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INQUIRY INTO THE STRATEGIC AND CRITICAL MATERIAL STOCKPILES OF THE UNITED STATES

HEARINGS

BEFORE THE

NATIONAL STOCKPILE AND NAVAL PETROLEUM RESERVES SUBCOMMITTEE

OF THE

COMMITTEE ON ARMED SERVICES UNITED STATES SENATE

EIGHTY-SEVENTH CONGRESS

SECOND SESSION

ON

COPPER DEFERRALS, RUBBER, QUARTZ CRYSTALS, AND INDUSTRIAL DIAMONDS (CRUSHING BORT)

APRIL 16, 23, 25, 26, MAY 7 AND 8, 1962

PART 2

Printed for the use of the Committee on Armed Services

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U.S. GOVERNMENT PRINTING OFFICE
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STOCKPILE INVESTIGATION

MONDAY, APRIL 16, 1962

U.S. SENATE,
SUBCOMMITTEE ON THE NATIONAL STOCKPILE
AND NAVAL PETROLEUM RESERVES OF THE
COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The subcommittee (composed of Senators Symington, chairman; Thurmond, Engle, Cannon, Case of South Dakota, and Beall) met, pursuant to call, in room 235, Old Senate Office Building, at 10 a.m.

Present: Senators Symington (presiding), Engle, Case, and Beall.

Also present: Richmond C. Coburn, chief counsel to the subcommittee; T. J. May, assistant counsel; J. H. Zimmer, assistant counsel, and James J. Gehrig, special assistant to Senator Symington.

Senator SYMINGTON. This hearing of the Senate Subcommittee on the National Stockpile will now come to order.

Thus far, the testimony produced at the hearings of this committee has consisted of general background information with reference to strategic and critical materials in the national stockpile and other Government inventories.

We have shown that there are three accumulations of materials which are considered to be strategic and critical insofar as the national defense is concerned.

One is the national stockpile acquired under the Strategic and Critical Materials Stock Piling Act of 1946.

The second is the Defense Production Act inventory purchased under the Defense Production Act of 1950.

The third is the supplemental stockpile assembled under the Agricultural Trade Development and Assistance Act of 1954 and related statutes.

Disposal of materials from the national stockpile generally requires an act of Congress but sales from the defense production inventory do not.

The total acquisition cost of all stockpiled materials as of December 31, 1961, was approximately $8.7 billion; the market value of such materials as of that date totaled approximately $7.7 billion; and the total market value of the surpluses of all materials where surpluses exist amounted to approximately $3.4 billion. We have reached both the basic and maximum objectives for 72 items. There are only 13 strategic and critical items where we have not met our maximum objectives, and we are presently buying these materials to meet those goals.

In addition to the purchases that have been made, we are still buying beryl and mica pursuant to buying programs. We have publicly

offered to purchase these materials at designated prices until we reach the goals of these purchase programs, or until June 30, 1962, whichever occurs first.

In addition, there are a few contracts of purchases that have not expired, and pursuant to which deliveries of materials are still being made to the Government. These include contracts with the Falconbridge Mines, Ltd., and the Hanna companies for the purchase of nickel, and the Harvey Aluminum Co., for the purchase of aluminum. Besides these, a number of barter deals by which the Commodity Credit Corporation is exchanging surplus agricultural products for strategic materials are current and we are accepting delivery under these contracts.

In addition to strategic materials on hand meeting the stockpile specifications, there are also in the stockpile substantial quantities of certain materials which do not meet the specifications or quality standards of the stockpile. We also have in the stockpile considerable quantities of materials that were at one time classified as strategic and critical materials but which are no longer so classified.

The investigation has shown that the ultimate responsibility for policy decisions with reference to the stockpile was originally in the Munitions Board. In 1953, policy responsibilities were vested in the Director of the Office of Defense Mobilization; in 1958 to 1961 in the Director of the Office of Civil and Defense Mobilization; and in 1961 in the Director of the Office of Emergency Planning. Policy decisions included such matters as the determination of what materials should be stockpiled as strategic and critical, the establishment of the objectives or quantities that should be bought of each material ,and the fixing of the specifications or standards of quality for each item.

The execution of policy has remained with the General Services Administration from 1946 to date, except for a brief period from 1951 to 1953 when the Defense Materials Production Administration was entrusted with these duties under the Defense Production Act. It has been the duty of the GSA to negotiate and execute the contracts of purchase as well as to administer these contracts once they were executed.

We have learned that from time to time as our war concepts, weaponry, and the international situation changed, our objectives for various materials in the stockpile were increased or reduced. One of the most significant of these changes occurred on June 30, 1958, when it was determined that our stockpiling objectives should henceforth be calculated on the assumption that we should be prepared to fight a 3-year instead of a 5-year war as was previously assumed.

Although we have surpluses in excess of our maximum objectives for many items in the stockpile, none is more serious than our surplus inventory of natural rubber. On December 31, 1961, there were 1,092,000 long tons of natural rubber in the national stockpile, or 342,000 tons in excess of our maximum objective in this item. In May 1960, Congress approved the sale of 470,000 tons of rubber from the stockpile but only about 30 percent of this amount has been disposed of. As of this date we still have 1,020,000 tons of rubber on hand. Rubber presents an especially acute problem because of the fact that within the last few years there has been a major breakthrough

in synthetic rubber by the development of the stereo rubbers. American capacity to produce stereo rubbers is growing—and, I might say, it is growing rapidly—and in the future could well make the United States self-sufficient so far as our rubber requirements are concerned.

Tin is another commodity in which we have a substantial surplus. As was so graphically described in the "Supplemental Report on Tin" of the Preparedness Investigating Subcommittee of the Committee on Armed Services, U.S. Senate, dated 1952, the tin market of the world was controlled by a small group of persons as a result of which the United States was forced to purchase tin for the stockpile in a noncompetitive market and at such high prices that excessive profits to the producers may well have resulted. High prices still prevail in the tin market, and the disposal of some or all of our surplus seems, under these circumstances, to be a proper subject for consideration.

The prices of tin may be justified on the cost of the Bolivian tin, high lode mining, as high as 18,000 feet. After the prices were established, on the basis of those costs, the tin price often was much too high as against cost from the Far East.

The advantage of those prices was reflected in the prices paid for tin in countries like Indonesia, where dredge mining was used, scows, heavy dredges; and the cost was not in any way comparable to the cost of Bolivian tin; i.e., very much lower.

Yet, the same price was used all across the board, as a result of the cartel operations of the tin people.

Figures disclosed by the committee for the first time also show that we have a vast surplus supply of tungsten. We have on hand 161 million pounds of specification tungsten ore, although our maximum objective is only 50 million pounds. In addition, we have 43 million pounds of tungsten ore that does not meet the quality standards of the stockpile. Fifty three million pounds of specification grade tungsten ore is held in the Defense Production Act inventory and can be disposed of without an act of Congress. There is every indication that the disposition of a substantial amount of this material is worthy of consideration.

In 1954, because a shortage of copper supply in the industrial plants of the United States threatened to curtail or close their operations, mining companies that were under contract to deliver copper to the stockpile or Government inventories were permitted to sell this copper to industry rather than to the Government. At that time the market price of copper rose above the contract prices. We will today initiate hearings on this subject to determine whether the diversion of this copper was handled in such a way as to be in the national interest.

Mr. Counsel, will you proceed?

Mr. COBURN. Mr. Chairman, before we taken any testimony, I would like to make reference to some information on material that has already been presented in previous hearings.

First, may I say for the record that, with reference to copper, our maximum objective that prevails at the present time is 1 million tons, short tons. And our quantity, our inventory in all of the Government inventories, is 1,142,000 short tons.

The acquisition cost of the copper that we have is $596 million, and the market value, as of December 31, 1961, of the copper in the inventory is $710 million.

So that copper represents one of the few items in the stockpile where the last market value, that is the last market value that was taken, is in excess of our acquisition cost.

May I also make reference to the chart which has been before the committee before. You will notice from this chart, as of the 28th of December 1954, that our maximum objective for copper was established at 3½ million tons, short tons.

Our inventories and the amounts to be delivered on the contracts, firm contracts and also the contracts, was about two-thirds of that amount.

I call your attention to this because this objective, that was established on September 28, 1954, prevailed during the entire period of time that we are going to call to the attention of the committee today by the introduction of testimony.

Senator SYMINGTON. Before you proceed I would ask one question for clarification.

What was the reason for the increase after the Korean war ended, the nearly doubling of the stockpile objective?

Will that be developed later?

Mr. COBURN. That will be developed later.

Senator SYMINGTON. All right.

Mr. COBURN. We do not have testimony on that as yet.

Senator CASE. Mr. Counsel, may I ask one question?

Mr. COBURN. Yes, Senator.

Senator CASE. What was the basis of the new objectives as established on September 28, 1954?

Mr. COBURN. Well, as I say, we do not have that information as yet. We will go into that at a subsequent time.

Senator SYMINGTON. That was my question.

Senator CASE. Are you going to develop that this morning?

Mr. COBURN. No, we are not going into the fixing of these objectives this morning. We are going into——

Senator CASE. These objectives that you refer to, are they all under the national stockpile——

Mr. COBURN. Yes.

Senator CASE. Or do they include the defense production and the supplemental——

Mr. COBURN. Well, these objectives, as I understand it, are set under the National Stockpile Act, but materials that qualify for the stockpile, that are required under the Defense Production Act, are also added to what we have acquired under the National Stockpile Act in order to determine whether we have reached our objectives.

Senator CASE. Well, are these merged objectives?

Mr. COBURN. I am not sure that I—you mean "merged" in what sense?

Senator CASE. Well, merged as to drawing together the national stockpile, the defense production acquisitions and the barter?

Mr. COBURN. All materials that are required under the National Stockpile Act, the Defense Production Act, and barter transactions, that meet the specifications of the stockpile, are added together for the purposes of determining whether we have met our specifications at any particular time, but there is no specification under the Defense Production Act or the barter deals.

It is under the national stockpile.

Senator CASE. Well, is there any limitation under the Barter Act as to how much might be acquired there?

Mr. COBURN. No. No.

Senator CASE. Well, it would help me a great deal, in evaluating or looking at whatever testimony may be developed, if the members of the committee, at least, could be supplied with the basis for the different objectives.

Mr. COBURN. Well——

Senator CASE. I notice in the chart you have June 22, 1950, "new objectives;" and October 26, 1950 "new objectives;" and September 25, 1952, "new objectives."

August 31, 1954, "new objectives;" and then again, September 28, 1954, "new objectives," and again June 30, 1958, and again, March 18, 1959, all "new objectives."

Senator SYMINGTON. I agree with the Senator from South Dakota. We ought to have a paper on that.

We will submit it to the members of the committee as soon as possible.

We welcome back the Senator from South Dakota. You will find his questions penetrating and pertinent to the detailed problems.

In any case, will you see that that is done?

Mr. COBURN. Yes, Mr. Chairman. I will see that that information is brought before the committee.

Senator CASE. Thank you.

Mr. COBURN. May I also make this statement before we start with our oral testimony?

It will be of interest, I think, to the committee this morning, information as to the changes in the price of copper because it bears materially on the testimony that will be brought before the committee.

On the 1st of January 1954, the market price of copper was 29¾ cents a pound. It moved up until, on April the 12th, it had reached 30 cents a pound.

The price of copper from April 12 until the end of 1954 remained at 30 cents a pound. On January 28, 1955, the price advanced to 31½ cents a pound, and then through all of 1955 the price of copper advanced steadily without once receding until on September 1, 1955, it had reached a point of 43 cents a pound and remained there through the rest of 1955.

On February 20, 1956, the price rose to 44½ cents a pound, and it continued to advance until on February—well, the next day, February 21, it advanced to 46 cents a pound and remained at this high peak of 46 cents a pound until the 9th of July 1956, when the price of copper began to decline, and did continue to decline, with some variations, until the end of 1958, by which time the price of copper had declined to 29 cents a pound.

The first witness, Mr. Chairman, will be Mr. George Casto.

Senator SYMINGTON. Mr. Casto, will you come forward, please?

Have you been sworn before this committee before?

Mr. CASTO. I have, sir.

Senator SYMINGTON. Will you consider yourself sworn?

Mr. CASTO. I will, sir.

Senator SYMINGTON. Thank you.

TESTIMONY OF GEORGE K. CASTO, DIRECTOR, PROJECT ADMINISTRATION DIVISION, DEFENSE MATERIALS SERVICE, GENERAL SERVICES ADMINISTRATION

Mr. COBURN. Your name is Mr. George Casto?

Mr. CASTO. That is correct.

Mr. COBURN. And you are with GSA, are you not?

Mr. CASTO. I am, sir.

Mr. COBURN. State again in what capacity.

Mr. CASTO. I am Director, Project Administration Division, of the Defense Materials Service.

Senator SYMINGTON. Will you pull that microphone a little closer, Mr. Casto?

Mr. CASTO. Yes, sir.

Senator SYMINGTON. Thank you.

Mr. COBURN. Mr. Casto, in 1954 did the U.S. Government have various copper contracts for the acquisition of copper under the Defense Production Act and the Stockpile Act in force?

Mr. CASTO. Yes, sir; we had a number of contracts in effect in 1954, both for the national stockpile and for the Defense Production Act program.

Some of the contracts were at firm market prices at time of delivery; others were at stated prices, subject to escalation factors.

Mr. COBURN. Excuse me, but I will get into that in just a moment. First, let's take the contracts that were signed under the Defense Production Act.

Can you give us the names of those contractors, or, I can do it more rapidly by stating them myself, if you will say whether these were the contracts that were in existence at the time.

Mr. CASTO. I will, sir. You go right ahead.

Mr. COBURN. My list shows that the contracts that were in force at that time, under the Defense Production Act, were Appalachian Sulphide Co., Banner Mining Co., Copper Range Co., Howe Sound Co., International Nickel Co., and Miami Copper Co.; six in all.

Mr. CASTO. That is correct.

Mr. COBURN. And that, under the Stockpile Act, we have the following contracts that were then in force:

American Metal Co.; British Metal Corp.; Consolidated Coppermines Corp., two contracts there; Granby Consolidated Mining, Smelting & Power Co.; International Minerals & Metals Corp., two contracts; Miami Copper Co. and Sherritt Gordon Mines, Ltd.; seven different contractors with nine contracts in all.

Is that correct?

Mr. CASTO. That is correct.

Mr. COBURN. Well——

Senator CASE. Mr. Counsel, could I ask a question?

Mr. COBURN. Yes.

Senator CASE. Mr. Casto, just to have the record perfectly complete on this, in all these other instances where the name of a company was cited they had only one contract, except for the exceptions noted by counsel in his question?

Mr. CASTO. That is correct.

Senator CASE. Thank you.

Mr. COBURN. Now, there were other copper contracts in existence at that time, were there not?

Mr. CASTO. Yes, sir.

Mr. COBURN. But this list that I have just read, if the committee pleases, are the contracts that have to do with the cancellation and deferral of delivery.

Take these contracts under the Defense Production Act, Mr. Casto, what was the price mentioned in those contracts?

I do not mean the exact price, but the nature of fixing the price.

Mr. CASTO. Some were market price at the time of delivery; others were at stated market prices subject to escalation factors.

Mr. COBURN. Well, my records show, and I am talking now only about the Defense Production Act contracts, that all of these contracts were at a fixed price with the exception of some escalation provisions.

Mr. CASTO. That is correct.

Mr. COBURN. So that the contracts, under the Defense Production Act, then were all at a fixed price?

Mr. CASTO. That is correct.

Mr. COBURN. Now, take the contracts under the Stockpile Act.

What was the price basis there?

Mr. CASTO. Some of these contracts are fixed contract prices; others are stated contract prices, subject to escalation.

Others are average market price preceding the month of delivery or average market price for the particular month of delivery.

Senator SYMINGTON. Will counsel yield?

Mr. COBURN. Yes.

Senator SYMINGTON. Just what do you mean by "escalation," a fixed-price contract with "escalation"? What do you mean by that?

Mr. CASTO. I will state it.

A stated price subject to escalation factors. It would be tied to an index or to indexes which would enable that contract price either to increase or decrease as the index goes up or down.

Senator SYMINGTON. What index?

Mr. CASTO. It could be national——

Senator SYMINGTON. What was it though?

Mr. CASTO. Well, there are a number of them here that are involved. I do not have the individual contracts with me.

Senator SYMINGTON. Well, will you supply them for the record, the nature of the escalations?

(The contracts referred to are as follows:)

CONTRACT NO. GS–OOP–3909(SCM), CALUMET & HECLA, INC., DATED JANUARY 6, 1953

Maximum 102,500 short tons and minimum 73,000 short tons copper metal for delivery on or before December 31, 1955.

4. Price

The unit prices to be paid for the copper delivered pursuant to this contract shall be $0.275 per pound for electrolytic copper wire bars and/or Lake copper ingot bars, less usual discounts allowed by refiners of electrolytic copper cathodes at time of delivery, and less $0.0025 per pound for fire-refined ingot bars. The unit price per pound of copper delivered may be increased or decreased in accordance with the provisions of article 5 of these special terms and conditions.

5. Escalation

The price of $0.275 per pound referred to in article 4 hereof is based in part on the following estimated direct operating cost for the base months of August and November 1952.

Per pound of refined copper (in cents)

(*a*) Labor, mining, smelting, and refining	15.58
(*b*) Coal	2.99
(*c*) Other costs (supplies, freight, explosives, etc.)	3.95
Total	22.52

The above amounts accepted as representing "Labor, mining, smelting, and refining," "Coal," and "Other costs" will be adjusted as of the end of March, June, September, and December of each year. The basis for the adjustment will be the above amounts multiplied by:

(*a*) Labor, mining, smelting, and refining: The percentage of change from the base month of November 1952 to the last month of the quarter in the index of average hourly earnings for the industry designated as "Copper Mining" as published monthly by the U.S. Department of Labor, Bureau of Labor Statistics.

(*b*) Coal: The percentage of change from the base month of August 1952 to the last month of the quarter in the index of wholesale prices (1947–49=100) for the commodity designated as "Bituminous Coal," under the classification of "Fuel, Power, and Lighting Materials," as published monthly by the U.S. Department of Labor, Bureau of Labor Statistics.

(*c*) Other costs: The percentage of change from the base month of August 1952 to the last month of the quarter in the index of wholesale prices (1947–49=100) for the group designated "All Commodities Other than Farm and Foods" as published monthly by the U.S. Department of Labor, Bureau of Labor Statistics.

The aggregate of the direct operating cost adjustments, as calculated above, will increase or decrease, as the case may be, the aforesaid price of $0.275 per pound, referred to in article 4 by an equivalent amount, applicable to deliveries to be made in the quarter following the next succeeding quarter; provided, however, that no increase or decrease of less than one-quarter cent per pound shall be effected.

CONTRACT NO. DMP–80, THE INTERNATIONAL NICKEL CO. OF CANADA, LTD., DATED MAY 29, 1953; EFFECTIVE MAY 30, 1953

Article IV–B

"The price per pound for copper metal delivered under article II–B hereof shall be 27 cents Canadian currency f.o.b. Copper Cliff, Ontario, subject to escalation as provided in article V hereof."

Article V

"With respect to any delivery of copper, 20 cents Canadian of the price of 27 cents Canadian, provided for in article IV–B hereof, will from time to time be adjusted upward or downward as follows:

"A. One-third of the above, 20 cents, shall be adjusted to reflect the percentage increase or decrease of (1) the arithmetical mean of the monthly average hourly earnings of hourly rated wage earners engaged in the "smelting and refining" of "nonferrous metal products" in the Province of Ontario as first properly determined and initially published (even though subject to revision) in "Man-hours and hourly earnings" by the Canadian Dominion Bureau of Statistics as of the first day of each of the 3 months of the calendar quarter next preceding the calendar quarter immediately preceding the calendar quarter in which said delivery is made, above or below (2) the arithmetical mean of said monthly average hourly earnings as of the first day of the months of October, November, and December 1952. Said arithmetical mean for the months of October, November, and December 1952 is 172.97 cents.

"B. One-third of the above, 20 cents, shall be adjusted to reflect the percentage increase or decrease of (1) the contractor's average labor costs per man-hour on its overall operations for the calendar quarter next preceding the calendar quarter immediately preceding the calendar quarter in which said

delivery is made, above or below (2) said average labor costs per man-hour for the last calendar quarter of 1952. The contractor's average labor costs per man-hour shall be the costs in Canadian currency with respect to hourly paid employees spread over the hours worked by said employees, and shall include basic wages, premium pay, production and other bonuses, holidays and vacations, pension plans, Government social security or insurance or benefit schemes, workmen's compensation and unemployment insurance, medical and hospitalization service, and other costs with respect to said employees. The contractor's overall operations shall mean the entire operations of its mining, smelting and copper refining divisions in the Sudbury District and of its nickel refining division at Port Colborne. Said average labor costs per man-hour for the last calendar quarter of 1952 were $2.161.

"The contractor shall furnish the Government, within 3 months after the close of each calendar quarter while this contract is in force, with a statement showing the contractor's average labor cost per man-hour on its overall operations for said calendar quarter, and shall within 3 months after this contract becomes effective, furnish the Government with a statement, certified by the firm of independent public accountants which audits its books, confirming its said cost for the last quarter of 1952. Thereafter, the statement for the last quarter in each calendar year shall be so certified, and at the same time, the statements with respect to the three previous calendar quarters shall also be so certified.

"C. One-third of the above, 20 cents, shall be adjusted to reflect the percentage increase or decrease of (1) the arithmetical mean of the monthly 'Wholesale Price Index for Fully and Chiefly Manufactured Goods in Canada' as first properly determined and initially published (even though subject to revision) in 'Prices and Price Indexes' by the Canadian Dominion Bureau of Statistics for the 3 months of the calendar quarter next preceding the calendar quarter immediately preceding the calendar quarter in which said delivery is made, above or below (2) the arithmetical mean of said monthly index for the months of October, November, and December, 1952. Said arithmetical mean for the months of October, November, and December, 1952 is 228.20.

"D. For the purpose of article V–A and V–C above, a determination initially published by the Canadian Dominion Bureau of Statistics shall not be treated as having been properly determined if it is subsequently revised and republished by said bureau and differs by more than 1 percent from the initial determination as published by the bureau; in any such case, the parties agree to adjust the accounts between them by substituting the final determination published by the bureau for the determination initially published. Conversely, a determination initially published by said bureau shall be treated as properly determined if any subsequent revision and republication by said bureau does not differ by more than 1 percent from the determination as initially published by the bureau.

"E. The foregoing is subject to the proviso that if the adjusted price for copper for any calendar quarter determined as aforesaid would be less than one-half cent Canadian per pound higher or lower than the price for copper in force for deliveries in the immediately preceding quarter, then in lieu of said adjusted price for copper, the price which shall prevail shall be that which was in force for said preceding quarter; and provided further that if any of the statistics referred to in article V–A or V–C above shall cease to be available, there shall be substituted therefor the most nearly comparable available statistic."

Article II–B–1

Government buys 100 million pounds electrolytic copper cathodes deliverable at or before January 1, 1959.

Amendment 16, effective December 18, 1958: All undelivered quantities of copper canceled without obligation on part of Government or Inco.

Mr. CASTO. I think that the witness who will follow me will make that clear.

Senator SYMINGTON. I want to be clear on that. There were escalations which had to be by agreement by the Government where the escalation features should apply against the contract. Is that correct?

Mr. CASTO. That is correct.

Senator SYMINGTON. Thank you.

Mr. COBURN. Now, Mr. Casto, my record shows that the stockpile contracts were all for a fixed price, perhaps subject to escalation except

two market price contracts, namely, the Miami Copper Co. and Sherrit Gordon Mines. Is that right?

Mr. CASTO. That is correct.

Mr. COBURN. Now, again turning to these contracts under the Defense Production Act, my record shows that the price, the base price, in those contracts ranged from a low of 27 cents a pound to a high of 32 cents a pound, subject to some adjustment because of escalation.

Mr. CASTO. That is correct.

Mr. COBURN. And with reference to the contracts under the Stockpile Act, that the contracts that were for a fixed price ranged from 30 cents a pound to 32 cents a pound. Is that correct?

Mr. CASTO. That is correct.

Mr. COBURN. Now, Mr. Casto, at my request, you have made a study of the directives that were prepared by ODM for 1954, 1955, and 1956, that make reference to cancellation of delivery or deferral of delivery of the copper under these contracts?

Mr. CASTO. I have.

Mr. COBURN. You have copies of them before you, do you?

Mr. CASTO. I do, sir.

Mr. COBURN. Which is the first of those directives that make any reference to cancellation or deferral of delivery of copper?

Mr. CASTO. The first one is a directive of October 15, 1954, from Arthur S. Flemming, Director of the Office of Defense Mobilization to Edmund F. Mansure, Administrator, GSA.

Mr. COBURN. Mr. Chairman, at this point I would like to introduce in the record, to be copied here, this directive that the witness has just referred to.

Senator SYMINGTON. How long is it?

Mr. COBURN. About a page and a half.

Senator SYMINGTON. Will you read it?

Mr. COBURN. Yes, Mr. Chairman.

(The directive referred to is as follows:)

OCTOBER 15, 1954.

HON. EDMUND F. MANSURE,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. MANSURE: In order to help prevent enforced idleness in copper-consuming plants as a result of recent work stoppages in copper mining, smelting and refining industries, I am requesting you to arrange for the sale of the copper accumulated in the Defense Production Act inventory. Although the workers involved in the strike are now returning to work, certain copper consumers report that they face shutdowns or drastically reduced operations until a more adequate flow of copper can be restored.

I believe, therefore, that it is in the best interests of production and employment to sell the copper which the Government has accumulated under the expansion programs authorized by the Defense Production Act for use or resale.

You are hereby authorized to sell at U.S. market prices, plus handling charges, the approximately 17,500 tons of copper which have been accumulated under the Defense Production Act. It is intended that the copper be used by consuming industries, in the United States.

The Department of Commerce will certify to you the concerns to which the copper is to be sold and the amounts to be made available in each case. Attached is a copy of my letter to the Secretary of Commerce asking that his agency provide this assistance in the distribution of the copper.

In addition, you are also authorized to arrange for the deferral of the approximately 9,000 tons which were scheduled for delivery to the stockpile during the month of October, if suppliers desire to make such arrangements and agree to make the amounts deferred available to U.S. domestic consumers. Arrange-

ments should be worked out so that the amounts deferred will be delivered to the stockpile not later than June 30, 1955. The situation will be evaluated further at a later date to determine whether any arrangements should be worked out for the deferral of November deliveries.

Sincerely yours.

ARTHUR S. FLEMMING.

Senator CASE. Mr. Chairman, I did not catch the date of the letter itself.

Mr. COBURN. October 15, 1954, Senator.

Senator CASE. Thank you. Thank you.

Mr. COBURN. Now, Mr. Casto, was there another such directive received later?

Mr. CASTO. Yes, sir. The next directive was of October 29, 1954; again from Arthur S. Flemming as Director of ODM, to Edmund F. Mansure, Administrator of GSA.

Mr. COBURN. Now, without taking the time to read this directive in full as we did the first one, will you tell us in substance what it provided?

Mr. CASTO. This directive authorized GSA to permit the suppliers, under contract for delivery of copper to the Government, in the months of November and December to divert such copper to domestic consumers in the United States under the guidance of the Department of Commerce.

(The directive referred to is as follows:)

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
OFFICE OF THE DIRECTOR,
Washington, October 29, 1954.

HON. EDMUND F. MANSURE,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. MANSURE: It is apparent that a shortage of copper still exists despite the action taken on October 15 to release copper to industry from the inventory accumulated under the Defense Production Act and from the deliveries scheduled to be made to the Government in October. I received on October 26 a request from Secretary Weeks for additional diversions to industry of copper destined for delivery to the Government in November and December. I am in agreement that this copper should be released to industry wherever satisfactory arrangements can be made for distributing it to consumers who cannot otherwise meet their requirements.

You are therefore authorized to permit the suppliers under contract for delivery of copper to the Government in November and December to make such copper available to consumers in the United States under the guidance of the Department of Commerce as indicated in the attached copy of my request of the current date to Secretary Weeks. Arrangements should be made with the copper suppliers for restoring to the Government not later than December 31, 1955, the amounts of copper diverted under this authorization.

Sincerely yours,

ARTHUR S. FLEMMING, *Director.*

Senator SYMINGTON. What year?

Mr. CASTO. This was 1954. Copper so diverted should be restored to the Government by not later than December 31, 1955.

Mr. COBURN. All right. Was there a third such directive?

Mr. CASTO. Yes, sir, dated February 25, 1955; again from Dr. Flemming to Mr. Mansure, and authorizing the following: deliveries to the DPA accounts, scheduled for the month of March, may be canceled

with the consent of the supplier and the approval of the Department of Commerce.

Copper may not be withdrawn from the national stockpile, nor may delivery of copper to the national stockpile be diverted.

(The directive referred to is as follows:)

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
OFFICE OF THE DIRECTOR,
Washington, D.C., February 25, 1955.

