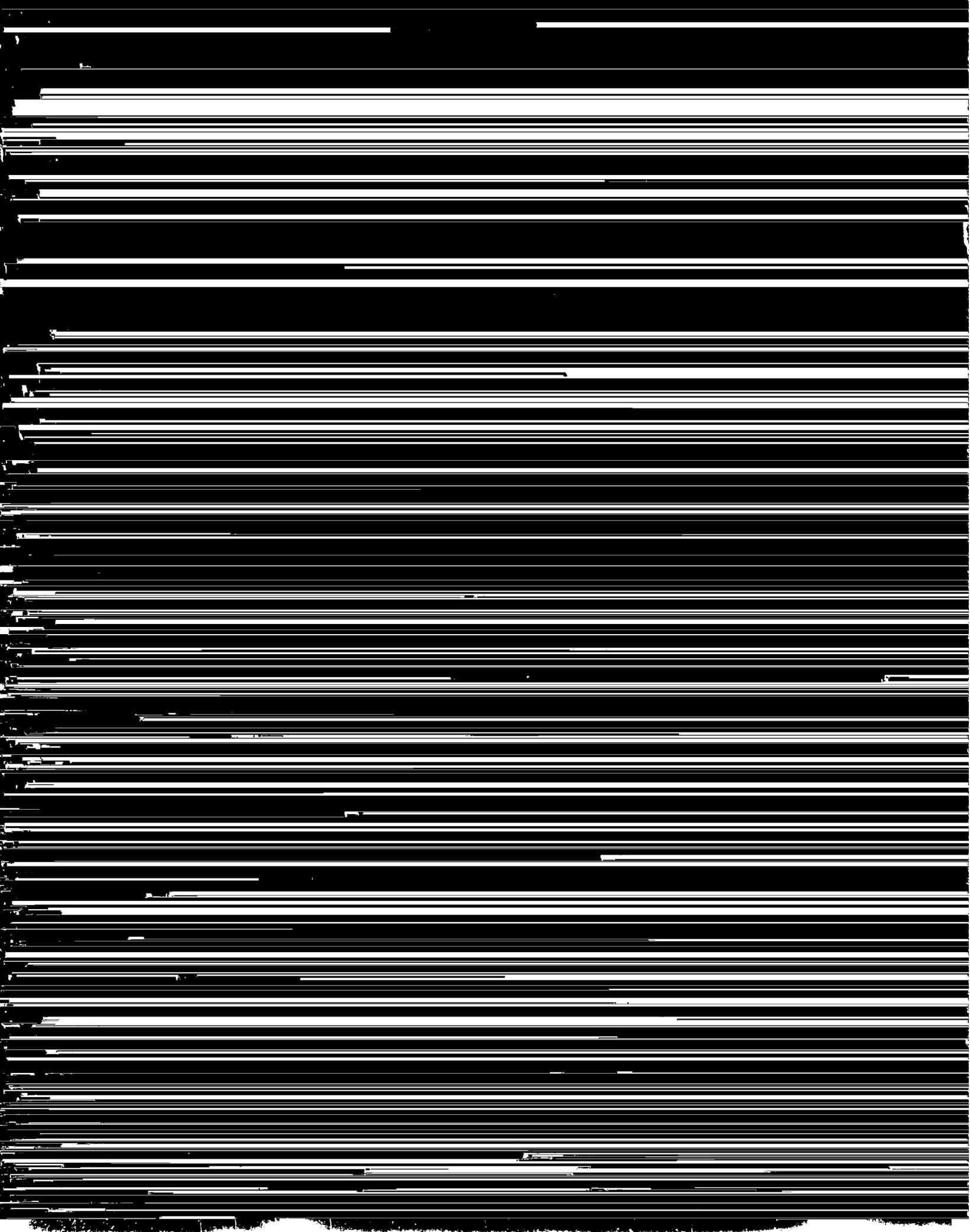
MR. PRICE: Yes, sir, I have them.

CHAIRMAN STRAUSS: Do they keep a verbatim record?

MR. PRICE: No, sir. The minutes are very summary and not informative.

CHAIRMAN STRAUSS: If one made the reports

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They were covered in the staff paper. As a matter of fact, we could not have dealt with that case without going behind the report.

MR. PRICE: I don't think that the members would feel very good about having their differences exposed to public comment. That has been their attitude.