HON. EDMUND F. MANSURE,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. MANSURE: In order to help relieve the current shortage of copper, the General Services Administration is hereby authorized to sell to U.S. consuming industry at U.S. market priced plus handling and transportation charges the current inventory of copper accumulated under the Defense Production Act including copper to be delivered under this authority through March 1955. In addition, deliveries scheduled for the month of March under the Defense Production Act contracts may be canceled with the consent of the supplier and approval of the Department of Commerce.

This copper shall be made available to consuming industries in the United States and only under specific instructions from the Department of Commerce.

The authorization does not permit any copper to be withdrawn from the national stockpile nor any diversion from delivery directly to the stockpile.

Enclosed is a copy of my letter to the Secretary of Commerce asking that his agency provide the necessary guidance in the distribution of the copper.

Sincerely yours,

ARTHUR S. FLEMMING, *Director.*

Mr. COBURN. Mr. Casto, I notice this directive directs GSA to cancel deliveries, whereas the two earlier directives, that we have referred to, required GSA to defer deliveries.

What is the difference in the meaning of the word "cancellation" and "deferral" as used here?

Mr. CASTO. Cancellation means that the copper, scheduled for delivery to the Government inventory in the period of time in question, is made available for sale by the contractor for delivery to industry without replacement of such copper at a later date to the Government.

Mr. COBURN. Do I understand you to say that where the contractor was permitted to cancel deliveries, that he was permitted to sell his copper on the outside to industry without being obliged to later deliver that copper to the Government——

Mr. CASTO. That is correct.

Mr. COBURN (continuing). Or a similar amount of copper to the Government?

Mr. CASTO. That is correct.

Mr. COBURN. But in the case of deferrals the contractor is permitted to sell copper to industry on the outside, but is also required, at a later date, to deliver a like amount of copper to the Government?

Mr. CASTO. That is correct.

Mr. COBURN. All right. Now, was there a fourth deferral or cancellation directive?

Mr. CASTO. Yes, sir; dated April 1, 1955, again from Dr. Flemming to Edmund F. Mansure, which accomplished the following:

(*a*) GSA is authorized to cancel April–June 1955 copper deliveries to the DPA inventory;

(*b*) GSA is authorized to defer April–June 1955 deliveries to the national stockpile until March 31, 1956.

(The directive referred to is as follows:)

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
OFFICE OF THE DIRECTOR,
Washington, D.C., April 1, 1955.

HON. EDMUND F. MANSURE,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. MANSURE: In accordance with advice of the Defense Mobilization Board regarding relief of the current copper shortage in the United States, the General Services Administration is hereby authorized to cancel April–June 1955 copper deliveries to the Defense Production Act inventory and to defer April–June 1955 deliveries to the national stockpile until March 31, 1956, provided that the suppliers divert the copper involved in accordance with instructions of the Department of Commerce. You may sell to the copper-consuming industries at U.S. market prices plus handling and transportation charges, also at the direction of the Department of Commerce, any copper delivered to the Defense Production Act inventory during the second quarter of 1955. It is estimated that these releases of copper to industry will amount to 10,400 short tons.

You are also authorized to postpone from June 30, 1955, to March 31, 1956, the restoration to the Government of the approximately 7,100 tons of copper which was diverted to industry during the fourth quarter of 1954.

This authorization does not permit any withdrawal of copper from the national stockpile.

A copy of my letter to Secretary Weeks is enclosed.

Sincerely yours,

ARTHUR S. FLEMMING, *Director.*

Mr. COBURN. And in this directive, of April 1, 1955, is there any reference for the first time to what we will call a redeferral?

Mr. CASTO. Yes, sir. GSA is authorized to postpone from June 30, 1955, to March 31, 1956, the restoration to the Government of approximately 7,100 short tons of copper, diverted to industry during the fourth quarter of 1954.

Mr. COBURN. As I understand it then, this directive, insofar as it permits a redeferral, meant that the copper that was deferred in delivery from the last quarter of 1954, to June 30, 1955, was again postponed, so far as delivery is concerned, until March 31, 1956?

Mr. CASTO. That is correct.

Mr. COBURN. Now, Mr. Casto, to divert for a moment from these directives with reference to cancellation and deferral, but because I want to keep this in chronological order, you have before you a letter dated April 18, 1955, from the General Accounting Office to GSA complaining about the cancellation of copper deliveries?

Mr. CASTO. Yes, sir.

Mr. COBURN. That letter was written by whom to whom?

Mr. CASTO. That letter was written by Philip Charam, audit manager of the General Accounting Office, to A. J. Walsh, Commissioner, Emergency Procurement Service, General Services Administration.

Mr. COBURN. Mr. Chairman, I would like to offer into the record, to be copied here, this letter of April 18, 1955, and, for the information of the committee, I would like to read from a part of that letter which I think will be of interest to you.

Senator SYMINGTON. Without objection.

(The letter referred to follows:)

U.S. GENERAL ACCOUNTING OFFICE,
DIVISION OF AUDITS,
Washington, April 18, 1955.

A. J. WALSH,
Commissioner, Emergency Procurement Service,
General Services Administration.

DEAR MR. WALSH: In our review of the defense production activity of GSA, we have noted that GSA has been authorized by the Director of the Office of Defense Mobilization, pursuant to letter dated April 1, 1955, to sell to the copper consuming industries any copper delivered to the DPA inventory during the second calendar quarter of 1955, at the direction of the Department of Commerce. Sales in this category are directed to be made at the U.S. market prices plus handling and transportation charges. It appears that the principal deliveries of copper to the DPA inventory during such period will be made pursuant to the terms of two Canadian contracts and will cost DPA either 27 cents or 30 cents per pound. Assuming that the current market price of 36 cents per pound remains steady, sales of such copper would yield a substantial profit to DPA.

Pursuant to this same ODM authorization, we note that you have offered to cancel delivery requirements of copper due under certain DPA contracts during the second calendar quarter of 1955, provided the quantities so canceled are sold by the producers to U.S. consumers designated by the Government. Your office made proposals of cancellation, by telegrams dated April 8, 1955, to the following:

	Contract No.
Miami Copper Co	DMP–57
Copper Range Co	DMP–89
Howe Sound Co	DMP–92

Under terms of the above contracts, the producers are required to deliver copper to DPA at prices ranging from 27.35 cents to 32 cents per pound, which are below the current market price of 36 cents. Therefore, in contrast with the prospective profits to be made by DPA through sales from its inventory, the proposed cancellations would result in substantial windfalls to the three contractors and would deny such profits to the Government. We do not consider that any such windfalls and loss of profits to the Government were contemplated under the ODM directives.

We estimate the total profits which could be lost by GSA in this manner to be approximately $400,000, assuming that the current market price remains steady.

We are of the opinion that this situation, which is clearly disadvantageous to the Government, can be administratively rectified by your office. We will appreciate your prompt consideration of this matter and your advice as to any corrective action taken.

Sincerely yours,

PHILIP CHARAM, *Audit Manager.*

Mr. COBURN. This letter, in part, says:

Under terms—

well, this letter first refers to three contracts for the delivery of copper by the Miami Copper Co., Copper Range Co., and Howe Sound Co.

And then it says:

Under terms of the above contracts, the producers are required to deliver copper to DPA at prices ranging from 27.35 cents to 32 cents per pound, which are below the current market price of 36 cents. Therefore, in contrast with the prospective profits to be made by DPA through sales from its inventory, the proposed cancellations would result in substantial windfalls to the three contractors and would deny such profits to the Government. We do not consider that any such windfalls and loss of profits to the Government were contemplated under the ODM directives.

We estimate the total profits which could be lost by GSA in this manner to be approximately $400,000, assuming that the current market price remains steady.

We are of the opinion that this situation, which is clearly disadvantageous to the Government, can be administratively rectified by your office. We will

appreciate your prompt consideration of this matter and your advice as to any corrective action taken.

DPA refers to what in this letter, Mr. Witness?

Mr. CASTO. Defense Production Administration.

Mr. COBURN. And ODM, of course, to the Office of Defense Mobilization?

Mr. CASTO. That is correct.

Mr. COBURN. I might also refer, Mr. Chairman, to a speech that was made on the 27th of May 1955 by Senator John J. Williams of Delaware, on the floor of the U.S. Senate, also objecting to this cancellation of deliveries by these three contractors.

That speech appears at volume 101 of the Congressional Record, pages 7192–7193, of the 84th Congress.

Now, Mr. Casto, do you have before you a letter in which the objection of the General Accounting Office, as evidenced by this letter that we have just referred to—do you have with you a letter, dated May 3, 1955, by which that objection was passed on by your office to Mr. Flemming?

Mr. CASTO. Yes, sir.

Mr. COBURN. The letter was written by whom?

Mr. CASTO. It was written by Al E. Snyder, Assistant Administrator of the General Services Administration, to the Honorable Arthur S. Flemming, Director of ODM.

Mr. COBURN. We will not read that letter because it repeats, in large part, what was in the letter that has just been read in part, but it does voice the objections of the General Accounting Office to the cancellation of deliveries that we have just referred to?

Mr. CASTO. That is correct.

(The aforementioned letter follows:)

GENERAL SERVICES ADMINISTRATION,
May 3, 1955.

Re copper diversions.

Hon. ARTHUR S. FLEMMING,
Director, Office of Defense Mobilization,
Washington, D.C.

DEAR MR. FLEMMING: April-June copper deliveries under Defense Production Act contracts were canceled as authorized in your letter of April 1.

The General Accounting Office has questioned these cancellations. The pertinent part of their letter is as follows:

"Under terms of the above contracts, the producers are required to deliver copper to DPA at prices ranging from 27.35 cents to 32 cents per pound, which are below the current market price of 36 cents. Therefore, in contrast with the prospective profits to be made by DPA through sales from its inventory, the proposed cancellations would result in substantial windfalls to the three contractors and would deny such profits to the Government. We do not consider that any such windfalls and loss of profits to the Government were contemplated under the ODM directive.

"We estimate the total profits which could be lost by GSA in this manner to be approximately $400,000, assuming that the current market price remains steady.

"We are of the opinion that this situation, which is clearly disadvantageous to the Government, can be administratively rectified by your office. We will appreciate your prompt consideration of this matter and your advice as to any corrective action taken."

Before proceeding, we shall appreciate your views.

Cordially yours,

AL F. SNYDER, *Assistant Administrator.*

Mr. COBURN. And do you have before you a letter, written by Dr. Flemming to the General Services Administration in response to that letter?

Mr. CASTO. I do.

Mr. COBURN. Dated when?

Mr. CASTO. May 27, 1955.

Mr. COBURN. And that letter of Dr. Flemming's was written to whom?

Mr. CASTO. To Al F. Snyder, Assistant Administrator, General Services Administration.

Mr. COBURN. Mr. Chairman, I want to offer here, to be made a part of the record and copied here, this letter from Dr. Flemming to Mr. Snyder.

With your permission I would like to read it.

Senator SYMINGTON. Without objection.

Mr. COBURN. (reading):

MAY 27, 1955.

Mr. AL F. SNYDER,
Assistant Administrator, General Services Administration,
Washington, D.C.

DEAR MR. SNYDER: This is in response to your letter of May 3 regarding the questions raised by the General Accounting Office on the cancellation of second quarter 1955 copper deliveries under Defense Production Act contracts.

It seems clear that the Office of Defense Mobilization authorization of April 1 to the General Services Administration did authorize the cancellation of these deliveries, and that the present price level of copper will enable the suppliers involved to sell their copper in the open market at a higher price than the Government would have been obligated to pay.

The purpose of the authorization, of course, was to increase the supply of copper to industry and the effect of the release upon the suppliers' profits was not adequately considered. In the light of the possible windfalls to the suppliers I feel that the authorization to cancel was a mistake and that the deferment of the deliveries would have been preferable.

Further authorizations for similar releases are being put in terms of deferment. If there is any way to correct this particular situation by administrative action I urge that such action be taken. Perhaps the suppliers would be prepared to undertake the delivery of equivalent quantities of copper at a future date at the contract price.

Sincerely yours,

ARTHUR S. FLEMMING, *Director.*

Now, Mr. Casto, again reverting to the directives with reference to cancellations or deferrals, as the case may be, was there a fifth such directive?

Mr. CASTO. Yes, sir. It is dated May 12, 1955, from Dr. Flemming to Edmund F. Mansure, which authorized the following:

GSA is authorized to permit third quarter 1955 copper deliveries to the Government, under the DPA and Stockpiling Acts, to be deferred until June 30, 1956.

Mr. COBURN. And was there another directive with reference to redeferrals? Do you have that before you?

Mr. CASTO. Yes, sir. There was a directive of August 25, 1955, from Dr. Flemming to Edmund F. Mansure, authorizing the deferment of the December and March restorations which had been previously deferred until June 30, 1956.

(The two aforementioned letters follow:)

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF THE MOBILIZATION,
OFICE OF THE DIRECTOR,
Washington, D.C., May 12, 1955.

Hon. EDMUND F. MANSURE,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. MANSURE: As you know, the Defense Mobilization Board has recommended that copper destined for delivery to the Government in the July–September 1955 quarter year be made available to industry.

In agreement with this recommendation, I am authorizing the General Service Administration to permit third quarter 1955 copper deliveries to the Government under the Defense Production Act and Stock Piling Act to be deferred until June 30, 1956, and to sell at U.S. market prices plus any exceptional costs for handling and transportation such copper as may be accumulated in the Defense Production Act inventory up to the end of the third quarter. The copper is to be released in industry only to meet needs certified by the Department of Commerce, as explained in the attached letter to Secretary Weeks.

The total quantity of copper that may thus be made available to industry under this authorization is estimated to be 16,000 short tons. No copper, of course, is to be sold from the national stockpile.

Sincerely yours,

ARTHUR S. FLEMMING, *Director.*

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
OFFICE OF THE DIRECTOR,
Washington, D.C., August 25, 1955.

Hon. EDMUND F. MANSURE,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. MANSURE: Previous authorizations of this Office have permitted copper suppliers to postpone until December 31, 1955, and March 31, 1956, certain deliveries of copper under stockpile and Defense Production Act contracts in order to relieve copper shortages that have been occurring in the past year.

Because the current and prospective shortages of copper would be aggravated if suppliers were required to set aside copper to provide for meeting the Government commitments, I authorize a deferment of the December and March restorations until June 30, 1956.

A copy of my letter to Secretary Weeks notifying him of this action is attached.

Sincerely yours,

ARTHUR S. FLEMMING, *Director.*

(By hand: Mr. Robinson says he has a copy of letter and is proceeding with amendments. J.W.R., 8/30/55.)

Mr. COBURN. So, again, this was the second postponement of deliveries?

Mr. CASTO. That is correct.

Mr. COBURN. Was there a sixth directive on the subject of deferrals?

Mr. CASTO. Yes, sir; again from Dr. Flemming to Mr. Mansure, dated September 14, 1955:

GSA is authorized to amend stockpile and DPA contracts to permit postponement of copper deliveries for the fourth quarter, 1955, until September 30, 1956, whenever suppliers agree to make the copper available to industry at U.S. market prices under customary industry practice.

Mr. COBURN. Now, I notice that this directive permits the delivery of copper on September 30, 1956.

This directive then permitted the delivery of copper beyond the terms of the current contracts. Is that right?

Mr. CASTO. That is correct.

Mr. COBURN. And as I understand it, these contracts that we are talking about terminated on June 30, 1956.

Mr. CASTO. That is correct.

Mr. COBURN. But here delivery was permitted 3 months later. That is right, is it not?

Mr. CASTO. That is correct.

(The aforementioned letter follows:)

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
OFFICE OF THE DIRECTOR,
Washington, D.C., September 14, 1955.

HON. EDMUND F. MANSURE,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. MANSURE: Because of the continuing shortage of copper, I am authorizing you to amend stockpile and Defense Production Act contracts to permit postponement of copper deliveries for the fourth quarter of 1955 until September 30, 1956, wherever suppliers agree to make the copper available to industry at the U.S. market price under customary industry practice.

I am also authorizing you, upon instruction from the Department of Commerce, to sell at the U.S. market price, plus handling and transportation charges, any copper that may be delivered to the Defense Production Act inventory by the end of 1955, as explained in the attached letter to Secretary Weeks.

The total quantity of copper that may be made available to industry under these authorizations is estimated to be about 11,000 short tons.

Sincerely yours,

ARTHUR S. FLEMMING, *Director.*

Mr. COBURN. All right. Now, was there a seventh directive?

Mr. CASTO. Yes, sir, a directive of December 19, 1955, from Dr. Flemming to Edmund F. Mansure, authorizing GSA to permit deliveries of copper to the Government under the Stockpiling Act, and the Defense Production Act, which was scheduled for the first quarter of 1956, to be deferred until December 31, 1956, whenever suppliers agreed to make the copper available to the domestic industry at U.S. market prices, under customary industry practice.

Mr. COBURN. And was there an eighth directive?

Mr. CASTO. Yes, sir; March 12, 1956, from Arthur S. Flemming of ODM to Franklin G. Floete, Administrator, GSA, authorizing GSA to permit a deferment to December 31, 1956, of deliveries of copper to the Government under the Stockpiling Act and the Defense Production Act, which was scheduled for the second quarter of 1956, whenever suppliers agreed to make the copper available to domestic industry at U.S. market price.

This authorization includes copper which had previously been deferred, and which was to be delivered to the Government by June 30, 1956.

(The two letters referred to follow:)

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
OFFICE OF THE DIRECTOR,
Washington, D.C., December 19, 1955.

HON. EDMUND F. MANSURE,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. MANSURE: After consultation with the Defense Mobilization Board I hereby authorize the General Services Administration to permit deliveries of cop-

per to the Government under the Stock Piling Act and the Defense Production Act scheduled for the first quarter of 1956 to be deferred until December 31, 1956, whenever suppliers agree to make the copper available to industry at the U.S. market price under customary industry practice.

I also authorize you, upon instruction from the Department of Commerce, to sell at the U.S. market price, plus handling and transportation charges, any copper delivered to the Defense Production Act inventory through March 31, 1956, for use in helping companies which are unable to obtain sufficient refined copper through normal channels to fill their requirements for meeting defense orders.

Enclosed is a copy of my letter to the Secretary of Commerce.

Sincerely yours,

ARTHUR S. FLEMMING, *Director.*

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
OFFICE OF THE DIRECTOR,
Washington, D.C., March 12, 1956.

HON. F. G. FLOETE,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. FLOETE: At the recommendation of Secretary of Commerce Sinclair Weeks and after consultation with the Defense Mobilization Board, I hereby authorize the General Services Administration to permit the deferment to December 31, 1956, of deliveries of copper to the Government under the Stock Piling Act and the Defense Production Act, scheduled for the second quarter of 1956, whenever suppliers agree to make the copper available to industry at the U.S. market price under customary industry practice. This authorization includes copper which had been previously deferred and which was to be delivered to the Government by June 30, 1956.

I am also requesting you to assist the Secretary of Commerce in developing a plan for the orderly restoration of deliveries of copper to Government account on a monthly basis and phased so as to reduce to a minimum the impact of such withdrawals from the supply otherwise available to industry.

Attached is a copy of my letter to the Secretary of Commerce.

Sincerely yours,

ARTHUR S. FLEMMING, *Director.*

Mr. COBURN. Now, are those all of the directives on the cancellation or deferral of copper deliveries?

Mr. CASTO. They are, sir.

Mr. COBURN. We had some correspondence, that we have just passed over a moment ago, in which Dr. Flemming requested that an effort be made with these three companies, who enjoyed the benefits of cancellation, to see if they would not agree to restore the copper to the stockpile at a later time.

Was an effort made in that respect?

Mr. CASTO. It was.

Mr. COBURN. What was the result?

Mr. CASTO. The result was that we went to the three companies, the Copper Range Co., the Howe Sound Co., and Miami Copper Co., and requested that they make copper available to the Government as a replacement for copper that had been previously canceled for April–May 1955 delivery at the lower contract price or market price.

All three companies declined to do so.

We were able to forestall the cancellation of the copper that had been authorized for cancellation for the month of June, we having notified them that if copper were sold and delivered to other than GSA this copper would have to be replaced by deliveries of equivalent quantities not later than March 31, 1956.

Mr. COBURN. What was their response?

Mr. CASTO. Miami Copper Co. rejected the proposal of the General Services Administration.

The Copper Range Co. and Howe Sound Co. accepted the proposal.

Senator CASE. Mr. Chairman, that reference to the June delivery, was that in June 1955?

Mr. CASTO. Yes, sir.

Mr. COBURN. I believe that is all, Mr. Chairman, of this witness as far as I am concerned.

Senator SYMINGTON. Senator Engle, have you any questions?

Senator ENGLE. I think not, Mr. Chairman.

Senator SYMINGTON. Senator Case.

Senator CASE. Thank you, Mr. Chairman.

Mr. Casto, do you know of any oral negotiating with respect to these deferrals?

Mr. CASTO. No, sir; I do not.

I was not connected with the copper program back during this period of time at all, sir.

Senator CASE. In your study have you run onto any correspondence or directives other than the one letter from Dr. Flemming to Mr. Mansure, taking note of the complaint of GAO?

Mr. CASTO. No, sir; I have not.

Senator CASE. Have you discovered anything that would state the reasons for the deferrals other than these particular letters to which you referred?

Mr. CASTO. No, sir.

Senator CASE. When did you join GSA?

Mr. CASTO. I joined GSA and its predecessor agencies back, practically, in its creation, in 1935.

I have been connected continuously with the stockpiling program since the passage of the Strategic and Critical Materials Stock Piling Act in 1946.

During this particular period of time I was devoting 100 percent of my time as Director of the Rubber Division, to the one commodity.

Senator CASE. Have you had any personal connection with the copper program?

Mr. CASTO. Since 1958; yes, sir.

Senator CASE. But not prior to 1958?

Mr. CASTO. No, sir.

Senator CASE. So that these letters, to which reference has been made, running from April 1, 1955, through March 12, 1956, you know of those matters only by reference to the files and correspondence?

Mr. CASTO. That is correct.

Senator CASE. You have no personal knowledge——

Mr. CASTO. I have no personal knowledge whatsoever.

Senator CASE. Thank you.

Senator SYMINGTON. Mr. Counsel, I think, for the record, we ought to include all of the letters that have been referred to.

Mr. COBURN. Very well, Mr. Chairman.

(The letters referred to have been inserted at appropriate points in this transcript.)

Senator SYMINGTON. Senator Beall.

Senator BEALL. No questions.

Senator CASE. Mr. Chairman, I think your suggestion, of having all of those letters placed in the record, is very good.

I would like to have some positive statement from someone who was connected with the copper program during this period, to be sure that any other letters pertinent to it, from Mr. Flemming to Mr. Mansure or vice versa, will be included in the record, too.

Senator SYMINGTON. Where is Mr. Mansure now?

Mr. CASTO. I do not know. I was advised that he left the Government and went to California. Whether he is still there or not, I do not know.

Senator SYMINGTON. I believe counsel has talked with Dr. Flemming, have you not?

Mr. COBURN. Yes, I have, Mr. Chairman.

Senator SYMINGTON. And, following Senator Case's thought, we might get all of the letters pertinent to this subject. You might write a letter to the head of the General Services Administration. Who is the head of GSA?

Mr. CASTO. Bernard Boutin.

Senator SYMINGTON. You might write to Mr. Boutin and see what correspondence he has on this subject and put it in the record.

Mr. COBURN. That will be done, Mr. Chairman.

For the guidance of the committee, I should say that with reference to Mr. Casto here that, although he was not active in this copper program throughout the entire period that we are covering here today, we asked Mr. Casto simply to make a study of these directives so that they could be put before the committee in an organized manner.

That was our purpose in putting him on the stand.

Senator CASE. I have no objection to that. I just wanted to know if there was any further information that he might have for the committee of his own personal knowledge.

Mr. Chairman, I understand it is the plan to have a hearing at which Dr. Flemming will be present?

Mr. COBURN. That is correct, Senator.

Senator SYMINGTON. We would have had him today, but it was not convenient to him.

Senator CASE. I would like to ask Mr. Casto: Do you know, since you have been affiliated with the rubber program, where recommendations such as those came from Dr. Flemming to Mr. Mansure? Where would be the origination of the recommendation for these deferrals?

Mr. CASTO. It is my understanding it would come from the Business and Defense Services Administration of the Department of Commerce; that industrial consumers of any given material, being unable to secure an adequate supply of that material, would go to the Department of Commerce and request assistance from that Department.

Senator CASE. So that if in the field, with which you have direct connection, that of rubber, if the rubber users of the country found themselves handicapped in getting a supply of rubber they would go to this Division within the Department of Commerce and tell them of their trouble?

Mr. CASTO. That is correct.

Senator CASE. And that from the Department of Commerce there might go some representation to the Director, such as Dr. Flemming, seeking relief or access to these supplies?

Mr. CASTO. Oh, I do not think there is any question but what that would happen.

Senator CASE. And that that could have happened in copper as it would in rubber?

Mr. CASTO. I would assume that it would happen in every material, Senator, yes.

Senator CASE. Thank you.

Mr. COBURN. Mr. Chairman, perhaps Senator Case's inquiry should require me to ask one or two more questions, if I may.

Senator SYMINGTON. Yes.

Mr. COBURN. Mr. Casto, am I correct in this, that the ultimate responsibility for the issuance of the directives, with reference to the cancellation and the deferral of deliveries of copper, was in Mr. Flemming, Dr. Flemming, as the Director of ODM?

Mr. CASTO. That is correct.

Mr. COBURN. In issuing those directives, however, he consulted with, on a consulting or advisory basis, the Defense Mobilization Board, did he not?

Mr. CASTO. That is correct.

Mr. COBURN. I think that is all.

Senator SYMINGTON. Are there any further questions?

Senator Engle?

Senator ENGLE. No.

Senator SYMINGTON. Senator Case?

Senator CASE. Just a word.

So that the directive that Dr. Flemming might issue to Dr. Mansure would, perhaps, in the first instance be initiated and start from a recommendation from the Department of Commerce but that, before issuing the directive, he would have been in consultation with the Defense——

Mr. CASTO. Mobilization Board; that is correct.

Senator CASE. Thank you.

Senator ENGLE. This involves a question of mechanics.

Is there anything in the law which would prevent the release of copper where industry really needs it, but sold out of the stockpile to these companies or consumers at a price reflecting the market value which is higher than the contract price, in order that the Government got the benefit of it rather than the windfall to the producer?

Mr. CASTO. No, sir, there is nothing that would have prevented it at all. They could have taken it in inventory and the Government resold or created agents out of the companies, themselves, and had those companies resell it as agents for the Government, the Government reflecting the receipt of the higher price that prevailed at that time.

Senator ENGLE. Do you know why that was not done inasmuch as the law would have permitted it?

Mr. CASTO. No, sir, I do not.

Senator ENGLE. Thank you.

Senator CASE. Mr. Chairman, I may be mistaken but I was under the impression that to sell out of the national stockpile it took an act of Congress.

Is that correct?

Mr. CASTO. That is correct, unless the material is declared obsolete, in which event you must publish it in the Federal Register and wait 6 months.

Now, this is copper that we are talking about now that was scheduled for delivery to the Defense Production Act inventory.

The copper that was scheduled for delivery to the national stockpile could not have been resold in time to have helped industry.

Mr. COBURN. Once it got into the stockpile?

Mr. CASTO. That is right. It could be diverted——

Mr. COBURN. But a matter of deferrals is another question.

Mr. CASTO. That is right.

Senator CASE. But if it was actually in the stockpile it could not have been taken out except by an act of Congress?

Mr. CASTO. That is correct.

Senator SYMINGTON. But it could have been taken out if it was in the Defense Production Administration stockpile?

Mr. CASTO. That is correct.

Senator SYMINGTON. It could have been taken out for private industry and the Government could have taken the profit instead of letting these other people take the extra profit. Is that correct?

Mr. CASTO. That is exactly correct.

Senator SYMINGTON. Who is your next witness?

Mr. COBURN. Mr. Chairman, I have three——

Senator SYMINGTON. Thank you, Mr. Casto.

Mr. COBURN. I have three minutes of meetings of the Defense Mobilization Board that I would like to introduce into the record.

Senator CASE. Off the record.

(Discussion off the record.)

Mr. COBURN. Mr. Chairman, I would like at this point to introduce them into the record, and to be copied here, parts of the minutes of the three meetings of the Defense Mobilization Board, and I will read from these parts of the minutes as follows:

First is meeting No. 56, Wednesday, October 13, 1954. Those present, that is Board members, alternates, and staff people who were present at this meeting were:

Hon. Arthur S. Flemming, Chairman.
Hon. J. Mitchell, Secretary of Labor.
Hon. Marion B. Folsom, Under Secretary of the Treasury (representing the Secretary of the Treasury).
Hon. Thomas P. Pike, Assistant Secretary of Defense (Supply and Logistics) (representing the Secretary of Defense).
Hon. Earl L. Butz, Assistant Secretary of Agriculture (representing the Secretary of Agriculture).
Mr. Thorsten V. Kalijarvi, Deputy Assistant Secretary of State for Economic Affairs (representing the Secretary of State).
Mr. John Liebert, Assistant to the Assistant Secretary, Department of the Interior (representing the Secretary of the Interior).
Mr. H. B. McCoy, Assistant Administrator, Business and Defense Services Administration, Department of Commerce (representing the Secretary of Commerce).
Mr. G. Lloyd, Deputy to the Director, Foreign Operations Administration (representing the Director, Foreign Operations Administration).
Mr. Ralph Young, Director, Division of Research and Statistics, Federal Reserve System (representing the Chairman, Board of Governors, Federal Reserve System).
Mr. Joseph F. Vaughan, ODM, Executive Secretary.

By invitation, quite a number of other men were present, but I will not read their names.

The minutes of this meeting disclosed, among other things:

At its 55th meeting on September 29, the Board recommended that no change be made in existing Government policy governing fourth quarter deliveries of copper under Government contract. The Secretary of Commerce, in the face of current strikes in the copper industry, had recommended that deliveries be deferred so as to prevent interference with defense production and to alleviate dislocation of industry. The Board agreed, however, that it would reexamine the situation at the October 13 meeting.

The Secretary of Labor reported that the strikers are now returning to work and that settlement of the strike appears imminent. For this reason, the Board was in agreement that Government action to augment dwindling copper stocks should now be undertaken inasmuch as such action would no longer constitute undue Government interference in a labor dispute.

Senator SYMINGTON. Do they mean an addition to the national stockpile or the DPA stockpile?

Mr. COBURN. Well, Mr. Chairman, it is not clear from this just what they are referring to, whether they mean to include the Defense Production Act inventory or not, but I only read what the minutes disclosed.

(The excerpt from the minutes of DMB meeting No. 56 as referred to follow:)

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF DEFENSE MOBILIZATION

DEFENSE MOBILIZATION BOARD

Meeting No. 56, Wednesday, October 13, 1954

PRESENT

Board members, alternates, and staff:
Hon. Arthur S. Flemming, Chairman.
Hon. James P. Mitchell, Secretary of Labor.
Hon. Marion B. Folsom, Under Secretary of the Treasury (representing the Secretary of the Treasury).
Hon. Thomas P. Pike, Assistant Secretary of Defense (Supply and Logistics) (representing the Secretary of Defense).
Hon. Earl L. Butz, Assistant Secretary of Agriculture (representing the Secretary of Agriculture).
Mr. Thorsten V. Kalijarvi, Deputy Assistant Secretary of State for Economic Affairs (representing the Secretary of State).
Mr. John Liebert, Assistant to the Assistant Secretary, Department of the Interior (representing the Secretary of the Interior).
Mr. H. B. McCoy, Assistant Administrator, Business and Defense Services Administration, Department of Commerce (representing the Secretary of Commerce).
Mr. G. Lloyd, Deputy to the Director, Foreign Operations Administration (representing the Director, Foreign Operations Administration).
Mr. Ralph Young, Director, Division of Research and Statistics, Federal Reserve System (representing the Chairman, Board of Governors, Federal Reserve System).
Mr. Joseph F. Vaughan, ODM, Executive Secretary.

By invitation:
Hon. Edmund F. Mansure, Administrator, General Services Administration.
Hon. Victor E. Cooley, Deputy Director, Office of Defense Mobilization.
Hon. P. F. Brundage, Deputy Director, Bureau of the Budget.
Mr. Elmer Bennett, Legislative Counsel, Department of the Interior.
Mr. Robert Day, Department of the Interior.
Mr. Maxwell Elliott, General Counsel, General Services Administration.
Mr. H. F. Johnson, Director, Office of Industrial Resources, Foreign Operations Administration.
Mr. T. L. Sweet, Foreign Operations Administration.

Mr. William S. Floyd, Assistant Director for Materials, Office of Defense Mobilization.
Mr. Wilbert Fritz, Office of Defense Mobilization.
Mr. Charles H. Kendall, General Counsel, Office of Defense Mobilization.
Mr. George Landry, Assistant Director for Production, Office of Defense Mobilization.

The meeting convened at 10:30 a.m. in room 100, Executive Office Building.

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II. COPPER SUPPLY

At its 55th meeting on September 29, the Board recommended that no change be made in existing Government policy governing fourth quarter deliveries of copper under Government contract. The Secretary of Commerce, in the face of current strikes in the copper industry, had recommended that deliveries be deferred so as to prevent interference with defense production and to alleviate dislocation of industry. The Board agreed, however, that it would reexamine the situation at the October 13 meeting.

The Secretary of Labor reported that the strikers are now returning to work and that settlement of the strike appears imminent. For this reason, the Board was in agreement that Government action to augment dwindling copper stocks should now be undertaken inasmuch as such action would no longer constitute undue Government interference in a labor dispute.

The representative of the Department of Commerce reported that efforts are being made to identify the principal hardship cases with a view toward channelling available Defense Production Act copper now held by GSA. It was agreed that the staffs of ODM, Commerce, and GSA will collaborate in developing a workable program of remedial measures including both diversions of some October stockpile deliveries and the use of available copper in the Defense Production Inventory. Before final action is taken, however, ODM will be responsible for checking with the Secretary of Labor inasmuch as an announcement may have an effect upon the conduct of current settlement negotiations between labor and management.

The meeting adjourned at 12:20 p.m.

JOSEPH F. VAUGHAN, *Executive Secretary.*

Mr. COBURN. Now, for the record, I have a portion of the minutes of the meeting No. 66 of the Defense Mobilization Board, which was held on Wednesday, March 30, 1955:

Board members, alternates, and staff, who were present were:

Hon. Arthur S. Flemming, Chairman.
Hon. George M. Humphrey, Secretary of the Treasury.
Hon. Sinclair Weeks, Secretary of Commerce.
Hon. James P. Mitchell, Secretary of Labor.
Hon. Clarence Davis, Under Secretary of the Interior (representing the Secretary of the Interior).
Hon. True D. Morse, Under Secretary of Agriculture (representing the Secretary of Agriculture).
Hon. Thomas P. Pike, Assistant Secretary of Defense (Supply and Logistics) (representing the Secretary of Defense).
Mr. Robert Murphy, Deputy Under Secretary of State (representing the Secretary of State).
Mr. Ralph Young, Dirctor, Division of Research and Statistics, Federal Reserve System (representing the Chairman, Board of Governors, Federal Reserve System).
Mr. Richard Lang, Deputy Director, Industrial Resources Division, Foreign Operations Administration (representing the Director, Foreign Operations Administration).
Mr. Theodore Babbitt, Intelligence Officer (representing the Administrator, Federal Civil Defense Administration).
Mr. Joseph F. Vaughan, ODM executive secretary.

Other persons were present by invitation, but I will not read their names.

The minutes of this meeting state:

At its 65th meeting on March 23, 1955, the Board discussed a proposal for diversion and deferment of copper deliveries to the Government, but withheld making a recommendation pending further investigation of the impact of copper shipments to the Soviet bloc.

At the 66th meeting, the Board reviewed an additional ODM staff paper entitled "Copper: The Current Shortage and the Outlook." It also reviewed a letter dated March 22, from the Under Secretary of State to the Director of ODM, in which the former pointed out that "the movement of copper wire to the Soviet bloc does not represent a major factor in the current supply situation, which is primarily the result of production difficulties, increased industrial requirements, and the effects of the differential in the price of copper between the United States and the world markets."

The Deputy Under Secretary of State, Mr. Murphy, read a memorandum entitled "Present Status of Negotiations and Efforts to Control Shipments of Copper to the Soviet Bloc."

On the basis of the contents of documents noted above, and in the light of proposals and recommendations set forth in the paper prepared for the 65th meeting of the Board, the Board members discussed the problem in further detail and concurred generally in the following recommendations to the Director of the Office of Defense Mobilization:

1. Copper deliveries to the Defense Production Act inventory scheduled for April, May, and June, 1955, should be canceled, the metal to be released to the general economy. Deliveries to the stockpile scheduled for this same 3-month period should be postponed until the first quarter of 1956. This copper will also become available for current industrial use.

2. Restoration to the Government of the 7,107 tons of copper diverted to industry in October 1954, due to be returned by June 30, should be postponed until the first quarter of 1956.

(The excerpt from the minutes of DMB meeting No. 66 follows:)

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF DEFENSE MOBILIZATION

DEFENSE MOBILIZATION BOARD

Meeting No. 66, Wednesday, March 30, 1955

PRESENT

Board members, alternates, and staff:

Hon. Arthur S. Flemming, Chairman.
Hon. George M. Humphrey, Secretary of the Treasury.
Hon. Sinclair Weeks, Secretary of Commerce.
Hon. James P. Mitchell, Secretary of Labor.
Hon. Clarence Davis, Under Secretary of the Interior (representing the Secretary of the Interior).
Hon. True D. Morse, Under Secretary of Agriculture (representing the Secretary of Agriculture).
Hon. Thomas P. Pike, Assistant Secetary of Defense (Supply and Logistics) (representing the Secretary of Defense).
Mr. Robert Murphy, Deputy Under Secretary of State (representing the Secretary of State).
Mr. Ralph Young, Director, Division of Research and Statistics, Federal Reserve System (representing the Chairman, Board of Governors, Federal Reserve System).
Mr. Richard Lang, Deputy Director, Industrial Resources Division, Foreign Operations Administration (representing the Director, Foreign Operations Administration).
Mr. Theodore Babbitt, intelligence officer (representing the Administrator, Federal Civil Defense Administration).
Mr. Joseph F. Vaughan, ODM, Executive Secretary.

By invitation:

Hon. Edmund F. Mansure, Administrator, General Services Administration.

Hon. Victor E. Cooley, Deputy Director, Office of Defense Mobilization.
Hon. Lothair Teetor, Assistant Secretary of Commerce for Domestic Affairs.
Hon. P. E. Brundage, Deputy Director, Bureau of the Budget.
Mr. Sam Broadbent, Bureau of the Budget.
Mr. Herman Director, Business and Defense Services Administration, Department of Commerce.
Mr. Henry A. DuFlon, Deputy Assistant Secretary of Defense (Manpower and Personnel).
Mr. Maxwell Elliott, General Counsel, General Services Administration.
Mr. Edmund E. Getzin, Department of State.
Mr. John Liebert, Department of the Interior.
Mr. A. J. Walsh, Commissioner, Emergency Procurement Service, General Services Administration.
Mr. Harold A. Botkin, Assistant Director for Telecommunications, Office of Defense Mobilization.
Mr. Merrill Collett, Office of Defense Mobilization.
Mr. John P. Dennis, Coordinator of Defense Transportation, Office of Defense Mobilization.
Mr. William S. Floyd, Assistant Director for Materials, Office of Defense Mobilization.
Mr. Wilbert Fritz, Office of Defense Mobilization.
Mr. Edwin Harris, Office of Defense Mobilization.
Mr. John H. Hilliard, Deputy Assistant Director for Manpower, Office of Defense Mobilization.
Mr. Henry F. Hurley, Office of Defense Mobilization.
Mr. Joseph D. Keenan, Special Assistant to the Director, Office of Defense Mobilization.
Mr. Charles H. Kendall, General Counsel, Office of Defense Mobilization.
Mr. George A. Landry, Assistant Director for Production, Office of Defense Mobilization.
Mr. Edward F. Phelps, Assistant Director for Stabilization, Office of Defense Mobilization.

The meeting convened at 10:30 a.m., in room 100, Executive Office Building.

I. REVIEW OF SUPPLY-DEMAND SITUATION—COPPER

At its 65th meeting on March 23, 1955, the Board discussed a proposal for diversion and deferment of copper deliveries to the Government, but withheld making a recommendation pending further investigation of the impact of copper shipments to the Soviet bloc.

At the 66th meeting, the Board reviewed an additional ODM staff paper entitled "Copper: The Current Shortage and the Outlook." It also reviewed a letter dated March 22, from the Under Secretary of State to the Director of ODM, in which the former pointed out that "the movement of copper wire to the Soviet bloc does not represent a major factor in the current supply situation, which is primarily the result of production difficulties, increased industrial requirements, and the effects of the differential in the price of copper between the United States and the world markets."

The Deputy Under Secretary of State, Mr. Murphy, read a memorandum entitled, "Present Status of Negotiations and Efforts To Control Shipments of Copper to the Soviet Bloc."

On the basis of the contents of documents noted above, and in the light of proposals and recommendations set forth in the paper prepared for the 65th meeting of the Board, the Board members discussed the problem in further detail and concurred generally in the following recommendations to the Director of the Office of Defense Mobilization:

1. Copper deliveries to the Defense Production Act inventory scheduled for April, May, and June 1955 should be canceled, the metal to be released to the general economy. Deliveries to the stockpile scheduled for this same 3-month period should be postponed until the first quarter of 1956. This copper will also become available for current industrial use.

2. Restoration to the Government of the 7,107 tons of copper diverted to industry in October 1954, due to be returned by June 30, should be postponed until the first quarter of 1956. * * *

Mr. COBURN. And, finally, I want to introduce into the record a portion of the minutes of the Defense Mobilization Board meeting No.

69, and read the portion that is being introduced.

Present at this meeting were the Board members, alternates, and staff:

Hon. Arthur S. Flemming, Chairman.
Hon. Douglas McKay, Secretary of the Interior.
Hon. Marion B. Folsom, Under Secretary of the Treasury (representing the Secretary of the Treasury.
Hon. True D. Morse, Under Secretary of Agriculture (representing the Secretary of Agriculture).
Hon. Arthur Larson, Under Secretary of Labor (representing the Secretary of Labor).
Hon. Lothair Teetor, Assistant Secretary of Commerce for Domestic Affairs (representing the Secretary of Commerce).
Mr. Clarence Nichols, Office of the Assistant Secretary of State for Economic Affairs (representing the Secretary of State).
Mr. Winfield Riefler, Assistant to the Chairman (representing the Chairman, Board of Governors, Federal Reserve System).
Mr. Richard Lang, Deputy Director, Industrial Resources Division, Foreign Operations Administration (representing the Director, Foreign Operations Administration).
Mr. Ralph Spear, Assistant Administrator, planning staff, Federal Civil Defense Administration (representing the Administrator, Federal Civil Defense Administration).
Mr. Joseph F. Vaughan, ODM, Executive Secretary.

The portion of the minutes that I would like to read at this time are as follows:

It was the consensus of the Board that the following course of action should be recommended to the Director of the Office of Defense Moblilization:

1. ODM should follow during the third quarter the policy which it has previously adopted for the second quarter with respect to rescheduling deliveries to the stockpile and cancellation of deliveries to the DPA inventory.

(The excerpt from the minutes of the Defense Mobilization Board meeting No. 69 follows:)

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF DEFENSE MOBILIZATION

DEFENSE MOBILIZATION BOARD

Meeting No. 69, Thursday, May 5, 1955

PRESENT

Board members, alternates, and staff:

Hon. Arthur S. Flemming, Chairman.
Hon. Douglas McKay, Secretary of the Interior.
Hon. Marion B. Folsom, Under Secretary of the Treasury (representing the Secretary of the Treasury).
Hon. True D. Morse, Under Secretary of Agriculture (representing the Secretary of Agriculture).
Hon. Arthur Larson, Under Secretary of Labor (representing the Secretary of Labor).
Hon. Lothair Teetor, Assistant Secretary of Commerce for Domestic Affairs (representing the Secretary of Commerce).
Mr. Clarence Nichols, Office of the Assistant Secretary of State for Economic Affairs (representing the Secretary of State).
Mr. Winfield Riefler, Assistant to the Chairman (representing the Chairman, Board of Governors, Federal Reserve System).
Mr. Richard Lang, Deputy Director, Industrial Resources Division, Foreign Operations Administration (representing the Director, Foreign Operations Administration).

Mr. Ralph Spear, Assistant Administrator, planning staff, Federal Civil Defense Administration (representing the Administrator, Federal Civil Defense Administration).
Mr. Joseph F. Vaughan, ODM, Executive Secretary.

By invitation:

Hon. Edmund F. Mansure, Administrator, General Services Administration.
Hon. P. F. Brundage, Deputy Director, Bureau of the Budget.
Dr. R. J. Saulnier, Council of Economic Advisers.
Mr. Sam Broadbent, Bureau of the Budget.
Mr. David Christian, Department of Labor.
Mr. Albert Kay, Department of Defense.
Mr. John Liebert, Department of the Interior.
Mr. H. B. McCoy, Deputy Administrator, Business and Defense Services Administration, Department of Commerce.
Mr. A. J. Walsh, Commissioner, Emergency Procurement Service, General Services Administration.
Mr. Harold A. Botkin, Assistant Director for Telecommunications, Office of Defense Mobilization.
Mr. John P. Dennis, Defense Transportation Coordinator, Office of Defense Mobilization.
Mr. Wilbert Fritz, Office of Defense Mobilization.
Mr. John H. Hilliard, Deputy Assistant Director for Manpower, Office of Defense Mobilization.
Mr. Joseph Keenan, special assistant to the Director, Office of Defense Mobilization.
Mr. Charles H .Kendall, General Counsel, Office of Defense Mobilization.
Mr. George A. Landry, Assistant Director for Production, Office of Defense Mobilization.
Mr. Sherman Sheppard, Deputy Assistant Director for Materials, Office of Defense Mobilization.
Mr. Leonard Skubal, Office of Defense Mobilization.

The meeting convened at 2:30 p.m., in room 200, Executive Office Building.

I. COPPER PROBLEMS

At this meeting, the Office of Defense Mobilization presented a three-part staff paper dealing with current copper problems. The first section of this staff paper summarized he principal changes that have occurred in the copper situation since the Board's review of March 30. Succeeding sections concerned (a) the cancellation or modification sought by Calumet & Hecla of its contract for deliveries of copper to the stockpile at a fixed price which is now substantially below the U.S. market price; and (b) a recommendation of the Chairman of the Advisory Committee on Export Policy calling for an increase of the export quota on copper scrap for Western Germany during the second quarter, for delivery during the third quarter.

Major discussion was devoted to the several aspects of the Calumet & Hecla problem inasmuch as action on this case would be considered as precedent-making in nature.

It was the consensus of the Board that the following course of action should be recommended to the Director of the Office of Defense Mobilization:

1. ODM should follow during the third quarter the policy which it has previously adopted for the second quarter with respect to rescheduling deliveries to the stockpile and cancellation of deliveries to the DPA inventory.

2. Even though Calumet & Hecla, under the terms of its contract, is not obligated to make any 1955 deliveries until December 31, the policy outlined above, having been applied to other companies, should also be applied on a pro rata basis to Calumet & Hecla. This would mean that Calumet & Hecla could defer the deliveries to the stockpile that would be due in the second and third quarters if deliveries were distributed throughout the year. Copper thus deferred would be deliverable at the contract price plus allowance for whatever escalation benefits would be applicable at the time of delivery.

In recommending the above modification of the Calumet & Hecla contract, the Board took note of the fact that even though the principle of parallel treatment for all stockpile suppliers is applied to Calumet & Hecla, the company is

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still under obligation to deliver one-half of its 1955 quota during 1955 (e.g., its first quarter "quota" and its fourth quarter "quota.").

* * * * * * *

With reference to the proposal for increasing the second quarter export quota on copper scrap for Western Germany, the Board concurred in the recommendation that Germany be granted a supplemental second quarter quota of 3,000 tons for licensing in late June and shipment in the third quarter of 1955. This concurrence was given in the light of important foreign policy considerations advanced by the Department of State. Moreover, such action appeared justifiable inasmuch as the Board had also recommended additional measures to alleviate domestic copper shortages.

In endorsing the increased quota for Western Germany, the Board expressed the hope that this action would be coupled with increased vigilance to prevent loss of copper to the Soviet bloc. * * *

Mr. COBURN. Mr. Chairman, our next witness is Mr. Johnston Russell.

Senator SYMINGTON. Mr. Russell.

Mr. Russell, you have not appeared before the committee?

Mr. RUSSELL. No, I have not.

Senator SYMINGTON. Will you raise your right hand?

Do you solemnly swear that the information you give this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. RUSSELL. I do.

TESTIMONY OF JOHNSTON RUSSELL, ASSISTANT COMPTROLLER, CREDIT AND FINANCE, GENERAL SERVICES ADMINISTRATION

Mr. COBURN. Will you state your full name and address, please?

Mr. RUSSELL. My name is Johnston Russell, J-o-h-n-s-t-o-n R-u-s-s-e-l-l; my residence is Route 1, Middleburg, Va.

Mr. COBURN. Are you in anywise connected with the Government?

Mr. RUSSELL. Yes, sir. I am Assistant Comptroller, Credit and Finance Division, the Office of the Comptroller, General Services Administration.

Mr. COBURN. Of General Services Administration?

Mr. RUSSELL. Yes, sir.

Mr. COBURN. How long have you been in Government service?

Mr. RUSSELL. I have been in the Government service since approximately January or February 1936.

Mr. COBURN. And how long have you been with GSA?

Mr. RUSSELL. I have been with GSA since its creation in 1949.

Mr. COBURN. Mr. Russell, will you tell us just briefly the general nature of your present duties?

Mr. RUSSELL. I am the Director of a Division which has for its functions the participation in the negotiation of financial provisions of contracts, the collection of moneys owed the United States, the servicing of securities taken to secure debts owed the United States, and general financial services of that nature to the operating divisions of the services of the Administration.

Mr. COBURN. And in 1955 and 1956 what were your duties?

Mr. RUSSELL. At that time I was Deputy Director of the Credit and Finance Division.

Mr. P. W. Jordan, at that time, was Assistant Comptroller for the Credit and Finance Division.

Mr. COBURN. Well, I want to make sure that everyone understands what your responsibilities were in that connection in 1955 and 1956.

Without going into great detail, what did you do for GSA?

Mr. RUSSELL. At that time I had general supervision over a staff of financial analysts, whose function it was to render financial services to the, at that time, Emergency Procurement Service (which had for its function the Defense Production Act and the stockpile contracting), such as the financial analysis of proposals to contract, the examination of the financial standing and competence of contractors, the participation in negotiations of the contracts, and the formulation of financial provisions of the contracts.

One example would be the escalation clause which was referred to before, and similar functions related to the rendition of financial services to the operating contracting officers.

Mr. COBURN. Do I understand you to say that, with reference to new contracts that were being made and amendments to contracts, that were already in existence, that you analyzed the contracts and advised GSA as to whether you thought, from a financial standpoint, they were worthy of execution?

Mr. RUSSELL. Yes, sir. I regard that as my responsibility.

Mr. COBURN. Now, Mr. Russell, in 1955 did this problem of the cancellation or deferral of deliveries of copper come to your attention?

Mr. RUSSELL. Yes, sir. I think I can say to the best of my recollection that it engaged my attention shortly after—within a few days after—February 25, 1955, which, as has already been testified to here, was the date of the third of the directives issued by the Office of Defense Mobilization, the then Office of Defense Mobilization. That was the directive which authorized and directed the cancellation of deliveries due in the first quarter—during March of 1955, under the Defense Production Act contracts which already have been put in evidence here, the names of which have been put in evidence.

It also authorized the sale of copper which had accumulated in Defense Production Act inventories.

Mr. COBURN. In other words, as I understand it, this directive you have just referred to, February 25, 1955, authorized the cancellation of copper——

Mr. RUSSELL. It did, sir.

Mr. COBURN (continuing). Deliveries during the month of March 1955——

Mr. RUSSELL. Yes, sir.

Mr. COBURN (continuing). And permitted the contractors to sell the copper to industry on the outside.

Mr. RUSSELL. Yes, sir.

Mr. COBURN. At that time what was the market price on copper relative to the contract prices?

Mr. RUSSELL. The price had been, as I think you have put in evidence previously, relatively stable for a period during 1954 and through January 27, 1955. On the 28th day of January 1955, the price of copper on the market rose from 30 to 31½ cents per pound.

Mr. COBURN. Creating what kind of a problem with reference to these contracts?

Mr. RUSSELL. The result of that was that, of course, the cancellation meant that the contractor would be relieved of the obligation to

deliver to GSA and GSA would lose the right to receive copper from the contractors worth more on the market than the contract price, at least in certain instances. I think some of these contracts, it has been testified, were at 32 cents, but I don't recall that that applies to the Defense Production Act contracts.

Mr. COBURN. Well, this particular directive we have been talking about, then, permitted most of these contractors to sell their copper to industry on the outside at a higher price.

Mr. RUSSELL. Yes, sir.

Mr. COBURN. Than what they would get.

Mr. RUSSELL. At that time.

Mr. COBURN. If they delivered the copper to the Government under these contracts.

Mr. RUSSELL. That is true at that time.

Mr. COBURN. And this directive permitting cancellation did not require the contractors to deliver this same amount of copper at a later date to the Government, did it?

Mr. RUSSELL. No. Cancellation means that we forgo the right to this copper.

Mr. COBURN. Did you discuss this question with anybody else in the GSA at that time?

Mr. RUSSELL. Yes, sir. To the best of my recollection, I can't testify certainly whether this came to my attention as a result of seeing a copy of the directive or whether it was called to my attention by my colleague, Mr. Brooks, who is also present here this mornnig, but in one way or another it did come to my attention. I discussed it with Mr. Brooks at that time and I also remember discussing it with Mr. Frederick Witt, who at that time had the title of Coordinator of Sales, and he was the one responsible for the documentation to accomplish these diversions and cancellations.

Mr. COBURN. The Mr. Brooks you referred to is Mr. Louis Brooks.

Mr. RUSSELL. Mr. Louis Brooks.

Mr. COBURN. Who is still in GSA?

Mr. RUSSELL. Yes, sir.

Mr. COBURN. And he is present in the room today?

Mr. RUSSELL. Yes, he is.

Mr. COBURN. Mr. Frederick Witt, however, left the Government service some time ago, did he?

Mr. RUSSELL. He retired—I can't give you the date but he retired and I have been subsequently informed he has since died. He retired several years ago, I think 1957 or 1958.

Mr. COBURN. My information is he died last fall.

Mr. RUSSELL. I didn't know it.

Mr. COBURN. What was the nature of your conversations with Mr. Brooks and Mr. Witt?

Mr. RUSSELL. Well, I could say that I regarded as unfortunate the consequences of pursuing this action at the time when the price of copper on the market had risen above the contract prices. I remonstrated with Mr. Witt and the EPS people. I can't recall just how many or with whom I talked. Their point of view was that they were obligated to carry out these directives as given. However, I do note that in our records, a handwritten note which appears on our office copy of this directive of February 25 in Mr. Brooks' handwriting,

in which he stated, and this remark—this pencil notation—applies to the cancellation provision in this directive—that this would not be done because of windfall effects to contractors, and I might further add, according to our records, there were no cancellations of copper for delivery during March of 1955.

Mr. COBURN. All right. Now, did you receive a subsequent directive with reference to cancellation of copper?

Mr. RUSSELL. Yes, sir. The next directive relating to copper diversions was on April 1. There were two on that date, as a matter of fact, the first of which authorized the cancellation of copper scheduled for delivery under Defense Production Act contracts, during the second quarter of 1955—that would be the April through June quarter—and it authorized also the deferral of copper scheduled for delivery under stockpile contracts during that period.

Mr. COBURN. We have already been over that, so it won't be necessary to go into that at this time.

Mr. RUSSELL. Yes, sir.

Mr. COBURN. Well, then, this cancellation problem occurs again, does it not, under this directive?

Mr. RUSSELL. Yes, sir. It recurred and I find in my records that on April 18 I addressed a memorandum to my superior, Mr. P. W. Jordan, who was then, as I said, the Assistant Comptroller of General Services for Credit and Finance. The memorandum related specifically to the Miami Copper Co. proposed cancellation, and in it I stated that the circumstances were unusual in that this was a cancellation of copper obligated for delivery to the Government worth more than the contract price, and that I did not want to clear this memorandum—though I felt obligated to do so, because the position of the Emergency Procurement Service was that they were obligated to follow the directives—and I did not want to clear this without calling my superior's attention to this fact.

Mr. COBURN. Well, now, Mr. Russell, just to make sure that we get clearly your position in this matter, if it was desirable to divert this copper away from the Government inventories into private industry because of the shortage of copper in private plants, how do you think that should have been handled rather than by the cancellation method that was employed?

Mr. RUSSELL. Well, my position was that of a financial adviser to the operating and contracting officers. I did not question the validity or the authority, the legality, of the directives. But in my view those purposes of the directives could have been accomplished in a manner which would have returned a benefit to the United States and to the taxpayers of the United States, either by accepting deliveries of the Defense Production Act copper and reselling it on the market or, as has been suggested here previously, by authorizing the contractors to sell for our account.

Mr. COBURN. This cancellation that we have been talking about referred to contracts under the Defense Production Act.

Mr. RUSSELL. The cancellation did; that is true.

Mr. COBURN. Just to make sure that everybody understand that clearly, copper that is received under the Defense Production Act inventory, can be sold by the GSA freely without an act of Congress, is that right?