COMMISSIONER LIBBY: In my voting on it, Harold,

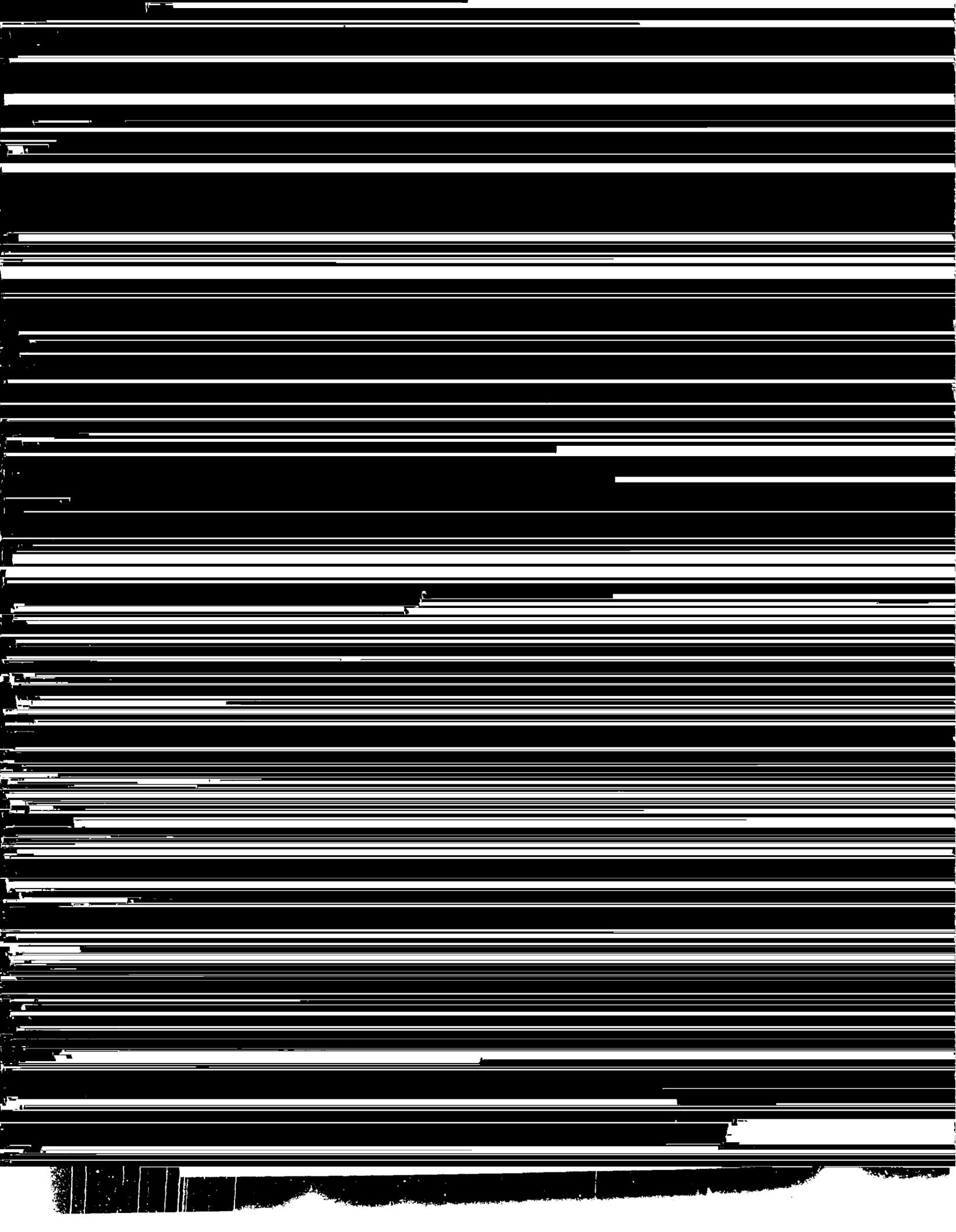
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I think they deserve. That is entirely on their technical competence.

MR. PRICE: We think that on every recommendation they make, we either accept it or we have a basis for rejecting it.

COMMISSIONER LIBBY: The basis may be the incompetency of the committee, in my opinion. It is not at the present time. It is an excellent committee.

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the committee, and in the other three we are working on it, a full statement of all the considerations that went to the Commission. In other words, we took the staff papers and rewrote them as a report, not telling them that this was taken from an internal document. We gave them the considerations that were before the Commission, plus, which they already have from the public files, all the technical information that had been submitted by the parties, and some of that is very voluminous.

COMMISSIONER LIBBY: So they have everything except the opinion of the Reactor Safeguards Committee.

MR. PRICE: And the opinions of the individual members of the Commission and the staff.

MR. FIELDS: And the staff papers.

MR. PRICE: They don't have minutes. They don't have file memos that we have, or minutes of the Commission, and they don't have the staff paper itself, and they don't have these letters. But so far as information, that is in our possession that is pertinent, that is not otherwise available in published technical reports, we have given it to them in the form of a report prepared for their use, telling them what was before the Commission. We are doing the same thing on the other three cases. Our idea was in letting these three reports go up to help them on the legislative problem to see the functioning of the

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