Mr. RUSSELL. That is true. The act itself contains the words "purchase and resale," if I recall correctly.

Mr. COBURN. So this copper that was subject to this cancellation directive could have been received by GSA and resold to industry and the purpose of the directive accomplished fully; isn't that right?

Mr. RUSSELL. That was my view; yes.

Mr. COBURN. But if handled that way, the benefit of the difference between the contract price and the market price would have accrued to the Government?

Mr. RUSSELL. That is true.

Mr. COBURN. Or the Government could have made an arrangement with the contractors to sell this copper for the account of the Government and the contractor, and the Government could have taken the difference between the market price and the contract price and the contractor the rest of the price; isn't that right?

Mr. RUSSELL. That is correct. Either of those.

Mr. COBURN. In either of those two events, the Government would have had the benefit of this windfall rather than the contractor?

Mr. RUSSELL. Yes.

Mr. COBURN. But the method that was used permitted these contractors to sell this copper at a higher market price and enjoy a substantial windfall; namely, the difference between the contract price and the market price.

Mr. RUSSELL. I think that is true as to sales subsequent to January 28; yes, sir, 1955.

Mr. COBURN. Now, Mr. Russell, shortly following this——

Senator ENGLE. May I interrupt to ask a question? Can you say why the procedure you suggested was not followed?

Mr. RUSSELL. The only answer I can make to that, sir, is that the contracting officers in the Administration, General Services Administration, regarded themselves as obligated to follow the directives promulgated by the Office of Defense Mobilization.

Senator ENGLE. I understand that, but why weren't the fellows who made these directives aware of these alternatives that would have prevented the windfall profit?

Mr. RUSSELL. I had no direct contact with the Office of Defense Mobilization, at least with Dr. Flemming, and I don't really know.

Mr. COBURN. Now, Mr. Witness, shortly after this time that we have been testifying to here, was there a letter received from the General Accounting Office criticizing this cancellation of deliveries of copper?

Mr. RUSSELL. Yes, sir. That was on April 18, 1955, the same date on which I had written this memorandum relative to the circumstances under which the amendment was being proposed to the Miami Copper contract. The two coincided.

Mr. COBURN. That was the letter written by General Accounting Office to General Services Administration.

Mr. RUSSELL. Yes, addressed to Mr. A. J. Walsh, Commissioner of Emergency Procurement Service.

Mr. COBURN. That letter is already before us, so I will not go into it again except to ask you if you saw it. Did you see it when it came in the office?

Mr. RUSSELL. Yes, sir. Or a copy at least.

Mr. COBURN. And did you agree with the criticism contained in that letter?

Mr. RUSSELL. To the extent that the letter went, I think it pretty nearly represented my views.

Mr. COBURN. Now, we have had also before us a letter of May 27, 1955, written by Dr. Arthur S. Flemming, the Director of ODM, in response to this criticism of the General Accounting Office. Did you see Dr. Flemming's letter?

(The letter referred to is as follows:)

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
OFFICE OF THE DIRECTOR,
Washington, D.C., May 27, 1955.

Mr. AL E. SNYDER,
Assistant Administrator, General Services Administration, Washington, D.C.

DEAR MR. SNYDER: This is in response to your letter of May 3 regarding the questions raised by the General Accounting Office on the cancellation of second quarter 1955 copper deliveries under Defense Production Act contracts.

It seems clear that the Office of Defense Mobilization authorization of April 1 to the General Services Administration did authorize the cancellation of these deliveries, and that the present price level of copper will enable the suppliers involved to sell their copper in the open market at a higher price than the Government would have been obligated to pay.

The purpose of the authorization, of course, was to increase the supply of copper to industry and the effect of the release upon the suppliers' profits was not adequately considered. In the light of the possible windfalls to the suppliers I feel that the authorization to cancel was a mistake and that the deferment of the deliveries would have been preferable.

Further authorizations for similar releases are being put in terms of deferment. If there is any way to correct this particular situation by administrative action I urge that such action be taken. Perhaps the suppliers would be prepared to undertake the delivery of equivalent quantities of copper at a future date at the contract price.

Sincerely yours,

ARTHUR S. FLEMMING, *Director.*

Mr. RUSSELL. Oh, yes, yes, sir. It stated that henceforth there would be no more cancellations but both the stockpile and Defense Production Act actions in this regard would be put on a deferral basis.

Mr. COBURN. Put on a deferral basis?

Mr. RUSSELL. That is, I think, correct.

Mr. COBURN. And what was your reaction to Dr. Flemming's letter?

Mr. RUSSELL. My reaction to the letter was that the removal of the cancellations removed the most objectionable features of the events which had taken place heretofore, but in my mind it was not adequate to protect the financial interests of the United States because it seemed to me that a pattern was making itself manifest that these deferrals would be postponed and repostponed until such time as the supply and demand of copper was near in balance, at which time it would be reasonable to expect that the price would be lower. Consequently, by deferring in my estimation, I would like to check myself there a moment, if I may.

Mr. COBURN. Certainly.

Mr. RUSSELL. I stated previously that there were two directives on April 1, one of which postponed previous deferrals, which was one of the reasons that made me think this pattern was emerging, and in my opinion the result of the deferral would be to give us the right

to copper worth considerably more than the contract price on the market in return for a right to have it delivered later at a time when the value would be at best speculative, and probably, in my estimation, would be lower.

Mr. COBURN. Well, as I understand it, then, you thought that deferring the delivery of copper was objectionable for a number of reasons?

Mr. RUSSELL. Yes, sir.

Mr. COBURN. In the first place, as long as the market price was higher than the contract price, it means that the Government was giving up an immediate advantage; isn't that right?

Mr. RUSSELL. That is correct. In addition to that, I had some apprehension that some of these companies with which we had contracts and which were operating, working relatively small marginal mining properties, which I think was the case with respect to several of them at least, would not be able, if these deliveries were deferred over a considerable period of time, ever to deliver to the stockpile.

Mr. COBURN. Well, but to get back a moment to this matter I was just asking you, as long as the market price was higher than the contract price, by deferring delivery the Government was giving up an immediate advantage, was it not?

Mr. RUSSELL. That was my view, giving up copper worth considerably over the contract price for copper at a later date when you didn't know what the price was going to be.

Mr. COBURN. And the advantage went to the contractors?

Mr. RUSSELL. Yes, sir.

Mr. COBURN. The advantage that the Government gave up went to the contractor, did it not, the immediate advantage?

Mr. RUSSELL. Yes, sir.

Mr. COBURN. Excuse me now, Mr. Witness. Allow me——

Mr. RUSSELL. Surely.

Mr. COBURN. And also the Government was gambling on what the price of copper would be at the time of the ultimate delivery under the deferrals; isn't that right?

Mr. RUSSELL. Yes. I think that is correct.

Mr. COBURN. And if the price of copper had declined below the contract price by that time, the Government had lost a very considerable advantage.

Mr. RUSSELL. Yes, sir.

Mr. COBURN. By deferral. Is that correct?

Mr. RUSSELL. Yes, sir. We would have been taking copper worth less than the contract price.

Mr. COBURN. Yes. And then you have also put your finger on another objection that you had in mind at that time which, as I understand it, was that some of these contractors had limited production facilities and if they were permitted to defer delivery to a later time, they then would be faced with the prospect of meeting their deliveries under the contract as it originally was plus the deferred deliveries?

Mr. RUSSELL. Yes, sir.

Mr. COBURN. Which you were afraid they might not be able to meet?

Mr. RUSSELL. Yes. That was true with respect to at least two contractors I can think of.

Mr. COBURN. And at this time we were buying copper toward our objective, were we not? We had not reached our objective.

Mr. RUSSELL. At all times we are talking about, there was an open objective in copper for the stockpile.

Mr. COBURN. Now, Mr. Russell, really this problem must be looked at, it seems to me, from two different aspects. First, the contracts that were in existence under the Defense Production Act and restricting our testimony just to them, how do you think the deferrals should have been handled with reference to the Defense Production Act contracts?

Mr. RUSSELL. Well, the purpose of the deferrals was to put the copper which would otherwise have been delivered to the Government into the general stream of the economy, and it seems to me that that purpose would have been just as well served either by taking delivery and selling it so that it would go into the stream of commerce and industry, or by authorizing the contractors to sell for our account, in both of which cases it would have gone through the normal channels of trade, as I see it.

Mr. COBURN. And in both cases, if it had been handled either way, the Government would have enjoyed the benefit of the difference between the market price and the contract price?

Mr. RUSSELL. Yes, sir. I think that would be true.

Mr. COBURN. And as to the stockpile contracts now, what was your feeling about how that should be handled?

Mr. RUSSELL. Well, considering the stockpile contracts, it had to be recognized, I think, that we would not have been in the same position. I mean the Government, General Services Administration, if it once took possession of that copper and acquired title to that copper, it would then have been a part of the national stockpile and it could not have been sold out of the stockpile without, as has been testified to here, a joint resolution of Congress, or I think it was possible under section 5 of the Stockpiling Act, if I remember correctly, that the President in an emergency could order it out of the stockpile. But in any case, it was not possible for an executive agency of its own initiative to sell that copper on the market as could be done in the case of Defense Production Act copper.

Now, it would seem to me that there were therefore limitations on our ability to deal with stockpile copper which did not obtain in respect to the Defense Production Act copper, but I think that we could at least have gotten price protection in the sense that the price of the contract could have been adjusted so that at the time the deferred deliveries were made, we would have gotten the benefit of either the lower of the contract or the market price, so that even if we didn't win on the proposition, we would at least have prevented any loss.

Mr. COBURN. Did you voice your objections at this time to the deferral of copper to a man by the name of Morin in your office in GSA?

Mr. RUSSELL. Mr. Morin at that time was the financial analyst under my general supervision and was working in the copper field, and he was aware certainly of my views in day-to-day conversations on these things. He understood my views as to the financial aspects of these diversions.

Mr. COBURN. Well, he understood that you were objecting to these deferrals; is that correct?

Mr. RUSSELL. Yes, sir.

Mr. COBURN. Do you have before you a memorandum of a telephone conversation that Mr. Morin had with Mr. Witt on this subject at this time?

Mr. RUSSELL. My recollection is that the telephone conversation was not with Mr. Witt necessarily.

Mr. COBURN. There was a telephone conversation concerning a talk that he had with Mr. Witt, as I understand it.

Mr. RUSSELL. Yes, that is correct. The telephone conversation appears to have been with a member of P. W. Jordan's office and it related to a conversation that he had had with Mr. Witt. It was dated—the note of this conversation was prepared in Mr. Jordan's office and as it appeared in our files, was dated April 25, 1955.

Mr. COBURN. Excuse me, Mr. Witness.

Mr. Chairman, I want to offer into the record here this memorandum to be copied here. It is short. May I read it?

Senator SYMINGTON. Please do.

Mr. COBURN (reading):

APRIL 25, 1955.

MEMORANDUM FOR MR. JORDAN RE DMP COPPER CONTRACTS

Mr. Morin called after talking with you and said he had refreshed his memory re DMP contracts and talked again with Mr. Witt. The question as to procedure in our diverting copper to industry and permitting our supplier to sell to industry rather than deliver under contract and our selling to industry was taken into consideration prior to the time the procedure was put into effect. We were told that the procedure we were to follow was set up by Secretary Weeks of Commerce and Secretary Humphrey of Treasury and governed by Executive order and that there was nothing GSA could do about it.—S.A.L.

Reference is made to Mr. Morin in this memorandum. You said he worked for you in your Department?

Mr. RUSSELL. Yes. He was a financial analyst who worked under my general supervision and he happened to have been the one of my staff who was assigned to and regularly worked with copper.

Mr. COBURN. Who is Mr. Jordan to whom this memorandum went?

Mr. JOHNSON. Mr. P. W. Jordan. He was then Assistant Comptroller, Credit Finance. He then occupied the position I now do. He is present in the room this morning, or was. I haven't turned around and looked.

Mr. COBURN. Reference is made to DMP contracts in this memorandum. Does this mean the Defense Production Act contracts?

Mr. RUSSELL. Yes, sir. DMP actually—the initials stood for Defense Materials Procurement, and they were the symbol assigned to the serial numbers of contracts made pursuant to the Defense Production Act.

Mr. COBURN. Do you remember this memorandum being before you at the time?

Mr. RUSSELL. No, sir. To the best of my knowledge the first time I saw this memorandum was on April 5 of this month. It appeared in our files.

Mr. COBURN. Now, Mr. Witness, do you recall having discussed this objection of yours to deferrals with a Mr. Walsh of GSA?

Mr. RUSSELL. Yes, sir. Mr. Walsh, of course, at that time was Commissioner of Emergency Procurement Service.

Mr. COBURN. Of GSA.

Mr. RUSSELL. General Services Administration. And he was—that was the service which at that time had the contracting authority and responsibility for making Stockpile and Defense Production Act contracts, for the administration of those contracts, and for the carrying out of the directives issued by the Office of Defense Mobilization.

Mr. COBURN. Had you or men in your office such as Mr. Brooks talked with Mr. Walsh about the necessity of at least getting price protection for the Government on these stockpile contracts in the event that delivery was deferred?

Mr. RUSSELL. Yes, sir. I can remember discussions with Mr. Walsh. I could not have dated them but I have ascertained from the records that such discussions were held on the 10th of June 1955, and also apparently on the 14th of June 1955, and I do of my own recollection know that we did discuss these things with Mr. Walsh.

Mr. COBURN. Do you have a memorandum in your file that recalls that to you?

Mr. RUSSELL. Yes, sir. There was a memorandum, a copy of a memorandum, to be accurate, dated the 15th day of June 1955. It was prepared by Assistant General Counsel, General Services Administration, and refers to a meeting between Mr. Walsh, himself, and me on the preceding day, if I remember correctly, the 14th of June. I believe that I have since found notes that indicate that we also had discussions a few days earlier with Mr. Walsh on the subject.

Mr. COBURN. Mr. Chairman, at this point I would like to incorporate in the record this memorandum to which the witness has adverted and not being too long, would like to read it if I may.

Senator SYMINGTON. Without objection.

Mr. COBURN (reading):

JUNE 15, 1955.

To: Director, Purchase Division, EP.
From: Assistant General Counsel, LD.
Subject: Copper diversion.

In connection with copper diversions directed by ODM for the month of June and for the third calendar quarter of 1955, certain questions have been raised concerning the conditions, if any, to be attached to such diversion. I am informed that Mr. Kendall informed Mr. Elliott that no condition with respect to the distribution of the copper was to be imposed. In other words, that GSA was to assume no responsibility for such distribution. I have been informed by Mr. Witt that this position was confirmed to him by Mr. Floyd of ODM.

Mr. Walsh advised Johnston Russell and me yesterday afternoon that he had had a discussion last Saturday morning with Dr. Flemming, Mr. Floyd, and Mr. Shepard. Mr. Walsh said that at that time he asked the following questions of Dr. Flemming:

1. Whether GSA should require that replacement copper be delivered to the Government under fixed priced contracts at the lower of the contract price, or the market price in effect at the time of replacement.

2. Whether GSA should require that under market price contracts the replacement copper to be delivered should be paid for at the lower of market price at time of diversion, or market price at time of replacement.

Mr. Walsh further said that Dr. Flemming said that neither condition should be imposed. Based on the foregoing, this office is, therefore, approving the telegrams authorizing the Copper Division discussed in this memorandum.

Do you recall talking with Mr. Walsh about this memorandum?

Mr. RUSSELL. Yes. I recall that, talking with him, and that being the subject of conversation. As I say, I could not have dated it without having reference to the record, but I do recall the conversation.

Mr. COBURN. Mr. Walsh I believe is also dead, is he?

Mr. RUSSELL. Yes. He died in May 1956, I think.

Mr. COBURN. Mr. Kendall mentioned in this memorandum is who?

Mr. RUSSELL. He is not identified by initials but there is a Mr. Kendall who I think is counsel for the Office of—now OEP, then the Office of Defense Mobilization.

Mr. COBURN. And Mr. Elliott referred to in the memorandum?

Mr. RUSSELL. I believe that to have been Mr. Maxwell Elliott, then General Counsel, General Services Administration. That also is not identified by initials.

Mr. COBURN. Now, Mr. Russell, a little later was there another problem with reference to cancellation of copper deliveries that came up in connection with the International Nickel Co.?

Mr. RUSSELL. Yes, sir. That occurred to the best of my recollection in April of 1956, about a year subsequent to the events we have been talking about. Am I correct in that date?

Mr. COBURN. What was the date you gave us?

Mr. RUSSELL. I said in April 1956, to the best——

Mr. COBURN. April 16, 1956, is the exact date, Mr. Witness.

Mr. RUSSELL. Yes, and in that memorandum I should preface this by saying that the International Nickel Co. had a contract for the delivery of copper, a defense production cost contract calling for the delivery of copper to GSA, and it is one of the group of contracts which was put in evidence earlier. And in that——

Mr. COBURN. Excuse me. Before you leave that contract, just to make sure that everyone understands this, this particular contract was one where the International Nickel Co. was making a larger delivery of nickel to the Government for the stockpile; isn't that right?

Mr. RUSSELL. Yes.

Mr. COBURN. But incidentally, also, a considerable amount of copper.

Mr. RUSSELL. Yes. I think copper is a byproduct of the International Nickel Co.'s operation and copper was a part of the contract.

Mr. COBURN. And deliveries had been met and made promptly by International Nickel of the copper it was required to deliver to the Government under this contract.

Mr. RUSSELL. Yes, sir.

Mr. COBURN. All right. Now, on the 16th of April 1956, what, if anything, occurred with reference to that?

Mr. RUSSELL. The International Nickel Co., as I recall, proposed that if General Services Administration would cancel out its rights, forgo its obligation to delivery of copper under that contract—International Nickel Co. wishing to deliver that copper to its customers—it would pay General Services Administration the difference between the contract price and the market price as it obtained during the term of deliveries under the contract. I do not—as I recall that memorandum, there was no——

Mr. COBURN. You don't need to go into it too extensively now, Mr. Witness.

I have before me a letter of the International Nickel Co., a copy of their letter to General Services Administration, which I would like to incorporate in the record to be copied here, and to read briefly from the parts of the letter that are pertinent:

APRIL 16, 1956.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C.:

In view of the continued stringent supply situation of copper and the sharp increase in the requirements of our trade, including especially our Canadian trade, we should like to propose to you that our contract DMP–80 be amended to cancel the quantities of copper scheduled for delivery during the balance of 1956 and also during 1957. * * *

The writer also says:

Actually, of course, the provision requiring you to take the copper has proved to be a very profitable one to the Government, as is evidenced by the fact that the contract price for copper is currently 28.21 cents as contrasted to the last published monthly E. & M.J. domestic refinery average of 46.728 cents. Currently also the nickel called for by the contract is not being sold to the Government but is being marketed to the trade for civilian consumption in accordance with the Government's wishes.

The cancellation is desired solely to enable us to meet the industrial needs of our customers and with no intention of our realizing higher prices than provided for in the contract. In connection with the cancellation of deliveries of copper we, therefore, would be prepared to pay the Government within 15 days after the close of each month an amount equal to the 1,666,666 pounds of copper deliverable during said month, multiplied by the excess of the published average E. & M.J. domestic refinery quotation of said month over the contract price which would have been applicable for said month. Since electrolytic copper cathodes are deliverable under the contract, our standard discount for cathodes, currently one-eighth of 1 cent per pound, would be deducted from the E. & M.J. quotation in calculating this excess.

K. H. J. CLARKE,
Assistant Manager, Canadian Sales, International Nickel Co. of Canada.

(The complete letter is as follows:)

APRIL 16, 1956.

GENERAL SERVICES ADMINISTRATION,
Emergency Procurement Service,
Washington, D.C.
(Attention of Mr. John G. Ford. Reference: Contract DMP–80–Copper).

In view of the continued stringent supply situation of copper and the sharp increase in the requirements of our trade, including especially our Canadian trade, we should like to propose to you that our contract DMP–80 be amended to cancel the quantities of copper scheduled for delivery during the balance of 1956 and also during 1957. Should it not be possible to effect such a cancellation we believe we would be compelled, in responding to the requirements of our domestic Canadian market, to curtail our exports to our customers in Great Britain and the United States.

We make this proposal, having in mind that when the contract was negotiated your interest was essentially in the nickel deliveries provided thereby, and the provisions concerning copper deliveries were made at our request to assure us of a market for that metal, inasmuch as it would have to be produced along with the nickel.

Actually, of course, the provision requiring you to take the copper has proved to be a very profitable one to the Government, as is evidenced by the fact that the contract price for copper is currently 28.21 cents as contrasted to the last published monthly E. & M.J. domestic refinery average of 46.728 cents. Currently also the nickel called for by the contract is not being sold to the Government but is being marketed to the trade for civilian consumption in accordance with the Government's wishes.

The cancellation is desired solely to enable us to meet the industrial needs of our customers and with no intention of our realizing higher prices than provided for in the contract. In connection with the cancellation of deliveries of copper we, therefore, would be prepared to pay the Government within 15 days after the close of each month an amount equal to the 1,666,666 pounds of copper deliverable during said month, multiplied by the excess of the published average E. & M.J. domestic refinery quotation of said month over the contract price which would have been applicable for said month. Since electrolytic copper

cathodes are deliverable under the contract, our standard discount for cathodes, currently one-eighth of 1 cent per pound, would be deducted from the E. & M.J. quotation in calculating this excess.

We understand that such an arrangement will require the approval of the Office of Defense Mobilization. In view of the urgent need for alleviating a critical deficiency in our ability to meet the copper requirements of our customers we would, therefore, very much appreciate your arranging a meeting as soon as possible at which you, representatives of the Office of Defense Mobilization, and representatives of this company could discuss the matter. We would prefer either Thursday or Friday of next week, if this would be satisfactory.

K. H. J. CLARKE,
Assistant Manager, Canadian Sales, the International Nickel Co. of Canada, Ltd.

Well, do I understand this proposal, then, Mr. Russell, to be that the International Nickel Co. proposed to GSA that for the balance of 1956 and 1957, that International Nickel would sell the copper that it was required to deliver to the Government under this contract to industry, but that it would pay the Government the difference between the contract price and the market price, which market price was higger than the contract price at the time that they made this proposal, is that correct?

Mr. RUSSELL. I so understood it.

Mr. COBURN. Now, did this proposal of International Nickel come to your attention?

Mr. RUSSELL. Yes, sir; it did.

Mr. COBURN. And what was your reaction?

Mr. RUSSELL. I thought we ought to accept the offer because I thought that it was financially advantageous to the Government in the sense that we could have—this profit would have accrued to us, the difference between the market and the contract price, and I wrote a memorandum to the Emergency Procurement Service on the 23d of April 1956, in which I so stated.

I also pointed out that if the Government was interested in getting this copper for the stockpile for other purposes, there were in existence other copper contracts, not those which we are referring to at this hearing, but the type of contract which we know is a "put" contract type under which the Government had the right to call, to require that the delivery, that is, of even greater quantities of copper than in the Inco contract.

Mr. COBURN. So that your study of this problem at this time disclosed that if the Government accepted Inco.'s proposition and allower them to sell copper on the outside, that there would still be plenty of copper deliveries under call rights that the Government had under other copper contracts to move on to fulfill the objective of the Government at that time.

Mr. RUSSELL. Stockpile objective, that is true, but I don't think it is quite correct to say there would be deliveries. We had the right to require deliveries, but unless we exercised that right, we would not have gotten it.

Mr. COBURN. Of course not. But under the call rights, if you had exercised your call rights, you would have gotten delivery, wouldn't you?

Mr. RUSSELL. Yes, sir.

Senator SYMINGTON. Let me see if I understand this correctly. When the nickel company offered to pay the difference between what

they could sell the copper for on the outside market and what they would be required under contract to put into the inventory, your feeling was that the Government should accept their offer because if it needed copper, it still had adequate places from which to obtain copper, based on "put" contracts with other companies. Is that correct?

Mr. RUSSELL. That is correct, sir.

Senator SYMINGTON. Thank you.

Mr. COBURN. And you felt, as I understand it, that this proposition should be accepted because the Government simply couldn't lose, could it?

Mr. RUSSELL. No. I couldn't see how it could lose and it stood to gain immediately. How much was, of course, speculative because you couldn't foresee completely the trend of the copper prices.

Mr. COBURN. Of course, if the price of copper drifted down to a lower point than the contract price, International Nickel would not have any obligation to pay anything.

Mr. RUSSELL. That is correct, sir.

Mr. COBURN. But they still would be obliged to pay the contract price.

Mr. RUSSELL. Well, they wouldn't be obliged to pay us anything at that time because they would be selling to their industrial customers.

Mr. COBURN. No. I think you didn't understand me.

Mr. RUSSELL. Perhaps I didn't.

Mr. COBURN. Well, yes. If they were selling to their industrial customers, that is true enough.

Mr. RUSSELL. Yes, sir.

Mr. COBURN. So there was no way for the Government to lose, was there?

Mr. RUSSELL. No, sir. Not that I could see. There was no corresponding obligation in their offer on the part of the Government to pay them money if the price of copper went below the contract price.

Mr. COBURN. Mr. Chairman, I have here a memorandum of the witness in which he recommends that this offer of International Nickel be accepted. I want to offer this for the record. And I would like to read from just portions of this memorandum, if I may.

Senator SYMINGTON. Without objection.

Mr. COBURN (reading):

APRIL 23, 1956.

To: Chief, Contracts Administration Branch, Materials Division, EPS.
From: Deputy Director, Credit and Finance Division, Office of the Comptroller.
Subject: International Nickel Co., DMP–80, proposal for cancellation of copper deliveries.

In its telegram of April 16, 1956, Inco proposes cancellation of its obligations to deliver copper under subject contract, upon payments to GSA each month determined by the contract quantity multiplied by the excess of the market over contract price.

Based on the market at the time the offer was made, 46.728 cents, and the present contract price of 28.21 cents, this difference is 18.518 cents per pound, or 370.36 per ton, on about 28,000 tons, or about $10,370,000.

* * * * * * *

Acceptance of Inco's offer will net an immediate "profit." Even if the price of copper goes down, as seems to be the current opinion, so that this margin decreases also, GSA will already have realized the profit on current deliveries and,

since this is a "D" contract, will be in funds to acquire copper for the stockpiles for less than the aggregate of the contract price plus the payments received from Inco * * *.

If the reason for declining Inco's offer is that the Government wants copper for the stockpile, I have already, in another connection (Calumet & Hecla), pointed out that GSA has call rights at market under six (6) "D" contracts on 27 million pounds of copper per month until December 31, 1956 (when the A.S. & R. contract terminates), thereafter on over 24 million pounds until March 1957, when the San Manuel production is scheduled to begin, and thereafter on over 36 million pounds until December 1957. After December 1957, calls can be exercised on over 33 million pounds until the fall of 1959.

GSA, therefore, can get copper in much greater quantities than the deliveries called for under the Inco contract * * *.

The argument against accepting Inco's offer is that GSA would be giving up rights under a contract which, as to price, has proved advantageous to the Government. This is true, but if Inco pays the difference between market and contract, GSA is no worse off from the standpoint of money, and may profit if the copper is not replaced from other sources until after the price declines.

JOHNSTON RUSSELL.

(Memorandum, read in part above, follows:)

APRIL 23, 1956.

To: Chief, Expansion Branch, EPS, Materials Division.
From: Deputy Director, Credit and Finance Division, Office of the Comptroller.
Subject: International Nickel Co. DMP–80, proposal for cancellation of copper deliveries.

In its telegram of April 16, 1956, Inco. proposes cancellation of its obligations to deliver copper under subject contract, upon payments to GSA each month determined by the contract quantity multiplied by the excesss of the market over contract price.

Based on the market at the time the offer was made, 46.728 cents, and the present contract price of 28.21 cents, this difference is 18.518 cents per pound, or $270.36 per ton, on about 28,000 tons, or about $10,370,000.

Inco. is correct in saying that when the contract was negotiated, our interest was in the nickel, and that we agreed to take the byproduct copper at Inco.'s insistence.

Whether or not Inco.'s representation that, unless this cancellation is made, they will be forced to curtail deliveries to English and U.S. customers, is to be taken at face value is not known. Nevertheless, in the absence of compelling reasons of which we are not aware, we are reluctant to refuse Inco.'s offer.

Acceptance of Inco.'s offer will net an immediate "profit." Even if the price of copper goes down, as seems to be the current opinion, so that this margin decreases also, GSA will already have realized the profit on current deliveries, and, since this is a D contract, will be in funds to acquire copper for the stockpile for less than the aggregate of the contract price plus the payments received from Inco.

The reply to Inco. is an offer to permit Inco. to defer deliveries until December 31, 1956; GSA will not immediately receive the copper. It seems probable that the policy of deferring deliveries may be continued, though possibly not at the same rate, until supply and demand are at least more nearly in balance. Such a condition, it is reasonable to expect, will coincide with a decline in price.

If the reason for declining Inco.'s offer is that the Government wants copper for the stockpile, I have already, in another connection (Calumet & Hecla), pointed out that GSA has call rights at market under six D contracts on 27 million pounds of copper per month until December 31, 1956 (when the A.S. & R. contract terminates), thereafter on over 24 million pounds until March 1957, when the San Manuel production is scheduled to begin, and thereafter on over 36 million pounds until December 1957. After December 1957, calls can be exercised on over 33 million pounds until the fall of 1959.

GSA, therefore, can get copper in much greater quantities than the deliveries called for under the Inco. contract.

Also, if Inco.'s statement be taken at face value, and if the United States insists on Inco. delivering, then Inco. says it will curtail deliveries to U.S. consumers from other production, so that the domestic supply situation will not have been improved.

The argument against accepting Inco.'s offer is that GSA would be giving up rights under a contract which, as to price, has proved advantageous to the Government. This is true, but if Inco. pays the difference between market and contract, GSA is no worse off from the standpoint of money, and may profit if the copper is not replaced from other sources until after the price declines.

JOHNSTON RUSSELL.

Mr. COBURN. Now, Mr. Witness, did a Mr. R. A. Heddleston of GSA write a letter to the ODM with reference to this matter?

Mr. RUSSELL. Yes, sir; he did.

Mr. COBURN. Who was Mr. Heddleston?

Mr. RUSSELL. Mr. Heddleston at that time was Acting Commissioner, Emergency Procurement Service, which position——

Mr. COBURN. Of GSA?

Mr. RUSSELL. Of GSA.

Mr. COBURN. And who was Mr. Ogden, Chester F. Ogden?

Mr. RUSSELL. I believe deputy for Dr. Flemming in ODM. I am not quite sure of his title.

Mr. COBURN. This letter was dated June 15, 1956, was it not?

Mr. RUSSELL. Well, I don't find my copy here but I recall that to be the date; yes, sir.

Mr. COBURN. Mr. Chairman, I want to offer in evidence—rather, offer for the record here this letter to be copied here but I will not read it, but will merely say to the witness it is a fact, is it not, that this letter recommended that the International Nickel Co. offer be accepted?

Mr. RUSSELL. I believe that to be the case, sir.

(The letter referred to follows:)

GENERAL SERVICES ADMINISTRATION,
June 15, 1956.

Re contract No. DMP–80—the International Nickel Co. of Canada, Ltd.

Mr. CHESTER F. OGDEN,
Assistant Director for Materials,
Office of Defense Mobilization,
Washington, D.C.

DEAR MR. OGDEN: In April 1956, Inco proposed that copper deliveries under this contract be canceled during the balance of 1956 and during 1957 for which, as consideration, they would pay to the Government, at the end of each month, the difference between the contract price (now 28.21 cents per pound) and the average E&MJ domestic refinery price for 1,666,666 pounds deliverable during the month. Copy of Inco's telegram of April 16 is enclosed.

This proposal was discussed at a meeting held in your office on April 18 and attended by representatives of ODM, BDSA, and OSA, at which time it was the consensus that no copper contractual commitments should be canceled.

Since GSA, subject to "cash return" termination provisions, has "call" rights at market price under DPA floor price contracts on 23 million pounds of copper per month until March 1957 and thereafter on over 30 million pounds per month until the fall of 1959, our financial people have pointed out that if this Inco offer is declined, and in view of an indicated falling market, the Government may well be forgoing an opportunity to realize an immediate profit without worsening its potential position, supplywise.

The other questions raised by the Inco proposal having reference to availability of copper supplies in Canada, Great Britain, and the United States are beyond the policy determination scope of GSA.

The proposal of the International Nickel Co. of Canada, Ltd., is therefore placed before you with the request that you furnish us with a policy determination as to its acceptance or declination.

Very truly yours,

R. A. HEDDLESTON, *Acting Commissioner.*

Mr. COBURN. Now, do you have before you a copy of a letter by Dr. Arthur S. Flemming, Director of ODM, dated July 2, 1956, to Mr. Franklin G. Floete, Administrator, GSA, in answer to Mr. Heddleston's letter?

Mr. RUSSELL. There is such a letter, I know. I don't immediately find it in my file here.

Mr. COBURN. Well, you recall the letter, do you not?

Mr. RUSSELL. I do recall the letter in which he stated that——

Mr. COBURN. That is all right. I am going to read it, so you don't need to give the substance of it.

Mr. Chairman, at this point I would like to incorporate in the record this letter dated July 2, 1956, for copying here, and to reading the same. It is rather short. [Reading:]

Hon. FRANKLIN G. FLOETE,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. FLOETE: This is in reply to Mr. R. A. Heddleston's letter of June 15, to Mr. Chester F. Ogden, in regard to Contract No. DMP–80—the International Nickel Co. of Canada, Ltd. (Inco).

An attempt on the part of the Government to profit from the copper situation as suggested by the financial advisers in the General Services Administration (GSA) could have serious consequences. The proposal submitted by Inco would place the U.S. Government in the position of speculating in commodities. Acceptance of the proposal could leave the impression in some quarters that the U.S. Government might, by its actions, influence the copper market to its own advantage.

Insofar as pressure for Canadian supplies of copper is concerned, it should be noted that Canadian copper production has gained faster than Canadian consumption, and the extraordinary heavy demands on world supplies of copper have abated considerably in recent months. At the time the Inco telegram was sent to GSA on April 16, the London Metal Exchange price for copper was 47¾ cents per pound. The current London Metal Exchange price is about 37 cents.

By canceling the Inco copper contract, the U.S. Government would establish a precedent which may be unwise in that it may lead to many additional requests for cancellations of other contracts.

The status of our copper stockpile should also be kept in mind. As you know, the inventory is considerably below the minimum objective.

I therefore recommend that the Inco request for cancellation of their copper contract No. DMP–80 be denied.

Sincerely yours,

ARTHUR S. FLEMMING, *Director.*

Mr. Witness, was the International Nickel Co. so advised that their offer was declined?

Mr. RUSSELL. They were, by General Services Administration.

Mr. COBURN. Following the receipt of Dr. Flemming's letter?

Mr. RUSSELL. Yes, sir.

Senator SYMINGTON. What are your plans for the afternoon?

Mr. COBURN. We can go on if it is agreeable with the committee.

Senator SYMINGTON. Without objection, we will recess until 2:15.

I would ask a question. Do you know why we were agreeable to cancellation of contracts that would benefit suppliers, but weren't willing to cancel a contract where a supplier offered to pay $10 million to the Government to obtain cancellation?

Mr. RUSSELL. I don't have any information as to why this was done, no, other than the reason which is stated in that letter.

Mr. Chairman, if I may interject something there, the $10 million was based upon the assumption that the market would stay where it was. It wasn't necessarily a true figure.

Mr. COBURN. We will have true figures on that.

Senator ENGLE. Could I ask one question? How could this proposed operation be construed as speculating in the market? That is what Dr. Flemming said in his letter, isn't it?

Mr. COBURN. Yes, sir.

Mr. RUSSELL. Well, it didn't look speculative to me for the immediate future because even though we might look forward to a decline in the copper price at that time, if I remember the figures correctly, it was at its high point to which it had gone on February 21, and it didn't seem at all possible to me that it would decline so abruptly that before they could make a delivery under this contract, it would go below the contract price. In other words, it seemed almost a certainty that Inco would have been obliged to make some payments to us of the differential between the contract price and the somewhat higher market price.

Senator SYMINGTON. Even if it could be construed as speculation, it would have been to the advantage of the taxpayer, would it not?

Mr. RUSSELL. Well, I dislike to use the word "speculation" but I think that I would be obliged to agree that that is substantially accurate. To the extent that there is any uncertainty, I can see that, and furthermore since there was no corresponding obligation on the Government to pay Inco in the event that this situation is reversed, it didn't seem to me—it looked like a proposition where we are bound to win and can't lose. How much you came out ahead, of course, would depend on the trend of the market.

Mr. COBURN. Mr. Russell, have you computed the exact loss that the Government had in not accepting this offer of International Nickel?

Mr. RUSSELL. Yes, sir. I made a calculation based upon the market prices as they continued over a period of time during this time in which this contract was being performed, and incidentally I should say to you that this contract called for a specific quantity per month of 1⅔ million pounds a month, and I believe that the amount which the Government did not realize because the offer wasn't accepted approximates $2,100,000.

Now, I use the word "approximate" deliberately because in making such a calculation where market changes occurred during a month, I had to assume a level rate of delivery, and allocate the price according to the quantities.

Mr. COBURN. But subject to that assumption, your total figure is $2,114,133.

Mr. RUSSELL. That was the result of my calculation on that basis.

Senator SYMINGTON. Were they willing, at any one time, to cancel out the whole contract, and pay on the basis of 46 cents?

Mr. RUSSELL. Not to my knowledge, sir.

Senator SYMINGTON. I wanted to be clear on that.

Mr. RUSSELL. No. I don't recall any such proposition.

Senator SYMINGTON. When they asked if they could cancel the contract out, what would be the basis of price incident to the escallation?

Mr. RUSSELL. You are referring to the offer they did make?

Senator SYMINGTON. That is right.

Mr. RUSSELL. It was stated in that offer, they offered to pay us the difference between the contract price and the market, the market price to be calculated in accordance with their terms as stipulated in their letter which would be the market price, as I recall it, and I am not looking at the letter, at the time they actually delivered the copper less always an allowance for the cathodes.

Senator SYMINGTON. So it would be a running price and not just a flat buyout.

Mr. RUSSELL. It was not a flat buyout. The amount would be varied.

Mr. COBURN. Now, Mr. Russell, your calculation here with reference to the amount lost by the Government in this connection starts with May 1956, do they not?

Mr. RUSSELL. Yes, that was selected on the assumption that if we acted promptly in accepting this offer of Inco's, that the deliveries scheduled for May could have been made to their industrial customers and we could have realized the difference between contract and markets.

Mr. COBURN. Their offer is dated April 16, 1956.

Mr. RUSSELL. That was right, yes, sir.

Mr. COBURN. And when do your calculations cut off insofar as Government losses are concerned?

Mr. RUSSELL. I will have to look at my work papers.

Mr. COBURN. Doesn't it show on your memorandum that you have in front of you?

Mr. RUSSELL. Oh, yes, it does. The market price of copper went below the contract price as escalated on June 18, 1957, I believe.

Mr. COBURN. At which time, if the Inco proposal had been accepted, Inco would not have been obliged to pay the Government anything more than—well, anything more.

Mr. RUSSELL. That is right. Their obligation to pay would have ceased at the time and during all times that the market price was at or below the contract price.

Mr. COBURN. Mr. Chairman, I want to introduce in the record here a table that was prepared by the witness showing the losses to the Government in this transaction to be copied here.

Senator SYMINGTON. Which total what?

Mr. COBURN. $2,114,133.

Senator SYMINGTON. Without objection.

(The table referred to follows:)

International Nickel Co., contract No. DMP–80, May 29, 1953

Period	Monthly rate of delivery	Total deliveries	Average market price	Market value	Escalated contract price	GSA payments
	Pound	*Pound*	*Cents per pound*		*Cents per pound*	
May–December 1956	1,666,666	13,333,328	40.66	$5,421,503	28.23	$3,763,998
January–June 18, 1957	1,666,666	9,301,072	32.38	3,011,627	30.66	2,554,999
Total				8,433,130		6,318,997
GSA payments				6,318,997		
Excess of market value				2,114,133		

Mr. COBURN. I have no further questions for this witness.

Senator SYMINGTON. Thank you very much, Mr. Russell. We appreciate your presence here this morning.

We will recess until quarter after 2.

(Whereupon, at 12:10 p.m., the hearing was recessed, to convene at 2:13 p.m. the same day.)

AFTERNOON SESSION

Senator SYMINGTON. The committee will come to order.

Mr. Counsel, who is your next witness?

Mr. COBURN. Mr. Phil W. Jordan, Mr. Chairman.

Senator SYMINGTON. Is Mr. Jordan here?

Mr. JORDAN. Yes, sir.

Senator SYMINGTON. Mr. Jordan, will you raise your right hand?

Do you solemnly swear that the information that you will give this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. JORDAN. I do.

Senator SYMINGTON. Please be seated.

TESTIMONY OF PHIL W. JORDAN, DEPUTY ASSISTANT COMMISSIONER OF PROCUREMENT POLICY, FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

Senator SYMINGTON. Mr. Counsel.

Mr. COBURN. Mr. Chairman.

Mr. Witness, will you state your name and address, please?

Mr. JORDAN. Phil W. Jordan, 7915 Radner Road, Bethesda, Md.

Mr. COBURN. Are you in the Government service at the present time?

Mr. JORDAN. Yes; I am with the General Services Administration.

Mr. COBURN. In what connection?

Mr. JORDAN. I am the Deputy Assistant Commissioner of the Federal Supply Service, GSA.

Mr. COBURN. How long have you been with General Services?

Mr. JORDAN. Since its inception, in 1949.

Mr. COBURN. In 1954, 1955, and 1956, what was your official title in GSA?

Mr. JORDAN. I was the Assistant Comptroller and Director of the Credit and Finance Division in the Office of the Comptroller.

Mr. COBURN. You were head of the division then in which Mr. Johnston Russell was; the man who testified this morning?

Mr. JORDAN. That is correct.

Mr. COBURN. And Mr. Louis Brooks——

Mr. JORDAN. Right.

Mr. COBURN (continuing). Who has not testified yet?

Mr. JORDAN. That is correct.

Mr. COBURN. They were both under you at that time?

Mr. JORDAN. Yes, sir.

Mr. COBURN. Mr. Jordan, reference was made this morning to a memorandum dated April 25, 1955, of a telephone call that Mr. Morin made to Mr. Jordan, after talking with you—Mr. Jordan here—and

which said that he had refreshed his memory in re the Defense Production Act contracts, and talked again with Mr. Witt.

Do you have a copy of that memorandum in front of you?

Mr. JORDAN. I do.

Mr. COBURN. And he said in the memorandum here that the procedure as to diverting copper to industry, and permitting the suppliers to sell to industry, rather than deliver to the Government, was taken into consideration prior to the time that the procedure was put into effect.

And he said that he was told that the procedure that "we were to follow was set up by Secretary Weeks of Commerce and Secretary Humphrey of Treasury, and governed by executive order," and that there was nothing that GSA could do about it.

Do you know what it was that provoked this memorandum?

Was there any discussion in GSA at the time about whether cancellations and deferrals was a proper method of diverting copper to the industry?

Mr. JORDAN. Yes, there was. This had come to my attention—had been brought to my attention by Johnston Russell——

Mr. COBURN. You mean this problem?

Mr. JORDAN. The problem.

Mr. COBURN. Yes.

Mr. JORDAN. And also the problem had, at that time, been accentuated by a report of the General Accounting Office representative to GSA.

We were exploring every possible means in our office of recapturing the situation as regards these cancellations and diversions. We are seeking appropriate methods which might be adopted to carry out the basic objectives of the authorizations from ODM while at the same time protecting the interests of the taxpayer.

Mr. COBURN. And was it in connection with your activities in that respect that this memorandum came to your attention?

Mr. JORDAN. Yes, I had called Mr. Morin, who was a member of the staff under Mr. Russell, and asked him to develop all the information he could concerning the background of these directives.

Mr. COBURN. And did you talk with Mr. Morin after you saw this memorandum?

Mr. JORDAN. Yes, I talked to him.

Mr. COBURN. What did he say?

Mr. JORDAN. He merely confirmed what is set forth in this note, which was a note from my secretary to me of this conversation.

Mr. COBURN. That is to say, that Mr. Morin said he had talked to Mr. Witt——

Mr. JORDAN. Right.

Mr. COBURN. And that Mr. Witt said there was no need of making any objection to this; that the procedure had already been set up by Secretary Weeks of Commerce, and the Secretary of the Treasury?

Mr. JORDAN. That was the sense of it, that we should not pursue the matter.

Mr. COBURN. Now, Mr. Witt—who was he?

Mr. JORDAN. Mr. Witt, at that time, was in the Emergency Procurement Service and, I believe, his title was the Coordinator of Sales.

Mr. COBURN. Of GSA?

Mr. JORDAN. Yes.

Mr. COBURN. He was entrusted with the responsibility, was he not, of working out these deferrals and cancellations in GSA when you began to receive directives from Dr. Flemming?

Mr. JORDAN. Well, I believe his primary job was one in the realm of the sale of the commodity to industry, and not necessarily one having to do with the amendment of contracts or I could be mistaken about that.

Mr. COBURN. Yes. Well, was he not the one who had the contact with ODM with reference to deferrals and cancellations?

Mr. JORDAN. He had the primary contact, yes.

Mr. COBURN. All right. Now, do you recall a letter of Dr. Flemming's dated May 27, 1955, to Mr. Snyder, Al E. Snyder, of General Services Administration, a letter which is already before us?

Mr. JORDAN. Yes, I do.

Mr. COBURN. That is a letter in which he said that it had been a mistake to cancel the deliveries for the second quarter of 1955 and hereafter there would be deferrals of deliveries.

Do you recall that letter?

Mr. JORDAN. Yes, I do.

Mr. COBURN. And I assume that letter was brought to your attention at the time that it was received in GSA?

Mr. JORDAN. Yes.

Mr. COBURN. Were you, too, concerned about whether deferring delivery was a good thing for the Government?

Mr. JORDAN. I was not concerned about the authority to defer delivery because I felt that the necessity for channeling copper to industry was a matter beyond the competence of myself and my own staff.

My job was to look at each of these transactions in terms of their financial implications, and devise the methods and recommendations that would be the most attractive from the business standpoint without concerning ourselves with the decision as to whether copper should or should not be released to industry.

Mr. COBURN. Well, perhaps, I did not make my question clear. I did not mean whether you had the responsibility of determining whether these deferrals should be granted, but did you object to the deferrals as a basis of doing business here?

Mr. JORDAN. Yes. Under the circumstances we objected to a deferral without any appropriate price protection to the Government. We felt——

Mr. COBURN. Another, excuse me, you agreed with Mr. Johnston Russell, who testified this morning——

Mr. JORDAN. Yes.

Mr. COBURN. That this was not a good deal from the standpoint of the Government?

Mr. JORDAN. Right. We saw eye to eye.

Mr. COBURN. There is a memorandum dated June 16, 1955, that was signed by Mr. Russell.

Do you have a copy of that before you?

Mr. JORDAN. I do.

Mr. COBURN. Mr. Chairman, I am not sure whether this memorandum was introduced into the record this morning or not.

I think that it was not and, to make sure that it is in the record, I would like to offer it at this time to be copied here, but I will read

only one paragraph from this memorandum having to do with copper diversions. [Reading:]

JUNE 16, 1955.

During our discussions of the situation with you, attention has been called to the criticism voiced by GAO of windfalls to contractors and losses of profit to the Government resulting from cancellations of deliveries during the second quarter of 1955.

Attention was also called to the possibilities of advantage to contractors, without corresponding benefit to the Government inherent in deferments of copper deliveries with deliveries at later dates of the contract prices.

Such possibilities are contingent upon future circumstances, principally upon the market price of copper at the time the replacements are made.

In view of the extensive discussions, it is not now necessary to review the possibilities in detail.

Does that pretty well reflect the view of you and Mr. Russell and Mr. Brooks in your office at this time with reference to deferrals?

Mr. JORDAN. Yes. We were discussing diversions on a daily basis. This memorandum reflects the views that we held at that time.

(Memorandum, read in part above, follows:)

JUNE 16, 1955.

To: The Commissioner—E, Emergency Procurement Service.
From: Deputy Director, Credit and Finance Division, Office of the Comptroller.
Subject: Copper diversions. Telegrams to:
Miami Copper Co., Contract No. DMP–57.
Miami Copper Co., Contract No. GS–00P–10332(SCM).
Granby Consolidated, Contract No. GS–00P–1.
Also form for telegrams to:
Falconbridge Nickel Mines, Ltd., Contract No. DMP–60.
International Nickel Co., Contract No. DMP–80.
Banner Mining Co., Contract No. DMP–83.
Copper Range Co., Contract No. DMP–89.
Howe Sound Co., Contract No. DMP–92.
Appalachian Sulphides, Contract No. DMP–94.

We have cleared the above telegrams to Miami Copper Co. (2), and to Granby Consolidated, authorizing diversions to industry of copper due the Government during the third calendar quarter 1955, on condition (1) that the diverted copper be delivered to the Government by June 30, 1955; (2) that the sales to industry be at the published domestic market price; (3) that the contractors report monthly on sales; and (4) that any quantities not diverted be delivered to the Government per contract—in essence.

During our discussions of the situation with you, attention has been called to the criticism voiced by GOA of windfalls to contractors, and losses of profit to the Government, resulting from cancellations of deliveries during the second calendar quarter of 1955. Attention was also called to the possibilities of advantage to contractors, without corresponding benefit to the Government, inherent in deferments of copper deliveries with deliveries at later dates at the contract prices. Such possibilities are contingent upon future circumstances, principally upon the market price of copper at the time the replacements are made; in view of the extensive discussions, it is not now necessary to review the possibilities in detail.

We understand from our meeting with you that higher authority has determined that diversions shall be made on the basis of deferments, with replacements to be made within a suitable interval of time, at contract prices, as stipulated in the proposed telegrams. We, therefore, do not consider, based upon this understanding, that we should object to transmittal of the proposed telegrams, and we have, accordingly, cleared them.

We do believe that sufficient difference of opinion exists, as to the exact interpretation of ODM's letter of May 27, to make it desirable to secure a confirmation of our understanding of the decision, at the same time reporting on the action taken by GSA as then requested. Accordingly, we have prepared a letter to the Director, Office of Defense Mobilization, which we attached for your clearance, if you think proper, and forwarding.

JOHNSTON RUSSELL.

Mr. COBURN. Now, after this memorandum of April 25, 1955, and your discussion with Mr. Morin, in which he said that Mr. Witt had said that there was nothing that could be done about deferrals and GSA should stop objecting, did you still continue raising objections about it at a later date for a while?

Mr. JORDAN. Yes, we did. I think we pushed quite hard.

We were not satisfied that an authorization meant that our hands were tied, and we felt like we should have freedom to negotiate; at least, undertake to make proposals to contractors which would serve to protect the Government's interest.

We felt that a straight out-and-out deferment was giving up to the contractors a very beneficial situation in terms of the market and the related contract prices without any attempt to——

Senator SYMINGTON. Who did you feel had tied your hands?

Mr. JORDAN. Well, Senator, I cannot identify that our hands were tied by any one individual, but I think that——

Senator SYMINGTON. What group of individuals?

Mr. JORDAN. In my immediate office we felt like the directives were formulated in the Office of Defense Production and that they governed our action.

Senator SYMINGTON. I ask you because you used that phrase.

I wondered who you felt was responsible for policy in this particular case.

If you were this interested in it and tried several times to change it which, based on testimony this morning, seemed a logical position for you to take, you must have known who was resisting it; did you not?

Mr. JORDAN. Well, it was outside the General Services Administration, and we had pushed our associates there, I felt, right to the point where, as you heard testimony this morning, I believe, that Commissioner Walsh had taken the matter up outside of the agency and had reported back that we were not to even pursue price protection on deferments.

Senator SYMINGTON. And who did you report to at that time yourself?

Mr. JORDAN. I reported to the Comptroller and——

Senator SYMINGTON. What was his name?

Mr. JORDAN. Mr. Max Medley.

Senator SYMINGTON. Is he still with the agency?

Mr. JORDAN. No, sir, he is not.

Senator SYMINGTON. Is he in private business?

Mr. JORDAN. I understand he is in private business abroad.

Senator SYMINGTON. And who did he report to?

Mr. JORDAN. To the Administrator.

Senator SYMINGTON. Who was that at that time?

Mr. JORDAN. I believe, Mr. Mansure.

Senator SYMINGTON. In your effort to have a contract you felt was more in the interest of the Government, you were told by whom above you that the position of ODM was you could not do it?

Mr. JORDAN. Well, we were—in my immediate office we were told—when I say "we," Mr. Russell and I—were told by the Commissioner of the Emergency Procurement Service that we could go no further.

I also discussed this matter with my superior, Mr. Medley, and with the General Counsel of GSA and——

Senator SYMINGTON. Who was the Commissioner?

Mr. JORDAN. Mr. A. J. Walsh.

Senator SYMINGTON. And who was the General Counsel?

Mr. JORDAN. Mr. Maxwell Elliott.

Senator SYMINGTON. And they were the ones who told you that——

Mr. JORDAN. Well, not Mr. Elliott, no. Mr. Walsh told us that——

Senator SYMINGTON. The testimony as to why he did that was covered this morning.

Is that correct?

Mr. JORDAN. Yes, sir.

Senator SYMINGTON. I want to be sure we have the lines of authority and responsibility clear.

Mr. JORDAN. Right.

Senator SYMINGTON. Thank you.

Mr. Counsel.

Mr. COBURN. In August of 1955 did you again voice your disapproval of deferrals?

Mr. JORDAN. Yes, I did.

Mr. COBURN. What caused the matter to come to a head at that time?

Mr. JORDAN. As best I can reconstruct, I believe what again provoked further interest and agitation on this matter was the directive of August 25, 1955, for a further deferment of the December and March restorations, which Dr. Flemming authorized to be postponed until June 30, 1956.

Mr. COBURN. And were you told at that time that there was nothing more that GSA could do about it?

Mr. JORDAN. That is correct.

Mr. COBURN. And that is when you finally stopped protesting?

Mr. JORDAN. I think the file reflects that about that time we held another consultation and again reviewed the matter, and felt like there was nothing else we could do; that we had pushed as hard as we could on it, and that we might as well accept the directives that we had received and abide by them.

Mr. COBURN. That was just at the end of August of 1959, was it not——

Mr. JORDAN. Right.

Mr. COBURN (continuing). About August 31?

Mr. JORDAN. Yes, sir.

Mr. COBURN. I have no further questions, Mr. Chairman.

Senator SYMINGTON. Thank you, Mr. Jordan.

Just one more question: Do you feel the same way today as you did then?

Mr. JORDAN. Yes, sir. I have had no reason to change my opinion at all.

Senator SYMINGTON. Thank you.

Mr. JORDAN. Thank you.

Senator SYMINGTON. Mr. Louis Brooks.

Mr. Brooks, you have been sworn before, have you not?

Mr. BROOKS. Yes, sir.

Senator SYMINGTON. Will you consider yourself still sworn?
Mr. BROOKS. I do.
Senator SYMINGTON. Thank you.

TESTIMONY OF LOUIS BROOKS, DEPUTY ASSISTANT COMPTROLLER, CREDIT AND FINANCE, GENERAL SERVICES ADMINISTRATION

Senator SYMINGTON. Mr. Counsel.
Mr. COBURN. Your name is Louis Brooks, is it not?
Mr. BROOKS. Yes, sir.
Mr. COBURN. Mr. Brooks, as I understand it, in 1954, 1955, and 1956, you were supervising financial analysts, were you——
Mr. BROOKS. Yes, sir.
Mr. COBURN (continuing). In GSA?
Mr. BROOKS. Yes, sir.
Mr. COBURN. And, as such, what generally were your duties, without going into them in detail?
Mr. BROOKS. I supervised a group of financial analysts on the staff who participated in the negotiations of contracts, the determination of their financial terms, and making recommendations in that connection to the staff of the Emergency Procurement Service.
Mr. COBURN. Have you, at my request, calculated the loss to the Government and the consequential windfall to the contractors of the three contractors whose deliveries were canceled by ODM in the second quarter of 1955?
Mr. BROOKS. Yes, sir; I have.
Mr. COBURN. Those three contractors, by the way, were who?
Mr. BROOKS. The Copper Range Co., Howe Sound Co., and Miami Copper Co.
Mr. COBURN. At the time of the cancellation the market price on copper was substantially higher than the contract price, was it not?
Mr. BROOKS. Yes, sir; it was.
Mr. COBURN. And by direction of the Director of ODM these contractors were permitted to sell their copper on the outside without being required to deliver any of it to the U.S. Government?
Mr. BROOKS. That is correct.
Mr. COBURN. And how did you calculate the windfall of the contractors or the loss to the Government, however you want to put it?
Mr. BROOKS. The calculations are based on the difference between the prevailing market price at the time the cancellation became effective and the price at which the same copper would have been purchased had it been delivered to GSA.
Mr. COBURN. And what was the contractors' windfall?
Mr. BROOKS. The aggregate of this calculation, in these three cases, is $231,810.
Mr. COBURN. Now, Mr. Brooks, as I understand it from the testimony that we have heard previously today, after this cancellation for the second quarter of 1955, objection was made to this method of doing business by the GAO?
Mr. BROOKS. Yes, sir.

Mr. COBURN. And also by Senator John J. Williams of Delaware, who made a speech on the floor of the Senate about it.

Is that not true?

Mr. BROOKS. That's right.

Mr. COBURN. And it was after that that a letter was received from Dr. Flemming, Director of ODM, on May 27, 1955, by GSA, in which Dr. Flemming said that allowing cancellations had been a mistake and hereafter there would be deferrals.

Do you remember that letter?

Mr. BROOKS. Yes, sir; I do.

Mr. COBURN. When that letter was received in GSA what was your reaction to it?

Mr. BROOKS. I would say we were pleased to the extent that there had been a revision in the practice calling for outright cancellation of Defense Production Act contracts, but on the other hand, to the extent that it continued the treatment of deferring contracts, particularly stockpile contracts, as in the past we regarded the matter as still leaving open to some doubt the wisdom of the program.

Mr. COBURN. What was your objection to the deferrals as you viewed it during any period of time when the market price was higher than the contract price?

Mr. BROOKS. Well, simply stated, my objection was that the Government, by participating in this sort of action, was giving up an immediate profit which would inure to the benefit of the taxpayers. Instead it permitted the contractors to realize this benefit and took on in place of this assured benefit a speculative situation with regard to future deliveries.

Mr. COBURN. As to the contracts for the delivery of copper under the Defense Production Act, the problem was very easy of solution, was it not?

Mr. BROOKS. I believe it was; yes, sir.

Mr. COBURN. Why so?

Mr. BROOKS. It would have been quite simple to have required the delivery of copper to the Government's inventories, as it had been done in prior periods with the Government itself putting that copper on the market as the direct seller.

Mr. COBURN. Because, under the Defense Production Act, the Government has the right to sell items in the inventory without an act of Congress?

Mr. BROOKS. That is correct.

Mr. COBURN. Or, perhaps, even a simpler and more direct method would have been for the Government to have arranged with the contractors to sell the copper for the account of the Government, and the contractors, and for the Government to take that part of the price, sale price, which represented the difference between market and contract price?

Mr. BROOKS. It could have been done that way with the cooperation of the contractors but, even lacking such cooperation, the first method I described would have been available to the Government to realize the market potential existing at the time.

Mr. COBURN. Could GSA or the Government have protected itself against the windfalls or losses in the diversion of copper under the Stockpile Act?

Mr. BROOKS. Yes. I believe it could have there, too.

Mr. COBURN. How?

Mr. BROOKS. There are a number of possible protective devices which were considered at the time.

Mr. COBURN. "Were," you say?

Mr. BROOKS. Yes; they were considered and discussed, but not adopted, I might add.

In connection with fixed-price contracts a provision was suggested that at such later date, as the deferred copper was to be replaced, the price of that deferred copper would be the lower of the contract price then in effect, or the market price then in effect.

This would have provided a measure of protection to the Government.

In connection with contracts priced at the market; that is, not at a fixed price, but based on prevailing market prices at the time of delivery, it was suggested that when copper is deferred and later replaced that the replacement copper be priced at the lower of the market price in effect at the time the diversion took place or the market price at the time of actual replacement.

Mr. COBURN. Those suggestions are embodied in the memorandum of June 15, 1955, are they not, which we have——

Mr. BROOKS. Yes.

Mr. COBURN (continuing). Before us?

Mr. BROOKS. Yes, sir; they are.

Mr. COBURN. That was a memorandum of the conference that Mr. Walsh, of your office, had with Dr. Flemming and others, at which Mr. Walsh made the suggestions with reference to price protection, the very ones that you have just stated.

Is that not true?

Mr. BROOKS. That is true.

Mr. COBURN. And Dr. Flemming said that these protections would not be imposed?

Mr. BROOKS. Yes, he did.

Mr. COBURN. Now, Mr. Brooks, after these copper deliveries had been canceled and deferred for quite some time did you finally receive a directive from the Director of ODM to prepare what has been called a phaseout program for the delivery of the copper that was to be delivered by the contractors under the deferments that had been granted them?

Mr. BROOKS. Yes, sir. We did receive such an authorization.

Mr. COBURN. I have before me a directive, dated March 12, 1956, from Dr. Flemming to the Honorable F. G. Floete, Administrator of General Services Administration.

Do you have a copy of that before you?

Mr. BROOKS. Yes, sir; I do.

Mr. COBURN. I notice that this directive says, among other things:

> I am also requesting you to assist the Secretary of Commerce in developing a plan for the orderly restoration of deliveries of copper to Government account on a monthly basis and phased so as to reduce to a minimum the impact of such withdrawals from the supply otherwise available to industry.

Is that the directive that you say initiated this phaseout program?

Mr. BROOKS. Yes, sir.

Mr. COBURN. Now, just so that we are sure that all of us understand what is meant by this "phaseout program," what does it mean, Mr. Brooks?

Mr. BROOKS. I take it to mean the period following the original diversions and the series of postponements of these diversions which took place through the end of 1955 and into the early part of 1956. By this time it had become rather apparent that the situation had reached a stage where some very definite and specific plans would have to be made and worked out by agreement with the contractors for an orderly return to the Government of these very large quantities of copper which had gone onto the market and completely disrupted contract delivery schedules.

Mr. COBURN. As I understand it, this problem has arisen, that the contractors were under obligation under the contracts as originally written to deliver copper, so much copper a month, or a quarter, and then, in addition to that, they had these obligations that had arisen from the deferrals?

Mr. BROOKS. Yes.

Mr. COBURN. That is to deliver additional copper at the same time which most of the contractors were not able to do?

Mr. BROOKS. The——

Mr. COBURN. Is that it?

Mr. BROOKS. It compounded the problem; yes, sir.

Mr. COBURN. Now, I refer to this letter of March 12, 1956, from Dr. Arthur S. Flemming, Director of ODM, to the Honorable F. G. Floete, Administrator of General Services Administration, offering it in the record, and I will read the entire letter at the suggestion of the chairman. [Reading:]

DEAR MR. FLOETE: At the recommendation of Secretary of Commerce Sinclair Weeks and after consultation with the Defense Mobilization Board, I hereby authorize the General Services Administration to permit the deferment to December 31, 1956, of deliveries of copper to the Government under the Stockpiling Act and the Defense Production Act, scheduled for the second quarter of 1956, whenever suppliers agree to make the copper available to industry at the U.S. market price under customary industry practice. This authorization includes copper which had been previously deferred and which was to be delivered to the Government by June 30, 1956.

Senator SYMINGTON. I would ask, Mr. Brooks, just what does that mean?

I am getting mixed up. What is the import of that? I want to be sure I understand.

Mr. BROOKS. This part of the letter is a continuation of the deferrals which had occurred in a number of quarters prior to the date of the issuance of the letter.

This part covered the deferral of deliveries of stockpile and Defense Production Act copper for the second quarter of 1956, which would have been the April, May, and June period, and required the——

Senator SYMINGTON. If I may be sure, we had testimony this morning that it started in 1954, ran through 1955, then started again in 1956.

Now, this letter is dated March 12, 1956. So it goes to December 31, 1956.

Under the Stockpiling Act and the Defense Production Act—

that embraces both the National Stockpile and the DPA, does it not?

Mr. BROOKS. Yes, sir.

Senator SYMINGTON. And it extends the entire deferment program, the entire copper deferment program, thereby up to December of 1956. Is that correct?

Mr. BROOKS. Not quite. Literally, it defers only the second quarter of 1956 copper deliveries, and that quarter's delivery of copper is to be replaced by December 31, 1956. But at the date that letter was written prior deferments were on the books which called for replacements by June 30 and September 30, 1956, as well as December 31, 1956.

Senator SYMINGTON. So the basis of the letter, this first paragraph, is a further deferment of copper deliveries?

Mr. BROOKS. It is, sir.

Senator SYMINGTON. Is that correct?

Mr. BROOKS. That is correct.

Senator SYMINGTON. Why was that, do you think?

Mr. BROOKS. I presume that the shortage situation of copper in industry had not been entirely cured by this point and, as Dr. Flemming says, upon recommendation of the Secretary of Commerce, and after consultation with the Defense Mobilization Board, the further deferment of second quarter deliveries is authorized.

Senator SYMINGTON. Now, going to the second paragraph, the last paragraph of the letter, where it says that a plan developed for early restoration so as to reduce to a minimum the impact of such withdrawals from the supply otherwise available to industry, does that imply to you that industry at this time was short of copper?

Mr. BROOKS. At this time, yes.

Senator SYMINGTON. Is that correct?

Mr. BROOKS. I believe it was.

Senator SYMINGTON. So this letter really says, "We will get the copper back as soon as it will not affect industry, and put it back in the stockpile." Is that correct?

Mr. BROOKS. That was the import of the letter, yes, sir.

Senator SYMINGTON. As I understand it, if industry were getting the copper it was receiving a higher price than it would have obtained by putting the copper in the Government stockpile, therefore, in the Government's interest, there ought to have been different financial arrangements. Is that it?

Mr. BROOKS. That is so. At this time the price of copper was at its peak point.

Mr. COBURN. Now, Mr. Witness, you were saying that this phaseout program was to be developed as directed by Dr. Flemming. Did you have any part in preparing the phaseout program?

Mr. BROOKS. Yes, sir. I worked with a group of representatives from GSA, Commerce, and ODM, in attempting to develop a phaseout program.

Mr. COBURN. And what was done in that respect?

Mr. BROOKS. Shortly after receipt of Dr. Flemming's letter a meeting was arranged with representatives from these agencies which I just mentioned, at which it was proposed that a schedule for orderly restoration of copper deliveries to the Government be worked out in

conjunction with suggestions to be made by the individual contractors themselves.

Mr. COBURN. Now, if I may interrupt you, Mr. Brooks, as I understand it, your problem there was to develop a stretched out program of delivery, by which these contractors would deliver the copper which they were still under obligation to deliver under the contracts——

Mr. BROOKS. That is true.

Mr. COBURN (continuing). That is, the undelivered copper under the contracts?

Mr. BROOKS. That is true.

Mr. COBURN. All right. All right. Go ahead and tell us how this stretched out or phaseout program was prepared.

Mr. BROOKS. GSA, in proposing the deferrals for the second quarter of 1956, following Dr. Flemming's letter, included in those offers a request of each of the contractors to furnish his proposed schedule for restoration of the balance of copper which he then owed.

Suggestions of that sort were received from each of the contractors involved, and in some cases they extended beyond the December 31, 1956, date, which apparently was a limitation in Dr. Flemming's letter of March 12.

As a result, suggestions were made by the Administrator of BDSA to ODM that the stretchout plan run beyond December 1956, and a revised schedule was prepared by BDSA which proposed deliveries through December 1957.

Mr. COBURN. These contracts had all terminated originally on June 30, 1956, had they not?

Mr. BROOKS. Not entirely, but for the most part they would have terminated by that date.

Mr. COBURN. Now, you made reference to BDSA. What is BDSA?

Mr. BROOKS. That is the Business and Defense Services Administration of the Department of Commerce.

Mr. COBURN. And the men, who actively participate over there in BDSA, are they dollar-a-year men that come from industry to be there in Government for a while?

Mr. BROOKS. I understand that is a general practice there, sir; yes.

Mr. COBURN. Who was their representative in this group that met with you to prepare this phaseout program? Do you remember?

Mr. BROOKS. I do not know specifically who was industry's representative, if that is your question, but a Mr. William Meissner was the Director of the Copper Division of BDSA, and he was the gentleman who conducted these meetings.

Mr. COBURN. Was he a dollar-a-year man?

Mr. BROOKS. I do not know, sir.

Mr. COBURN. I see. All right.

Senator SYMINGTON. Well, what did he do before?

Mr. BROOKS. I am not that well acquainted with the gentleman.

Senator SYMINGTON. And how do you spell his name?

Mr. BROOKS. M-e-i-s-s-n-e-r.

Senator SYMINGTON. And what was his position with the Department of Commerce?

Mr. BROOKS. I am not certain of the exact title, but I believe it was very close to Director, Copper Division, BDSA.

Senator SYMINGTON. Will you find out what his title was and furnish it for the record?

Mr. BROOKS. Yes, sir.

(The information requested follows:)

Mr. William A. Meissner, Jr., Director, Copper Division, Business and Defense Services Administration, Department of Commerce.

Mr. COBURN. Now, was this schedule that was prepared by BDSA, finally adopted?

Mr. BROOKS. With some further modifications that apparently had to be instituted to fit particular conditions, it was very closely followed.

The actual final schedule, which was approved by ODM, extended into June 1958; as a matter of fact, some 6 months beyond the date proposed by BDSA.

Mr. COBURN. June 30, 1958?

Mr. BROOKS. Yes, sir.

Mr. COBURN. Now, in the final execution of this phaseout agreement with these contractors was any copper delivery or any deliveries of copper lost?

Mr. BROOKS. Yes, sir; there were.

Mr. COBURN. To what extent?

Mr. BROOKS. In the case of Banner Mining Co., 3,284,000 pounds was finally canceled under that contract and never delivered as a part of the balance due under the contract.

In the case of Howe Sound, 3,503,000 pounds was canceled.

Under the Miami Copper Co. contract over 217 million pounds were canceled. However, I would add that this was done by reason of the company's right, under the contract, to cancel because of unprofitable operating conditions, extending for a period of more than 6 months.

Mr. COBURN. Well, without considering this last-mentioned instance, where the contractor had the right to cancel and exercised it, as I understand it, more than 6 million pounds of copper was lost in deliveries to the U.S. Government simply because these contractors, at the end of this phaseout program, were not able to deliver.

Mr. BROOKS. That is true.

Mr. COBURN. And they were allowed—that is, their obligation under the contract in that respect was canceled out?

Mr. BROOKS. Yes, sir.

Mr. COBURN. Now, Mr. Brooks——

Senator SYMINGTON. May I ask a question, Mr. Counsel?

Mr. COBURN. Yes, indeed.

Senator SYMINGTON. Before we leave this subject, were these companies that had had a previous deferral right to obtain a higher price on the private industry market?

Mr. BROOKS. Yes, they were.

Senator SYMINGTON. Was there any damage recognition as a result of their not delivering copper or were they just——

Mr. BROOKS. No, these cancellations were without cost to either party.

Senator SYMINGTON. What was the reason they gave that they could not furnish the copper at the price they said they would furnish it for?

Analysis of Copper Diversions as Authorized by OEP
October 1954 through June 1956
(Quantity in Thousands of Pounds)

Contract Information			Deliveries to GSA			Diversions to Industry				Value Under GSA Contract		Received in Excess of Value Under GSA Contract	
								Sold For 1/					
Name and Number	Quantity	Original Base Price	Quantity	Amount	Avg. Price Per Pound	Without Replacement	Primary Diversion	Amount	Avg. Price Per Pound	Amount	Unit Price	Amount	Avg. Price Per Pound
DPA Contracts													
Appalachian Sulphide Co., DMP-94	12,000	$.3106	4,000	$ 1,232,091	$.308	-	4,000	$ 1,685,536	$.4214	$ 1,242,400	$.3106	$ 443,136	$.1108
Banner Mining Co., DMP-83	12,960	.3100	9,676	2,926,658	.302	-	7,868	3,288,790	.4180	2,409,517	.3063	879,273	.1117
Copper Range Co., DMP-89	7,965	.3200 less trans. adjustment	7,315	2,262,221	.3109	650	2,536	1,258,576	.3950	990,527	.3109	268,049	.0841
Howe Sound Co., DMP-92	18,700	.3150	11,872	3,739,683	.3150	3,502	1,479	1,717,875	.3449	1,569,036	.3150	148,839	.0299
International Nickel Co., DMP-80	100,000	.2700 escalated	95,008	27,684,742	.291	-	1,600	670,431	.4191	440,270	.2752	230,161	.1439
Miami Copper Co., DMP-57	230,000	.2735 escalated	10,416	2,902,541	.279	2,226	1,377	1,203,787	.3341	1,041,917	.2891	161,870	.0450
Total DPA	381,625		138,287	$ 40,747,936	$.295	6,378	18,860	$ 9,824,995	$.3893	$ 7,693,667	$.3048	$2,131,328	$.0845
S&CM Contracts													
American Metal Co., Ltd. GS-OOP-7202(SCM)	24,000 to 30,000	.30	30,299	9,033,990	.298	-	8,000	2,390,000	.2988	2,380,000	.2975	10,000	.0013
British Metal Corporation GS-OOP-3870(SCM)	70,500 to 89,000	.30	70,510	21,378,716	.303	-	20,800	6,997,600	.3364	6,213,999	.2987	783,601	.0377
Consolidated Coppermines Corp. GS-OOP-3785(SCM)	30,000	.32	29,966	9,551,396	.319	-	2,400	716,400	.2985	765,000	.3188	(48,600)	(.0203)
Consolidated Coppermines Corp. GS-OOP-3889(SCM)	15,000	.32	15,042	4,812,769	.320	-	1,800	540,000	.3000	576,000	.3200	(36,000)	(.0200)
Granby Consolidated Mining, Smelting & Power Co., Ltd. GS-OOP-3906(SCM)	39,900 to 48,000	.30	43,097	12,902,155	.299	-	5,500	1,716,625	.3121	1,643,125	.2988	73,500	.0133
International Minerals & Metals Corp. GS-OOP-7201(SCM)	12,000	.30	12,010	3,536,093	.294	-	1,200	358,200	.2985	358,200	.2985	-	-
International Minerals & Metals Corp. GS-OOP-7244(SCM)	12,000	.30	12,011	3,532,310	.294	-	1,200	358,200	.2985	358,200	.2985	-	-
Miami Copper Co. GS-OOP-10332(SCM)	69,420	Avg. Mkt. Price Preceding Month of Delivery	69,420	24,030,302	.346	-	15,109	5,044,065	.3340	4,964,592	.3286	79,473	.0054
Sherritt Gordon Mines, Ltd. GS-OOP-461(SCM)	25,000	Avg. for Month of Delivery	25,007	8,320,021	.333	-	2,501	1,140,531	.4561	1,140,531	.4561	-	-
Total S&CM	297,820 to 330,420		307,362	$ 97,097,752	$.316	-	58,510	$19,261,621	$.3292	$18,399,647	$.3145	$ 861,974	$.0147
Total Diversion Program	679,445 to 712,045		445,649	$137,845,688	$.309	6,378	77,370	$29,086,616	$.3473	$26,093,314	$.3116	$2,993,302	$.0357

1/ In certain cases, as noted on individual statements attached, where precise sales prices were not available, approximations based on published market prices in effect during the periods covered were used.

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Mr. BROOKS. During this restoration period, a price-protection provision was incorporated into the contracts by amendment which required the replacement copper to be delivered at the lower of the contract price or the market.

Late in 1956 and in 1957 the market price of copper began to drop rather substantially, and it eventually fell below the contract price in each of these two cases.

The result was that it became unprofitable for the contractors to operate. In fact, they indicated that they would be operating at rather substantial losses and——

Senator SYMINGTON. What was the bottom price?

Mr. BROOKS. During this period it reached below a level of 27 cents, I believe.

Senator SYMINGTON. The testimony this morning was it went, as I remember, from some 29 to 46 cents, then back from 46 to 29 cents, and now below 29 cents; is that right?

Mr. BROOKS. It had dropped rather substantially; yes, sir.

Senator SYMINGTON. So they canceled out for the Government because they would be operating below cost?

Mr. BROOKS. Yes, sir.

Senator SYMINGTON. As to the other company with the 217 million pounds, they had the right to cancel. What company was that again?

Mr. BROOKS. Miami Copper Co.

Senator SYMINGTON. And did they have deferrals, too?

Mr. BROOKS. Yes, sir; they did.

Senator SYMINGTON. What did the contract say that made it possible for them, if they deferred in order to get the higher price then they could cancel when the price got low?

What was the nature of that contract?

Mr. BROOKS. Well, that provision you are referring to, sir——

Senator SYMINGTON. Let me give it to you in business terms:

Suppose it was said to them at the time, "We will let you defer this so that you can sell, say, at 46 cents or 40 cents, on condition that you deliver the copper to us later on."

If that were said, then why would they be allowed to cancel if they were allowed to defer at high profit in the beginning?

It is a little hard, from the standpoint of a straight business transaction, for me to understand the nature of a contract that would allow them to cancel when they wanted to if they had been previously given a deferral in order to obtain a windfall profit.

If they were allowed to cancel in the beginning, not defer, I could understand it; but how can they have a right to cancel later on, after they had a higher price?

Mr. BROOKS. This contract when originally made included this cancellation provision that you referred to which, in the event of demonstrated operations at a loss for a period of 6 months or more, gave Miami the right to cancel the contract without penalty.

When the deferral period began these deferral conditions were superimposed over the conditions originally contained in the contract——

Senator SYMINGTON. I know, but if you had a contractor deliver copper at 30 cents, and you were allowed to defer so that you could get 40 cents, on the market, then would not that 10 cent greater return

you got on what was deferred be included before you were given the right to cancel because the price went below cost? When you renegotiate a company you do not do it on the basis of a particular order; rather on the overall profit and loss.

Mr. BROOKS. I would say, Mr. Chairman, this is an illustration of one of the features which we felt was objectionable in connection with the deferral program.

Senator SYMINGTON. Do you see the point I am trying to make?

Mr. BROOKS. Yes, sir, I think I understand you.

Senator SYMINGTON. Suppose they made $100,000 because they were given the right of deferral, and then there was a sudden sharp drop on the market, could they execute their right of cancellation before they took into consideration the additional $100,000 the Government allowed them as a result of granting them deferral?

Mr. BROOKS. As this contract was worded, the answer is yes.

Senator SYMINGTON. I beg your pardon?

Mr. BROOKS. In this case, yes, because of conditions contained in the contract.

Senator SYMINGTON. In this case we are talking about over 100,000 tons of copper, are we not?

Mr. BROOKS. That was finally canceled?

Senator SYMINGTON. Yes.

Mr. BROOKS. Yes, sir.

Senator SYMINGTON. Thank you.

Mr. COBURN. Mr. Brooks, have you prepared a table that shows the total amount of copper that was canceled or deferred by the names of the contractors, by whether they were Defense Production Act contracts or stockpile contracts?

Mr. BROOKS. Yes, sir, I have.

Mr. COBURN. And this table has been made available, Mr. Chairman, to all members of the committee and everyone in the room.

I would like to incorporate this table in the record at this time, to be copied here, and then I would want to ask the witness questions about it.

(The aforementioned table faces this page.)

Mr. COBURN. Now, Mr. Brooks, may I first ask you whether you attempted to compute, in this table, the gains that were made by the contractors by being permitted to defer?

Have you included in this table any estimated gains on redeferrals of original deferrals?

Mr. BROOKS. No, sir. This table is limited simply to the original deferral in each case.

Mr. COBURN. Would you explain what you mean by limiting it to the original deferral?

What did you do in order to determine that a given contractor had gained a certain amount during a given time?

Mr. BROOKS. In each instance, taking the quantity which was diverted to industry by a specific authorization from ODM, we compared the amount received by the contractor by reason of sale of that quantity on the open market to the amount which he would have been entitled to receive had he made the delivery of the same quantity of copper to the Government.

These amounts are based, in most cases, on actual reports of sales which were required to be submitted by the contractors following sale in the market.

This reporting requirement was a condition of the deferral authorizations.

Mr. COBURN. Does this table, that you have prepared here, include any figures with reference to a company called Calumet & Hecla?

Mr. BROOKS. No, sir; it does not.

Mr. COBURN. Calumet & Hecla is a company located in Chicago, is it not?

Mr. BROOKS. Their headquarters are there; yes, sir.

Mr. COBURN. Their headquarters are in Chicago, and their mines are in Michigan?

Mr. BROOKS. Yes, sir.

Mr. COBURN. And at my express direction you did not include any figures with reference to Calumet & Hecla, as that will be covered later?

Mr. BROOKS. That is correct.

Mr. COBURN. Now, Mr. Brooks, just to make sure that we all understand this table, let's take any one of these contractors; for instance, Miami Copper Co.

Do you see that on the table?

Mr. BROOKS. Yes, sir.

Mr. COBURN Now, that was a contract under the Defense Production Act, was it not?

Mr. BROOKS. Yes, sir; it was.

Mr. COBURN. So that any copper delivered by the contractor here to GSA could have been resold without any act of Congress at all?

Mr. BROOKS. Yes, sir; it could have.

Mr. COBURN. And the first figure here under "Quantity," 230,000, which really means 230 million pounds, 230 million; what does that mean?

Mr. BROOKS. That was the original total contract quantity.

Mr. COBURN. To be delivered under the contract?

Mr. BROOKS. Yes, sir.

Mr. COBURN. And then under the column "Original base price" you have "0.2735 escalated."

What do you mean by that?

Mr. BROOKS. This means that the price specified in the contract was initially 27.35 cents per pound, but the contract also included an escalation clause, under the terms of which the base price could be modified upward or downward, depending on the action of certain indices, referred to in the contract.

Mr. COBURN. Now, the next column is "Quantity of deliveries to GSA," 10,416,000.

What do you mean by that?

Mr. BROOKS. This means the total quantity which was actually delivered to GSA by completion of the contract.

Mr. COBURN. And the amount of $2,902,541, in the next column to the right, is what?

Mr. BROOKS. This is the amount paid by GSA for the 10 million pounds.

Mr. COBURN. And the next column to the right, "Average price per pound," 0.279 is what?

Mr. BROOKS. This is the average unit price actually paid by GSA.

Mr. COBURN. Now, we get over to the next column to the right, which is "Without replacement" under "Diversions to industry."

What do you mean by that?

Mr. BROOKS. This refers to the cancellations which took place pursuant to various authorizations from Dr. Flemming which have been previously mentioned.

Mr. COBURN. Here the cancellations were 2,226,000 pounds altogether?

Mr. BROOKS. Yes, sir.

Mr. COBURN. And then the next column is "Primary diversion."

What do you mean by that, 1,377,000?

Mr. BROOKS. These are the deferrals which, pursuant to authorizations from ODM, required the replacement at a later date of the quantity of copper released to industry.

Mr. COBURN. And this does not include redeferrals of deferrals?

Mr. BROOKS. No, sir, it does not.

Mr. COBURN. Only the first deferral?

Mr. BROOKS. Yes, sir.

Mr. COBURN. The difference between the 2,226,000 and 1,377,000 represents cancellations that were extended to Miami Copper Co., does it not?

Mr. BROOKS. No, sir. The 2,226,000 is the total cancellations. The 1,377,000 is the amount deferred.

Mr. COBURN. Well, maybe I did not state that properly, but what I meant to say was that Miami Copper Co. was the company that not only got deferrals but cancellations as well?

Mr. BROOKS. Yes, sir. They got both.

Mr. COBURN. And this figure of 2,226,000 represents cancellations and deferrals both?

Mr. BROOKS. No, that is——

Mr. COBURN. Is that not right?

Mr. BROOKS. Just cancellations.

Mr. COBURN. Oh, yes. I see. "Without replacement." Excuse me. Of course. That is just cancellations in that column?

Mr. BROOKS. Yes, sir.

Mr. COBURN. And the next column to the right is the diversions?

Mr. BROOKS. Yes, sir.

Mr. COBURN. So they got a total of the two in cancellations and diversions——

Mr. BROOKS. That is right.

Senator SYMINGTON. Will counsel yield?

Mr. COBURN. Yes, Mr. Chairman.

Senator SYMINGTON. Inasmuch as they only shipped 10½ million against 230 million all told, over 90 percent of this contract was canceled before it was completed, was it not?

Mr. BROOKS. Yes, sir, it was.

Senator SYMINGTON. These figures prove what I was getting at. Here you have a base price of 27½ cents to 0.2735, and you sell copper considerably above that, 0.3341, and then as soon as the price drops you cancel the contract. Is that right?

Mr. BROOKS. That is the sequence of events in this case, yes, sir.

Mr. COBURN. Now, the next column to the right there of Miami Copper Co. is $1,203,787.

What does that represent?

Mr. BROOKS. That represents the amount of money received by Miami for the sale of that copper on the open market, as opposed to the price that it was entitled to receive had it delivered to GSA.

Mr. COBURN. And its average price per pound is 0.3341, and that is self-explanatory, is it not?

Mr. BROOKS. I believe so.

Mr. COBURN. All right. Now, the next column to the right of the amount, under value under GSA contract, is $1,041,917, and that means what?

Mr. BROOKS. This is the amount of money which Miami would have been entitled to receive had it made deliveries to GSA.

Mr. COBURN. At the unit price of 0.2891, that being the average unit price?

Mr. BROOKS. That was the average unit price which would have applied during the period when deliveries were due; yes, sir.

Mr. COBURN. And then the next column to the right, $161,870, means what?

Mr. BROOKS. That is the difference or the excess amount received by reason of sale of the copper to industry rather than its sale to GSA under the contract.

Mr. COBURN. At an average excess price per pound of 4½ cents; is that right?

Mr. BROOKS. Yes, sir.

Mr. COBURN. That is shown in the column at the extreme right?

Mr. BROOKS. That is correct.

Mr. COBURN. But, of course, as our chairman has indicated, that does not include what substantial advantage Miami received from deferrals when the price was high and then canceling the contract when the price was low?

Mr. BROOKS. That is true.

Mr. COBURN. All right. Now, then——

Senator SYMINGTON. May I ask a question?

Mr. COBURN. Yes, indeed.

Senator SYMINGTON. Going down to the next group of contracts, which are the National Stockpile Act, I notice that the price that Miami gets there is not only higher than the 0.2735 base escalated, but is even higher than the diversion price of 0.3341.

So you have the Government buying at 0.279 for Defense Production Act stockpile for Miami and at 0.346, a very large increase in price for a base metal, under the national stockpile.

What is the reason for the difference in the two prices?

Mr. BROOKS. This stems from the fact that the Defense Production Act contract was intended to cover marginal high-cost properties belonging to Miami which it was believed would have been uneconomical to operate under ordinary market conditions.

For that reason the so-called low-grade material was given a fixed price, which was originally negotiated on the basis that this would have provided a fair return to maintain this marginal production.

However, the higher grade ore bodies were dealt with separately, as material to be purchased for the stockpile at market prices prevailing at the time of delivery.

Senator SYMINGTON. In each case did the proposed purchase meet the specification?

Mr. BROOKS. I am sure it did. Yes, sir.

I do not think there has ever been a question of the quality of the cooper which has been delivered.

Senator SYMINGTON. Well, how could you have a price of 0.2735 for low grade and a price of 0.346 for high grade, if both met the specifications?

Mr. BROOKS. Well, the explanation is that the price for the high-grade material was, of course, not predictable from one period to another. This would vary with the market and could conceivably have fallen below this level.

Senator SYMINGTON. It might be a difference in dates, too, might it not?

Mr. BROOKS. Yes, of course. The Defense Production Act portion of this agreement preceded the stockpile contract.

Senator SYMINGTON. Thank you.

Mr. COBURN. Mr. Brooks, again reverting to your table here, what was the total amount of money that was enjoyed by way of windfalls under the Defense Production Act contracts by these contractors because of their being permitted to cancel or defer deliveries?

Mr. BROOKS. The calculation on that score is $2,131,328.

Mr. COBURN. And that is the most conservative estimate because it does not include whatever advantages they had from redeferrals of deferrals?

Mr. BROOKS. That is true.

Mr. COBURN. Right?

Mr. BROOKS. That is true.

Mr. COBURN. All right. Then this next group of contracts under "S. & C.M. Contracts" are what?

Mr. BROOKS. The total amount involved in that group is $861,974.

Mr. COBURN. No, I do not mean that. What kind of contracts are those?

Mr. BROOKS. Those are contracts for the purchase of copper for the national stockpile.

Mr. COBURN. That is, they were contracts made under the National Stockpile Act?

Mr. BROOKS. Under the National Stockpile Act. Yes, sir.

Mr. COBURN. Now, there were no cancellations without replacement here at all, were there?

Mr. BROOKS. That is correct.

Mr. COBURN. They were all deferrals?

Mr. BROOKS. Yes, sir.

Mr. COBURN. But again your calculations are all of primary deferrals? They do not include any deferrals of deferrals?

Mr. BROOKS. They do not.

Mr. COBURN. And you say that the total windfalls realized by contractors, because their redeferrals of these stockpile contracts, is $861,974?

Mr. BROOKS. Yes, sir.

Mr. COBURN. And the grand total of windfalls to all contractors, both Defense Production Act and stockpile contractors, is how much?

Mr. BROOKS. $2,993,302.

Mr. COBURN. This table does not include any figures at all with reference to Calumet & Hecla?

Mr. BROOKS. It does not.

Mr. COBURN. Nor does it include the advantages that Miami Copper Co. enjoyed because of it being deferred during the early part of the contract when prices were high and then canceling out when prices were low?

Mr. BROOKS. That is true.

Mr. COBURN. I have no further questions, Mr. Chairman, of this witness.

Senator SYMINGTON. Were any of these companies started by loans or grants from the Government?

Mr. BROOKS. I do know offhand that in the case of Banner Mining Co. several hundred thousand dollars was advanced by GSA to help with the construction of the facilities involved in the contract referred to here.

I believe also that in the case of Sherritt Gordon Mines that there were rather substantial progress payments made during the initial construction period of that company's facilities. These payments were made on work in progress before completion of their refinery.

There may have been in some of the other cases but I do not have any figures with me and I am speaking from memory.

Senator SYMINGTON. You might look that up, if you will, and supply it for the record.

Mr. BROOKS. Yes, sir.

(Information requested is as follows:)

Advance payments, Banner Mining Co., $473,665.
The above-listed advance was repaid in full.

Senator SYMINGTON. The next question would be: Were the loans or were the grants repaid?

Mr. BROOKS. I am certain, in both cases, all advances were repaid. Yes, sir.

Senator SYMINGTON. If they were not repaid, then you would figure that amount of money per pound and the price actually would be that much more, would it not?

Mr. BROOKS. It certainly would; yes, sir.

Senator SYMINGTON. But to the best of your knowledge, in no case in the copper picture; is that correct?

Mr. BROOKS. I believe that is correct.

Senator SYMINGTON. Thank you.

Mr. MAY. Mr. Brooks——

Mr. BROOKS. Yes, sir.

Mr. MAY (continuing). I notice here that in the third column you have the quantities that are delivered, and I assume that that means over the entire period of the contract, the final quantity that was delivered to the Government——

Mr. BROOKS. Yes.

Mr. MAY (continuing). Under the Defense Production Act contract.

And apparently for Appalachian Sulphide you had a firm quantity of 12 million pounds but only 4 million pounds were delivered. Is that right?

Mr. BROOKS. That is true; yes, sir.

Mr. MAY. And for Banner you had 3 million pounds short.

For Howe Sound you were short some almost 3 million pounds. The International Nickel contract was short, apparently 5 million pounds and we know that Miami Copper was short.

Were these canceled or why was there a shortage finally in all of these contracts?

Mr. BROOKS. These differences you are referring to, sir, relate to cancellations which took place without reference to the diversion program.

Some of these cancellations, such as in the case of Appalachian, occurred before the period of diversions began. In other cases, like International Nickel Co., they were cancellations which occurred some years later.

They are totally unrelated to the diversion program.

Mr. MAY. All right. Now, I am referring specifically to Banner.

Are you familiar with the circumstances around which Banner was terminated?

It is my understanding that GSA received a telegram, requesting termination of the contract, and within a day or 2 days a telegram was sent back by Mr. Walsh, of GSA, saying, "We agree to cancel."

Do you have any knowledge whether any staff consideration was given to whether or not this contract should be canceled?

Mr. BROOKS. I believe that staff consideration was given to that; yes.

Mr. MAY. Well, it must have been rather rapid since the answer was sent out, apparently, within a day of the request for cancellation. Would that indicate there was ever any opportunity to consult with ODM about this cancellation?

Mr. BROOKS. I would not know offhand whether there was consultation with ODM.

Mr. MAY. Now, as I understand it, Banner was an expansion contract; that part of the purchase for Banner, as well as getting copper for the stockpile, was to expand the production facilities for the production of copper.

Is that correct?

Mr. BROOKS. Yes, sir, I believe it was.

Mr. MAY. So that when the Banner Mining contract was permitted to be terminated, when you still had 3 million pounds to receive, this was a direct frustration of part of the purpose of the contract, was it not?

That is, since the mine would then shut down and you would have lost the producing facility?

Mr. BROOKS. Well, the circumstances, I believe, that were considered at the time of the termination of the Banner contract was that although this was nominally a 31-cent contract the fact is that there had been included, by subsequent amendment, during this restoration period that we discussed a short while ago, a condition that the replacements of diverted copper be at the lower of contract price or market.

In this instance, the market price had declined on the date the request to terminate was made from its high point of 46 cents to 26½ cents a pound, and this was 4 cents below the contract price.

The contractor pleaded hardship resulting from continued production at a price of 26½ cents. Since it was, essentially, at that time a market price contract, in reviewing the matter I believe I would say that GSA no doubt considered that it could, if desired, obtain an equivalent quantity of copper elswehere for the same price it could from Banner. Therefore it was not put at a disadvantage in the cancellation of the Banner contract.

Mr. MAY. Yes, but that is why I make the point.

The purpose of this contract, being a Defense Production contract and an expansion contract, was not simply to get copper but to have a producing facility and to maintain a producing facility.

Now, Banner had just made, according to your estimate, $879,000 more by being permitted to divert than they would have made if they had been required to deliver to the Government. So they were $879,000 to the good.

Now, when the market price drops down to a point where it is disadvantageous for them to deliver to the Government apparently they request to terminate and immediately their request is granted, even though that termination would directly frustrate a main purpose of the contract, which was to have a continuous producing facility, a new producing facility for copper.

Senator SYMINGTON. You are not an authority on the contract yourself.

Mr. BROOKS. That is true, sir.

Senator SYMINGTON. Who would be the one to discuss this with GSA?

Who would have the most knowledge of the details of the operation of the contract?

Mr. BROOKS. Well, I imagine that is a question which should be taken up with the Commissioner of Defense Materials Service.

I do not believe I could recall offhand which individual would be most familiar.

Senator SYMINGTON. Will you put that in the record, what the name was of the gentleman in that position at the time you are talking about?

Mr. BROOKS. Yes, sir.

(Information requested is as follows:)

The Commissioner (Acting) of Emergency Procurement Service at the time was Mr. Russell A. Heddleston. The officer who administered the contract was Mr. James V. O'Dwyer, of the Contracts Administration Branch, Materials Division, Emergency Procurement Service.

Senator SYMINGTON. Thank you, Mr. Brooks.

Mr. BROOKS. Thank you, Mr. Chairman.

Senator SYMINGTON. Mr. Counsel, for the record, when do you plan your next hearing?

Mr. COBURN. A week from today at 10 o'clock.

Senator SYMINGTON. And what is it going to be on?

Mr. COBURN. Rubber; natural rubber.

Senator SYMINGTON. There has been quite a little discussion of memoranda written to and from Dr. Flemming.

Do you plan to have him before the committee?

Mr. COBURN. Yes, sir. He will be before the committee on a week from Wednesday, when we will question him about the cancellation and the deferrals that have been gone over today.

Senator SYMINGTON. As I understand it he would have been with us today but it was inconvenient to him and you agreed he could appear at his convenience.

Is that correct?

Mr. COBURN. That is correct, sir.

Senator SYMINGTON. And that will be a week from Wednesday?

Mr. COBURN. A week from Wednesday.

(Whereupon, at 3:29 p.m., the hearing was adjourned to reconvene on Monday, April 23, 1962, at 10 a.m.)

STOCKPILE INVESTIGATION

MONDAY, APRIL 23, 1962

U.S. SENATE,
SUBCOMMITTEE ON THE NATIONAL STOCKPILE
AND NAVAL PETROLEUM RESERVES,
COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The subcommittee (composed of Senators Symington, chairman; Thurmond, Engle, Cannon, Case of South Dakota, and Beall), met, pursuant to notice, in room 235, Old Senate Office Building, at 10 a.m.

Present: Senators Symington (presiding), Engle, Cannon, and Case.

Also present: Richmond C. Coburn, chief counsel to the subcommittee; T. J. May, assistant counsel; Edward O. McCue III, assistant counsel; and James J. Gehrig, special assistant to Senator Symington.

Senator SYMINGTON. This hearing will now come to order.

I have a short statement.

This morning we will hear testimony on the subject of rubber in the stockpile.

All of this rubber is natural rubber. All of it is in the stockpile, as distinguished from the defense production inventory, or the supplemental stockpile.

With respect to acquisition costs, this is our third largest item. We not only paid $844,300,000 for the purchase of this rubber, but have since spent substantial additional amounts for its storage and to purchase new rubber to take the place of deteriorated stock.

Mr. Counsel, will you see that we find out at least an estimate of what those additional costs were?

Mr. COBURN. Yes, Mr. Chairman. We will have that information this morning.

Senator SYMINGTON. Fine.

In one respect, this item presents a very special problem. Originally the United States had no capacity for the production of rubber, as all natural rubber was grown overseas. Since World War II, however, we have developed a substantial potential for the production of synthetic rubbers.

This capacity grows apace not only because of the expansion of synthetic plants, but also because of the development of new and better synthetic rubbers. This has converted the United States, insofar as rubber is concerned, from a have-not to a have-much country.

I might add this was clear in 1951. I had something to do with the rubber program because it was in the RFC. It was clear then that synthetic rubber, except for a few uses, would not only be as good, if not better rubber, but also could be made less expensively.

Before starting this hearing having primarily to do with rubber, however, I want to make a further statement about the stockpiles in general.

It is now clear that, regardless of the reasons, the United States has, in its various stockpiles and inventories, billions of dollars of materials which are unnecessary for either our security or our prosperity; and in some cases, as in the case of rubber, materials are deteriorating.

We are recommending to the President, therefore, that in order to reduce these tremendous inventories, payments for various materials purchased by the Defense Department for the current multimillion-dollar defense program be made at least in part by the Government furnishing those materials to the supplier in question which would be necessary for that supplier to have in order to fill the order in question.

Because of the many statutes and regulations incident to the various stockpile programs, the above proposal will require new legislation, which we intend to present for consideration.

Handled in such fashion, there would be no fall in prices comparable to what would happen if these materials were disposed of in distress sales on the open market.

Mr. Counsel, your first witness this morning?

Mr. COBURN. Yes, Mr. Chairman.

Our first witness is Mr. George K. Casto.

Senator SYMINGTON. Mr. Casto, will you come before the committee?

You have been sworn, have you not?

Mr. CASTO. Yes, sir.

Senator SYMINGTON. Will you consider yourself sworn?

Mr. CASTO. I will, sir.

Senator SYMINGTON. Counsel, will you proceed?

Mr. COBURN. Thank you, Mr. Chairman.

Mr. Casto, you have testified several times previously in the hearings of this committee; have you not?

TESTIMONY OF GEORGE K. CASTO, DIRECTOR, PROJECT ADMINISTRATION DIVISION, DEFENSE MATERIALS SERVICE, GENERAL SERVICES ADMINISTRATION—Resumed

Mr. CASTO. I have, sir.

Mr. COBURN. You, however, are an official of GSA, are you?

Mr. CASTO. I am, sir.

Mr. COBURN. What is your present title?

Mr. CASTO. I am Director of Project Administration Division, Defense Materials Service, General Services Administration, sir.

Mr. COBURN. As such, have you had certain responsibilities with reference to the rubber stockpile?

Mr. CASTO. I have, sir.

Mr. COBURN. What were they?

Mr. CASTO. I have been in charge of the stockpiling of rubber since 1946 when Public Law 520 was first passed.

Mr. COBURN. By being in charge you mean that you engaged in the purchases of rubber?

Mr. CASTO. I did, sir.

Mr. COBURN. And also in recent years, the same?

Mr. CASTO. That is correct.

Mr. COBURN. Mr. Casto, as our chairman has said, all of the rubber that we have in Government inventory at the present time is in the national stockpile; is it not?

Mr. CASTO. It is, sir.

Mr. COBURN. We do not have any in the Defense Production Act inventory?

Mr. CASTO. We do not have any in the Defense Production Act or the supplemental; it is all in the national stockpile.

Mr. COBURN. All of this rubber is natural rubber; is it not?

Mr. CASTO. It is, sir.

Mr. COBURN. Will you give us the total acquisition cost of this rubber?

Mr. CASTO. The total cost of rubber purchased by GSA with appropriated funds is $752,557,165.

This is exclusive of accessorial costs. There was rubber transferred by the Reconstruction Finance Corporation in addition to this, and there was also rubber that was purchased by the Economic Cooperation Administration with counterpart funds.

Mr. COBURN. Well, I want to make sure we understand this. This figure of $752 million that you have quoted as the acquisition costs for the rubber, is that the rubber that was bought by GSA?

Mr. CASTO. It is.

Mr. COBURN. Does it include the rubber that was bought by the RFC and the ECA?

Mr. CASTO. No, sir; it does not.

Mr. COBURN. Do you have any figure of what the total acquisition cost was for all the rubber we have in the stockpile?

Mr. CASTO. The total amount of rubber that we have had in the stockpile at the time before commencing disposal was 1,209,681 long tons, having an acquisition cost of $905,280,000.

Mr. COBURN. That includes both the RFC and ECA rubber?

Mr. CASTO. It does.

Mr. COBURN. Now, as of December 31, 1961, how many tons of natural rubber did we have in the stockpile?

Mr. CASTO. We had 1,091,936 long tons as of December 31.

Mr. COBURN. And as of that date what was the market value of that rubber?

Mr. CASTO. The market value of that rubber as of December 31 was $690,998,000.

Mr. COBURN. Mr. Casto, what are our present objectives, both basic and maximum, so far as natural rubber is concerned?

Mr. CASTO. We have a basic objective at the present time of 560,000 long tons and a maximum objective of 750,000 long tons.

Mr. COBURN. That means that we have a surplus over our maximum objectives of how much?

Mr. CASTO. 341,936 long tons.

Mr. COBURN. And the market value of that surplus as of December 31, 1961, was what?

Mr. CASTO. $216,377,000.

Mr. COBURN. Mr. Casto, with reference to this total amount of rubber that we have in the stockpile, is all of that rubber that comes up to the stockpile specifications?

Mr. CASTO. No, sir. We presently have permanent stockpile specifications of 1X rib-smoked sheets, No. 1 rib-smoked sheets, No. 2 and No. 3 rib-smoked sheets.

We formerly had specifications on pale latex crepes and on browns and ambers. The specifications were revised to encompass only the rib-smoked sheets, and the other grades that we had on hand we were authorized to retain until such time as they were disposed of as interim specification grades.

Mr. COBURN. That does not mean very much to me, Mr. Casto. Explain what you mean by these different grades.

Mr. CASTO. Rib-smoked sheets are a hard high grade of rubber. They are expensive. The standard in all of the grades of rubber is No. 1 rib-smoked sheets. You have grades then that take a premium from the No. 1, you have grades that take a discount coming down.

The pale latex crepes are used primarily for color. They are not used in large volume at the present time, whereas in the rib-smoked sheets and the soft rubber, the browns and ambers are used in volume.

Senator SYMINGTON. I have a question. You changed the specification; is that right?

Mr. CASTO. Yes, sir.

Senator SYMINGTON. Did you increase the difficulty of meeting the specifications on the part of the supplier or did you reduce it?

Mr. CASTO. We reduced the difficulty on the part of the supplier in meeting, and we increased the life in storage by going to the rib-smoked sheets. They would last considerably longer in storage without having to rotate than would the soft rubbers or the pale latex, crepes.

Senator SYMINGTON. What is the significance of what you just told us?

Mr. CASTO. We were endeavoring to get a grade of rubber into the stockpile that might last for 10 or 15 years in storage without rotating, rather than to have the soft rubbers in store that might have to be rotated every 2 or 3 years.

Mr. COBURN. As I understand it then, Mr. Casto, this natural rubber in the stockpile tends to deteriorate, does it not?

Mr. CASTO. It does, sir.

Mr. COBURN. The longer it is kept there the more it tends to deteriorate in quality; is that correct?

Mr. CASTO. That is correct.

Mr. COBURN. Do you have at the present time in the stockpile any deteriorated rubber?

Mr. CASTO. Yes, sir; we do.

Mr. COBURN. How much?

Mr. CASTO. We have 70,461 long tons of deteriorated rubber at the present time.

Mr. COBURN. Is there a value on that that you can put?

Mr. CASTO. Yes, sir.

Mr. COBURN. Would it be market value less a certain amount?

Mr. CASTO. It would be market value less 1 cent a pound. Our deterioration allowance has been running at approximately 1 cent a pound.

Mr. COBURN. Excuse me, I did not get that.

Mr. CASTO. It would be market value less 1 cent per pound. Market value at the present time is roughly 28½ cents per pound. This rubber would have a value of approximately 27½ cents a pound.

Mr. COBURN. Is there any way that you can tell what the original cost of that, the acquisition cost of that, deteriorated rubber was?

Mr. CASTO. No, sir; it would be impossible to break any particular lots out from the total.

Mr. COBURN. Mr. Casto, do you have the annual purchases of this rubber, a table of annual purchases, before you?

Mr. CASTO. Yes, sir.

Mr. COBURN. Can you tell me how much of this rubber was purchased by the RFC?

Mr. CASTO. Yes, sir; 252,715 long tons, having a market value of $128,558,000.

Mr. COBURN. That is the current market value?

Mr. CASTO. No. That was the market value, the fair market value, at the time of transfer.

Mr. COBURN. I see. When was that transferred to the stockpile?

Mr. CASTO. In November of 1947 the first transfer was made. The last one was in March 1948.

Mr. COBURN. Do you know when those RFC purchases were made?

Mr. CASTO. I would assume that these were made in the early forties.

Mr. COBURN. But you do not have the detailed information on that?

Mr. CASTO. No, sir; I do not.

Mr. COBURN. Because it was done by the Reconstruction Finance Corporation?

Mr. CASTO. That is correct.

Mr. COBURN. How much rubber in the stockpile was purchased by Economic Cooperation Administration which, incidentally, was the predecessor of the present Agency for International Development?

Mr. CASTO. That is correct. Some 62,320 long tons, having a contract value of $24,165,000.

Mr. COBURN. When was that transferred to the stockpile?

Mr. CASTO. That was actually purchased directly for the stockpile. The first purchase was made in July of 1949, and the second and last purchase was made in June of 1950.

Mr. COBURN. That is when this rubber was transferred to the stockpile?

Mr. CASTO. That is correct.

Mr. COBURN. Now, Mr. Casto, I have this table, too, of the purchases of rubber that have been made by GSA.

Mr. CASTO. Yes, sir.

Mr. COBURN. It starts with 1948, does it not?

Mr. CASTO. Yes, sir.

Mr. COBURN. When was the last purchase for the purpose of putting it in the stockpile and not rotating the rubber made by GSA?

Mr. CASTO. The last increment purchase, that is, new acquisition toward building or reaching the stockpile objective, was made in May of 1954.

Mr. COBURN. Your largest purchases seem to have been made in 1950, 1951, and 1952, do they not?

Mr. CASTO. Yes, sir; they were.

Mr. COBURN. Mr. Casto, you have told us that natural rubber tends to deteriorate in the stockpile. What, if anything, have you done in order to counteract that deteriorating influence in the stockpile to keep your inventory from running down?

Mr. CASTO. In accordance with the authorization contained in the Strategic and Critical Materials Stock Piling Act, we began the rotation of rubber in 1949 when the 252,000 long tons were transferred by the Reconstruction Finance Corporation to the stockpile; this was the residue of rubber that was left over from World War II.

During World War II the RFC purchased any type of rubber they could get their hands on in order to keep the war effort going, and there were included in it a number of wild rubbers and African lumps which were in very bad condition, and so immediately upon transfer these were rotated out and replaced with hard, storable rubber from the Far East.

Mr. COBURN. As I understand you then as this rubber tended to deteriorate you sold it out and bought new rubber to replace it?

Mr. CASTO. That is correct.

Mr. COBURN. What was the extent of your average annual purchases for rotational purposes alone?

Mr. CASTO. For rotation purposes alone over the years we have averaged 63,795 long tons at an average annual cost of $5,167,000.

Mr. COBURN. Are you still buying rubber in rotation?

Mr. CASTO. No, sir; we are not. We have not been buying rubber in rotation since 1959.

Mr. COBURN. Will you tell us what the annual storage cost is on this natural rubber?

Mr. CASTO. Yes, sir. The annual storage cost, as determined by fiscal year 1961, was $3,883,000.

Mr. COBURN. It seems to me that I recall at another time it has been testified in these hearings that the total annual storage cost for all stockpiled materials is about $11 million a year, is that right?

Mr. CASTO. That is correct.

Mr. COBURN. So that the cost of storing the rubber alone then is about one-third of your total storage costs?

Mr. CASTO. That is right. Rubber is, by far, our most expensive item.

Mr. COBURN. By far the most expensive single item to store, is that correct?

Mr. CASTO. That is correct.

Mr. COBURN. Mr. Casto, was there finally a disposal plan devised for the sale by GSA of the surplus rubber in the stockpile, and by "surplus" I mean rubber over and above our maximum objective?

Mr. CASTO. We received an authorization in 1959, in the spring of 1959, from OCDM, the policy agency at that time, to prepare a disposal plan for crude natural rubber; yes, sir.

Mr. COBURN. Was such a plan developed by GSA?

Mr. CASTO. A plan was developed by GSA which other agencies refused to concur in; yes, sir.

Mr. COBURN. Well, eventually was a plan devised that they did concur in?

Mr. CASTO. Eventually a plan was devised, and GSA was directed to dispose of rubber in accordance with that plan; yes, sir.

Mr. COBURN. Who devised that plan, do you recall?

Mr. CASTO. The plan came to us in the form of a directive from OCDM. We were directed to follow that plan. I would assume that OCDM developed the plan.

Mr. COBURN. This plan called for the sale of how much rubber?

Mr. CASTO. This plan covered the disposal of 470,000 long tons of excess rubber.

Mr. COBURN. Was that the approximate amount of our surplus at the time?

Mr. CASTO. That is correct.

Mr. COBURN. Over and above our maximum objective?

Mr. CASTO. That is correct.

Mr. COBURN. Over what period of time was this 470,000 amount, were these 470,000 tons, to be sold?

Mr. CASTO. GSA published a notice in the Federal Register on September 15, 1959, by the terms of which we gave notice that we would dispose of approximately 50,000 tons of rubber per year over about a 9-year period.

Mr. COBURN. When did you actually begin selling rubber pursuant to that plan?

Mr. CASTO. On October 16, 1959.

Mr. COBURN. And Congress—had it approved the plan at that time?

Mr. CASTO. No, sir. Congress did not approve the plan until May 4, 1960.

Mr. COBURN. That was when Congress approved the plan?

Mr. CASTO. That is when Congress approved it. They had not approved the plan on October 16 when we began disposing; no, sir.

Mr. COBURN. In view of the fact that all of this rubber that was being sold was in the stockpile, which ordinarily requires the approval of Congress for sale, how did it happen that the sale of rubber started before the approval of the disposal plan by Congress?

Mr. CASTO. The Independent Offices Appropriation Act for fiscal year 1960 authorized the General Services Administration to rotate any perishable material which it held in excess supply without replacement.

Mr. COBURN. So that was just done pursuant to a special statute that happened to be on the books at the time——

Mr. CASTO. That is correct.

Mr. COBURN (continuing). But which has since expired?

Mr. CASTO. That is correct.

Mr. COBURN. That was why you subsequently—in May of 1960 got the approval of Congress for this plan?

Mr. CASTO. That is correct.

Mr. COBURN. And so the plan then, the disposal plan, continued. Sales were made under the disposal plan after May of 1960 pursuant to authority of Congress?

Mr. CASTO. That is right.

Mr. COBURN. The sales are still being made at the present time under the disposal plan?

Mr. CASTO. That is right.

Mr. COBURN. Now, Mr. Casto, without going into great detail, but I wish you would tell us the salient features of this disposal plan as it was originally adopted.

Mr. CASTO. The disposal plan under which we originally began to dispose of rubber provided that under 30 cents per pound no sales could be made by GSA.

Mr. COBURN. You are referring now to the market?

Mr. CASTO. That is correct. This would be the price at which GSA would actually sell.

The market that might prevail in the marketplace had no bearing whatsoever upon what GSA might do in disposing.

We could not write a contract of sale at a price under 30 cents per pound.

Between 30 and 32 cents per pound we were authorized to dispose of 9,000 tons per calendar quarter or 3,000 tons per month.

Between 32 and 34 cents per pound we were authorized to dispose of 18,000 long tons per calendar quarter of 6,000 tons per month.

Between 34 and 36 cents we had authority to sell 27,000 tons per calendar quarter or 9,000 per month; and above 36 cents there was no limit on the amount of rubber that could be sold.

Mr. COBURN. Was there any change made in that disposal plan at a later date?

Mr. CASTO. Yes, sir. There have been two changes.

Mr. COBURN. Tell us about the first.

Mr. CASTO. The first change occurred on November 1, 1961, when the Office of Emergency Planning rescinded the price and quantity limitation and, as an interim measure, directed GSA to dispose of rubber in accordance with the following provisions:

(1) Sales of excess rubber will be limited to a maximum of 5,000 long tons per month when contract prices received are below 32 cents per pound.

(2) At contract prices of 32 cents per pound and above the quantity restriction will not apply.

(3) When a total of 15,000 long tons have been sold at prices below 28 cents per pound, the interim procedure will be reexamined.

The next change took place on January 11, 1962, when OEP supplemented its directive of November 1 to proceed in the following way:

(1) No more than 5,000 long tons will be sold in any month when the average market price for No. 1 rib-smoked sheets for the preceding calendar month was less than 32 cents a pound.

(2) Subject to the foregoing limit, there will be no sales except of deteriorated rubber when the average market price for No. 1 rib-smoked sheets for the preceding calendar month was less than 28 cents a pound.

(3) Sales may be made in excess of 5,000 long tons a month when the average market price for No. 1 rib-smoked sheets was at or above the level of 32 cents a pound in the preceding calendar month.

Senator SYMINGTON. You say you were handling this rubber program your self for some time?

Mr. CASTO. That is correct.

Senator SYMINGTON. What is the reason for this last change?

Mr. CASTO. The reason for the last change, in my judgment, comes about because of No. 3 in the preceding one.

Senator SYMINGTON. You say, in your judgment; weren't you told why, what the reasons were?

Mr. CASTO. No, sir. We in GSA were simply given a directive which rescinded the previous directive under which we were operating, and we received a new directive on January 11.

Senator SYMINGTON. Weren't you curious as to why the change was made?

Mr. CASTO. Yes, sir. I would say that I am curious by nature. [Laughter.]

Senator SYMINGTON. Well, did your nature make you ask informally the reason for the change as to why you were going to operate under different rules?

Mr. CASTO. Yes. But I don't think that I received what I would consider a logical explanation.

Senator SYMINGTON. What explanation did you receive?

Mr. CASTO. I received an explanation that the 15,000-ton requirement at 28 cents or under in the previous directive was received with a considerable amount of protest in the Far East, and that the revised directive was placed into effect to try or to endeavor to pacify the rubber-producing countries.

Senator SYMINGTON. The price that the rubber could be sold at, in effect, would fix the market price, would it not, the world market price?

Mr. CASTO. I am inclined to think so; yes, sir.

Senator SYMINGTON. Would you say then we were utilizing the stockpile in order to fix the world market price on rubber?

Mr. CASTO. I would say that this type of plan would have that kind of tendency; yes, sir.

Senator SYMINGTON. Thank you.

Mr. COBURN. Mr. Casto, at the time that this first, the original, plan was adopted, which had a cutoff price, as I recall your testimony, of 30 cents, did it not——

Mr. CASTO. Yes, sir.

Mr. COBURN (continuing). If the market went below 30 cents, all sales were stopped; isn't that correct?

Mr. CASTO. That is correct.

Mr. COBURN. At the time that that plan was adopted, what was the market price for rubber, the approximate market price?

Mr. CASTO. At the time the plan was first developed, the market price was roughly 41 cents per pound.

Mr. COBURN. After the plan was adopted, what happened to the market price?

Mr. CASTO. For the last 3 months of calendar year 1959, the market price averaged 42¾ cents per pound.

For calendar year 1960, the market price averaged just slightly in excess of 38 cents per pound.

For the calendar year 1961 the market averaged just slightly in excess of 29½ cents per pound.

Mr. COBURN. Well then, the market declined substantially after this first—after the plan was first adopted?

Mr. CASTO. That is correct.

Mr. COBURN. And by the time the plan was changed, this second plan, or the amended plan, went into effect, which was at what time, did you say——

Mr. CASTO. The first amended plan went in on November 1 of 1961.

Mr. COBURN. And that had a cutoff price below which no sales could be had at 28 cents a pound; did it?

Mr. CASTO. No, sir. We could sell rubber under 28 cents per pound to the extent of 5,000 tons per month.

Mr. COBURN. Excuse me, what was the market price of rubber at that time, approximately?

Mr. CASTO. In November of 1961 the market price was almost 27½ cents a pound.

Mr. COBURN. It is presently about 28½ cents, you have said?

Mr. CASTO. That is correct.

Mr. COBURN. Now, Mr. Casto, under the disposal plan and the disposal plan as amended, what have been the sales, the total sales, by the American Government from the stockpile?

Mr. CASTO. From the beginning, in October of 1959, through March 31, 1962, we have sold a total of 142,750 long tons.

Mr. COBURN. That is approximately what percent of the authorized sales?

Mr. CASTO. Roughly a third.

Mr. COBURN. In the 3 months of 1959 how many tons did you sell?

Mr. CASTO. We sold the full limit of 5,000 tons for January, the full 5,000 for February.

Mr. COBURN. Excuse me, I said for 1959.

Mr. CASTO. 1959; the 3 months in which we were disposing of rubber in 1959, October, November, and December, we sold a total of 19,580 long tons.

Mr. COBURN. During the full year of 1960 how many tons did you sell?

Mr. CASTO. 78,291.

Mr. COBURN. In 1961, how many?

Mr. CASTO. 29,879.

Mr. COBURN. And in 1962, during January, February, and March?

Mr. CASTO. 15,000 long tons.

Mr. COBURN. You have sold during each of January, February, and March 5,000 tons of rubber; is that right?

Mr. CASTO. That is correct.

Mr. COBURN. That being the maximum amount that you could sell under the present plan.

Mr. CASTO. That is correct.

Senator CANNON. Counsel, may I ask a question? Are all of those sales in the open market?

Mr. CASTO. Yes, sir; all of those sales are on the open market.

Senator CANNON. Thank you.

Mr. COBURN. Mr. Casto, did the United Kingdom have a stockpile of natural rubber, too?

Mr. CASTO. Yes, sir; it did.

Mr. COBURN. Did they begin selling from their stockpile at the same time that we did?

Mr. CASTO. They did, sir.

Mr. COBURN. That is, in October of 1959?

Mr. CASTO. Yes, sir.

Mr. COBURN. How many tons of rubber did they have in their stockpile when they began selling?

Mr. CASTO. We were advised that they had approximately 100,000 long tons.

Mr. COBURN. Prior to offering rubber for sale from their stockpile, did they declare their entire amount of rubber surplus?

Mr. CASTO. Yes, sir; they did.

Mr. COBURN. All of it?

Mr. CASTO. All of it.

Mr. COBURN. Can you tell us how much of their rubber they have sold to date?

Mr. CASTO. According to advice that we have received starting in 1959 through March of 1962, they have sold 76,509 long tons.

Mr. COBURN. Who advised you to that effect?

Mr. CASTO. We receive advice from the Embassy here in town, the United Kingdom Embassy.

Mr. COBURN. That would leave how much rubber in their stockpile?

Mr. CASTO. The latest figure that we have on rubber that is remaining in the United Kingdom stockpile was 20,500 long tons.

Mr. COBURN. How much do we have?

Mr. CASTO. We have too much. [Laughter.]

Mr. COBURN. Well, let us convert that into hard figures.

Mr. CASTO. Well, we have remaining for sale roughly 341,000 long tons.

Mr. COBURN. Yes, but we had more than that in our stockpile.

Mr. CASTO. Oh, yes, sir.

Mr. COBURN. Well, tell us how much we have altogether.

Mr. CASTO. As of March 31, 1962, we had remaining in our stockpile 1,081,000 long tons.

Mr. COBURN. At the present rate of sale by the United Kingdom which, by the way, is how much a month?

Mr. CASTO. 1,000 tons per month compared to our 5,000.

Mr. COBURN (continuing). How long will it take them to dispose of all of their rubber?

Mr. CASTO. That would depend upon how successful they might be in moving the entire 1,000 tons each month that they are authorized to move. But assuming that they were, roughly 21 months.

Mr. COBURN. A little less than 2 years?

Mr. CASTO. Yes, sir.

Mr. COBURN. There is no such prospect as far as we are concerned, is there?

Mr. CASTO. No, sir; there is not.

Mr. COBURN. Now, Mr. Casto, I had meant to ask you a moment ago but did not, if you have before you figures on the market price of natural rubber starting with 1954 to date.

Mr. CASTO. Yes, sir; I do.

Mr. COBURN. Would you tell us just one or two things about this market price on natural rubber: Does it vary considerably?

Mr. CASTO. Yes, sir. The price of natural rubber fluctuates about as wildly as it is possible for any price to fluctuate for any commodity. It moves——.

Mr. COBURN. Does it have—excuse me.

Mr. CASTO. It moves rapidly, increasing and decreasing during the course of a day.

Mr. COBURN. So that there is a daily market price on natural rubber, is there?

Mr. CASTO. Yes, sir.

Mr. COBURN. Which varies from day to day?

Mr. CASTO. That is correct.

Senator SYMINGTON. Who sets that price?

Mr. CASTO. The buyer and the seller agreeing upon a price.

Senator SYMINGTON. Where?

Mr. CASTO. In most of your primary markets; here in the United States invariably it is in New York.

Senator SYMINGTON. Ten years ago the tin price was set in Singapore by a man coming out with a megaphone and saying, "This is the tin price today."

Are you saying that different prices are set on rubber around the world or is there an agreed price at a particular point and, if so, where is that point?

Mr. CASTO. There is no agreed price. New York will vary from London; London will vary from Singapore; Singapore will vary from Amsterdam.

Senator SYMINGTON. Then how can you give us a price and say that this was the price on a particular day? Do you reach a mean average of the particular averages or do you take a price from a particular place, although this is not necessarily the price in other places?

Mr. CASTO. No, sir. For settlement purposes throughout the United States there is a price that is published by the Rubber Trade Association of New York, Inc., at the close of each day's business. This then becomes the official price for settlement purposes.

Senator SYMINGTON. Who are members of the Rubber Trade Association in New York?

Mr. CASTO. Well, there are any number of different members, agents, and dealers. There might be as many as 65 or 70 in total.

Senator SYMINGTON. How do they arrive at that price?

Mr. CASTO. They have a pricing committee which meets at the close of business and reviews the various contracts which have been consummated during the day.

Senator SYMINGTON. They decide what the price is as a result of reviewing those transactions?

Mr. CASTO. They do; yes, sir.

Senator SYMINGTON. Suppose there is a difference in the various prices around the world. Which price do they make a decision on?

Mr. CASTO. They make a decision on the prices which have taken place domestically during the course of the day.

Senator SYMINGTON. So the price in New York is the domestic price in the United States; is that correct?

Mr. CASTO. That is correct.

Senator SYMINGTON. That is the price you operate against regardless of the world price in other parts of the world?

Mr. CASTO. That is right. We get the prices from Singapore and we get prices from London as an indication as to what values are.

Senator SYMINGTON. Mr. Counsel, we have been going now for over 30 minutes, and based on committee rules, perhaps some of the other Senators would like to ask a question.

Senator Cannon.

Senator CANNON. I would like to ask, Mr. Casto, how much does this price vary throughout the world?

Mr. CASTO. It might increase as much as 2 cents during the course of a day or decrease 2 cents during the course of a day.

Senator CANNON. In other words, there might be a differential of 2 cents difference in price between the New York price and one of the foreign country prices?

Mr. CASTO. That is correct.

Senator CANNON. But normally not more than that?

Mr. CASTO. Well, there would normally not be anywhere near that amount. There would be a slight variation. It might be from a quarter to a half cent a pound difference between the various prices.

Senator CANNON. Thank you, Mr. Chairman.

Senator SYMINGTON. Senator Case.

Senator CASE. Mr. Chairman, I am not quite clear.

You speak of the variation of the prices in different markets. Is that difference primarily a reflection of transportation costs from the sources of natural rubber?

Mr. CASTO. It could be. That has a very large effect on it. But it also could be the interpretation of various developments, supply-demand factors, that might be placed on it by the interested people in London, as contrasted to the interested group in New York.

Senator CASE. Over a period of time, assuming that transportation is not impeded by war or restrictions on exports, the difference in the different markets would tend to reflect primarily the cost of transportation from a natural source of supply?

Mr. CASTO. That is correct.

Senator CASE. That is all.

Senator SYMINGTON. You gave a figure of $752 million-plus, roughly, for the acquisition of rubber for the national stockpile, right?

Mr. CASTO. Yes, sir.

Senator SYMINGTON. Then you had two other places from which rubber came, as I remember, ECA and RFC; is that right?

Mr. CASTO. That is correct.

Senator SYMINGTON. And the total was over $900 million?

Mr. CASTO. $905 million.

Senator SYMINGTON. $905 million.

Mr. CASTO. Yes, sir.

Senator SYMINGTON. Are you going to give us later the maintenance cost of the rubber?

Mr. CASTO. I can give it to you now if you would like. It cost us in fiscal year 1961 $3,883,025 to store rubber.

Senator SYMINGTON. Per year?

Mr. CASTO. Per year.

Senator SYMINGTON. Multiply that by the number of years. How many years have you?

Mr. CASTO. We have got 12 years. It would be roughly $36 million. Of course, for the entire 12 years we didn't have the entire quantity.

Senator SYMINGTON. I see; $36 million for the 12 years?

Mr. CASTO. Yes, sir.

Senator SYMINGTON. So you figure then $3.8 million doesn't apply year by year?

Mr. CASTO. Yes, sir.

Senator SYMINGTON. Then you add to that the $905 million.

Mr. CASTO. You add that to the cost of rotation, which was roughly $5 million a year.

Senator SYMINGTON. So that is another $60 million?

Mr. CASTO. That is correct.

Senator SYMINGTON. So you tack that $60 million on the $36 million, and you are over $1 billion.

Mr. CASTO. That is right.

Senator SYMINGTON. But you bought some more rubber to replace it, didn't you?

Mr. CASTO. Yes, sir.

Senator SYMINGTON. How much of that did you buy?

Mr. CASTO. The net cost of rotation at $5 million per year is the actual out-of-pocket that we are.

Senator SYMINGTON. I see. The $60 million would embrace the total cost?

Mr. CASTO. Yes, sir.

Senator SYMINGTON. Actually the United States has $1 billion of investment in the stockpile as of now; is that correct?

Mr. CASTO. Yes, sir.

Senator SYMINGTON. Thank you.

Mr. COBURN. Just one or two questions.

Mr. Casto, because rubber fluctuates in market price daily, I realize it is impossible for us to go into all of the details of the movement of the rubber market since, say, 1954. But can you give us the yearly average price for natural rubber for 1954?

Mr. CASTO. Yes, sir; 23.6 cents per pound.

Mr. COBURN. 1955?

Mr. CASTO. 39.2 cents per pound.

Mr. COBURN. So that shows how the price can fluctuate?

Mr. CASTO. Yes, sir.

Mr. COBURN. It increased markedly from 1954 to 1955. What was the average price for natural rubber in 1956?

Mr. CASTO. 34.2.

Mr. COBURN. For 1957?

Mr. CASTO. 31.1.

Mr. COBURN. In 1958?

Mr. CASTO. 28.1.

Mr. COBURN. 1959?

Mr. CASTO. 36.6.

Mr. COBURN. That is the first year that we began to sell from the stockpile, is it not?

Mr. CASTO. Yes, sir.

Mr. COBURN. The price had advanced to 36 cents, on the average, had it not?

Mr. CASTO. Yes, sir; it had.

Mr. COBURN. Which made it a propitious time to sell?

Mr. CASTO. That is correct.

Mr. COBURN. What was the average price for 1960?

Mr. CASTO. 38.1.

Mr. COBURN. And for 1961?

Mr. CASTO. 29.6.

Mr. COBURN. So there has been a marked dropped in the price——

Mr. CASTO. Yes, sir.

Mr. COBURN (continuing). Or was in 1961 relative 1960?

Mr. CASTO. Yes, sir.

Mr. COBURN. And the present price is 28½ cents a pound?

Mr. CASTO. Yes, sir.

Senator CASE. Mr. Chairman?

Senator SYMINGTON. Senator Case.

Senator CASE. To what would you attribute the drop in price in the last 2 or 3 years?

Mr. CASTO. Supply-demand.

Senator CASE. Has that supply-demand situation been affected by the improvement of the substitutes, the synthetic rubbers?

Mr. CASTO. Yes, sir. It has been substantially affected by it.

Senator CASE. Conversely, at the time that the stockpile objective was initiated, was there a necessity which warranted the acquiring of a stockpile, was it necessary in the trade to have a certain amount of natural rubber in order to meet potential defense requirements?

Mr. CASTO. Yes, sir. The Army-Navy Munitions Board originally determined crude natural rubber to be a strategic and critical material, and instituted a program for stockpiling of rubber in accordance with that finding.

Senator CASE. In accordance with that finding at that time it was important to have a reserve supply for strategic purposes more or less independently of what it would cost?

Mr. CASTO. That is correct.

Senator CASE. A certain minimum. Then as we sought to develop synthetics and substitutes, the dependence and the necessity for a certain minimum amount of natural rubber declined?

Mr. CASTO. Yes, sir.

Senator CASE. As the substitutes improved; and as the substitutes improved there was naturally some reduction in the demand for the natural rubber and, consequently, a price decline might be expected as sources of satisfactory substitutes increased?

Mr. CASTO. I would not say that would be 100 percent correct, Senator Case, because we often had prior to the development of the new and improved synthetics a substantial fluctuation in the price of rubber back during the days when we were building our stockpile.

I would say that the premise that the price of natural rubber should decline as these new and improved synthetics come onto the market is correct.

Senator CASE. Without going into too much detail, what would be your explanation of the variation in the price in the earlier period before the synthetics were produced in larger quantities?

Mr. CASTO. To a large extent, in my judgment, it would be the offtake (*a*) that was taken for the stockpile and (*b*) the offtake that would be taken by the Soviet and satellite countries. They might buy heavily in 1 year, which would cause the price to go up, and then not buy practically anything the following year.

Senator CASE. There were times when the countries or suppliers who had, if not a monopoly, at least a substantial control over sources of supply should adjust the price to take advantage of whatever the current requirements in important quarters were.

Mr. CASTO. Yes, sir.

Senator CASE. That is all. Thank you.

Senator SYMINGTON. I would like to ask a question, if I may.

Mr. Casto, my last active interest in rubber was in 1951.

Mr. CASTO. Yes, sir.

Senator SYMINGTON. At that time it became very clear, did it not, that the synthetic rubber which we had been making somewhat badly in the past was turning into very good rubber?

Mr. CASTO. I would say that the synthetic rubber that you made at RFC was equally as good as the synthetic rubber that was being produced in 1959; yes, sir.

Senator SYMINGTON. Well, the point I was trying to make is that we saw at that time that synthetic rubber was becoming a very serious competitor to natural rubber; isn't that correct?

Mr. CASTO. That is correct; yes, sir.

Senator SYMINGTON. Whereas in the beginning it was relatively poor rubber. And also we began to be suspicious of the fact at that time that the synthetic price would create grave problems for the natural rubber plantation owners, did we not?

Mr. CASTO. Yes, sir; we did.

Senator SYMINGTON. And at that time there was a suspicion that the synthetic rubber could be made not only as well as natural rubber and could be used for most purposes, if not all, but could be made for less money; isn't that a correct statement?

Mr. CASTO. That is a correct statement.

Senator SYMINGTON. Some of the wiser members of the rubber industry pointed this out at considerable length to the Government from 1951 to today; isn't that true?

Mr. CASTO. That is true.

Senator CASE. Mr. Chairman, I think it would be a very good point. I would like to suggest from my point of view, I would like to suggest it was an important, not necessarily a serious, challenge to the price situation. I was one of those, I am sure the Senator was and other members of this committee who were Members of Congress, who were eager to have the U.S. developments in synthetic rubber, which would make us less and less dependent upon natural rubber in case of emergency. So it was not merely a serious threat to the price, it was an important matter that the quality of the rubber increased.

Mr. CASTO. Yes, sir; that is right.

Mr. COBURN. That is all of this witness, Mr. Chairman.

Senator SYMINGTON. Thank you, Mr. Casto.

Mr. Counsel, who is your next witness?

Mr. COBURN. Mr. S. S. Groggins.

Senator SYMINGTON. Mr. Groggins, are you here?

Mr. Groggins, it is the custom of this committee for all witnesses to be sworn. Will you raise your right hand, please? Do you swear that the testimony you will give this subcommittee is the truth, the whole truth, nothing but the truth, so help you God?

Mr. GROGGINS. I do.

Senator SYMINGTON. Be seated. Proceed, Mr. Counsel.

Mr. COBURN. Thank you, Mr. Chairman.

Will you please state your full name and address?

TESTIMONY OF STANLEY S. GROGGINS, NEW YORK, N.Y.

Mr. GROGGINS. 122 Waverly Place, New York City.

Mr. COBURN. What is your business, Mr. Groggins?

Mr. GROGGINS. I am associated with Golodetz & Co., 120 Wall Street, New York City, and I am in charge, and have been, for the last 23 years, of all Government business conducted—negotiated by the company.

Mr. COBURN. I am sorry, I think people are not hearing you. I know I am not hearing you very well. Do you mind speaking a little plainer, and perhaps, a little closer to your microphone so we can understand you clearly.

Now, you say the name of your company is what?

Mr. GROGGINS. Golodetz & Co.

Mr. COBURN. Golodetz & Co. of New York City?

Mr. GROGGINS. That is right.

Mr. COBURN. What is the nature of their business?

Mr. GROGGINS. They are international traders in commodities.

Mr. COBURN. Among those commodities do you trade in rubber?

Mr. GROGGINS. Our associated companies in London do. We did during the time of the strategic stockpiling and, I guess, we made a substantial contribution to your stockpile.

Mr. COBURN. You trade in other commodities besides rubber, do you?

Mr. GROGGINS. That is right.

Mr. COBURN. Copper, for instance, do you?

Mr. GROGGINS. No. We deal in manganese ore, chrome ore, precious metals, platinum, palladium; we have associated companies who deal in the base metals, lead and zinc, and a great many other commodities. We are one of the largest sugar brokers in the country.

Mr. COBURN. Now, Mr. Groggins, did I understand you to say that you have an associate company in London?

Mr. GROGGINS. Yes, Pacific & Colonial Products Co., Ltd.

Mr. COBURN. That is the name of it?

Mr. GROGGINS. Yes, sir; that is right.

Mr. COBURN. It does not bear the name of M. Golodetz?

Mr. GROGGINS. There is also another M. Golodetz in London, which is the parent of the British company.

Mr. COBURN. So the British company as well as the New York company are all owned by your family, are they?

Mr. GROGGINS. They are owned partly by the same family.

Mr. COBURN. And, I believe you have other commodity companies around the world; do you not?

Mr. GROGGINS. Yes, we do.

Mr. COBURN. All right.

Now, with reference to the London company, did that company make any arrangements with the Board of Trade of the United Kingdom for the disposition of the rubber that the British had in the stockpile?

Mr. GROGGINS. Yes. We were one of the companies that disposed of the British stockpile.

Mr. COBURN. Who did you dispose of that rubber to?

Mr. GROGGINS. Russia.

Mr. COBURN. You sold it to Russia?

Mr. GROGGINS. Yes, we did.

Mr. COBURN. How much of it?

Mr. GROGGINS. I do not know the figures. I can supply those if they are important. But we sold a good part of the British stockpile to Moscow.

Mr. COBURN. Are you still selling the rubber for the United Kingdom from their stockpile?

Mr. GROGGINS. As far as we know it has been practically disposed of, at least for all practical purposes it has been disposed of.

Mr. COBURN. Well, they are still selling it at the rate of 1,000 tons a month, are they not?

Mr. GROGGINS. If they are selling any our company will be one of the companies which will act for the agent of the Board of Trade in disposing of it.

Mr. COBURN. Do you know whether they are still selling the rubber to Russia?

Mr. GROGGINS. I doubt that there have been any sales recently.

Mr. COBURN. How long ago by that do you mean?

Mr. GROGGINS. Well, within the last few months.

Mr. COBURN. I believe I have no more questions of this witness, Mr. Chairman.

Mr. GROGGINS. We were interested, of course, Mr. Chairman, in helping to dispose of our stockpile. A year ago I came to Mr. Casto and told him that the Russians were interested in buying about 50,000 tons, if we could arrange a transaction.

Mr. COBURN. You mean from the American stockpile?

Mr. GROGGINS. Yes, yes; and I began some negotiations with him.

Senator SYMINGTON. With whom?

Mr. GROGGINS. Mr. Casto. And one of the conditions, of course, had to be that it was subject to export license and that we would be willing to discuss the sale of it on that basis.

But as I said, there are only three ways we can dispose of the stockpile. One is to find new customers, which is almost impossible, because the customers of natural rubber have their natural sources of supply. The other is to find new uses for it and, as I understand, one of them is experimentally to build some of our roads, which is a fairly costly material for it; and the third is to find a way to do the business the way the British and the Germans and the Japanese and the Italians and the French are doing it. They are selling it under terms which their countries permit to the Russians, and we probably should try to do as much.

We were doing it for a while until Secretary Hodges almost put a quietus on the trade with Russia.

Senator SYMINGTON. Let me get this straight: You say your company has disposed of a large amount of the British rubber stockpile?

Mr. GROGGINS. That is right.

Senator SYMINGTON. And that you have tried to get this country's permission to dispose of some of it at the same place that the British Government disposed of it, namely, behind the Iron Curtain, and Russia specifically, but that has not been approved by this Government; is that correct?

Mr. GROGGINS. That is right.

Senator SYMINGTON. Senator Engle, have you any questions?

Senator ENGLE. I think not at this time. Thank you.

Senator SYMINGTON. Senator Case.

Senator CASE. Yes, Mr. Chairman.

When did this approach—when was this approach made to acquire for the Russians 50,000 tons of rubber?

Mr. GROGGINS. About a year ago.

Senator CASE. Could you bring that down to a specific day; was it in March or in April?

Mr. GROGGINS. No. I think it would be nearer June.

Senator CASE. Nearer June. And you went to GSA with that idea in mind to see if you could get 50,000 tons from the U.S. stockpile?

Mr. GROGGINS. That is right.

Senator CASE. Who did you contact there?

Mr. GROGGINS. Mr. Casto.

Senator CASE. What did Mr. Casto tell you?

Mr. GROGGINS. He thought that it would be feasible.

Senator CASE. He thought it would be feasible?

Mr. GROGGINS. Yes.

Senator CASE. Did you tell him to whom you proposed to make the sale?

Mr. GROGGINS. Oh, yes. I told him it was for sale to Russia.

Senator CASE. What followed then? When was the next step?

Mr. GROGGINS. Approximately 2 weeks later I was advised by him that they could not and would not negotiate a sale subject to the granting of an export license, without which, of course, we couldn't negotiate further.

Senator CASE. Where would you have to go to get the export license?

Mr. GROGGINS. The Department of Commerce.

Senator CASE. And Secretary Hodges was not favorable to granting the export license?

Mr. GROGGINS. That is right.

Senator CASE. Has there been any further negotiation on this proposed sale to the Russians of 50,000 tons of the national stockpile rubber?

Mr. GROGGINS. No. The reason for my interest here is that I think there could be another interest at this time in negotiating such a transaction.

Senator CASE. You think the Russians are still interested in acquiring the 50,000 tons?

Mr. GROGGINS. They are interested in acquiring this material, as well as a lot of others, if it can be arranged by barter transactions, ones which require the least amount of expenditure of hard currencies, and the British find it very facile to negotiate these because their Government helps them. They can get an export license within a few days.

We apply for export licenses here and we wait 3 and 4 months for notice, some kind of a notification. By that time, of course, the deal is stale and it is consummated elsewhere.

Senator CASE. Did you discuss a possible barter arrangement with the representatives of the Russian Government?

Mr. GROGGINS. Our London company did; yes.

Senator CASE. Your London company?

Mr. GROGGINS. Yes.

Senator CASE. What did they propose to send in barter exchange to pay for this 50,000 tons of rubber.

Mr. GROGGINS. Oh, it might be any one of a number of commodities. We have taken platinum, palladium, chemicals, materials they have that they want to sell.

Senator CASE. Would the barter have extended beyond your company? Would you have acquired the materials submitted in barter and disposed of them or would the barter have been a barter between the governments?

Mr. GROGGINS. No, no. We would sell them anywhere in the world that we are capable of doing so, at a fair price.

Senator CASE. So that as far as you were concerned, you would have gone to GSA to have acquired the rubber for dollars.

Mr. GROGGINS. That is right.

Senator CASE. But once having gotten it then you would need this export license in order to make the barter with the Russians?

Mr. GROGGINS. That is right.

Senator CASE. Have you any current negotiations looking toward the acquisition of this rubber for the Russians?

Mr. GROGGINS. Well, I don't know just how current they are. But this is a simple matter. The people from London fly to Moscow quite regularly and, I dare say, they have in the year 1961 conducted a large amount—it runs into many, many millions of dollars—of two-way business between London and Moscow, and we have always represented American companies in some of this trade. So that we have a facility of negotiating with them.

Senator CASE. Why did your company seek to get the rubber from the U.S. stockpile rather than from other potential suppliers of natural rubber?

Mr. GROGGINS. We felt we might be able to do better than on the world market.

Senator CASE. That is all, Mr. Chairman.

Mr. COBURN. Mr. Groggins, I want to make sure that we have a clear understanding about this. You made the approach to GSA, did you not?

Mr. GROGGINS. I did.

Mr. COBURN. For the purpose of making a deal between the United States and Russia for the disposition of our natural rubber?

Mr. GROGGINS. Well, the deal is between GSA and our New York company——

Mr. COBURN. Yes.

Mr. GROGGINS. (continuing). Which would be responsible and pay for it in dollars.

Mr. COBURN. Yes.

Mr. GROGGINS. We would then probably arrange to have the London company act as the principal with Russia, although we can do it ourselves.

Mr. COBURN. Yes. But my point is that you made the approach. GSA didn't approach you?

Mr. GROGGINS. Oh, no.

Mr. COBURN. After you talked with Mr. Casto then the matter was finally—you were turned down?

Mr. GROGGINS. That is right.

Mr. COBURN. In the sales that were handled by your English company for the English Government, was that a continuing arrangement, just one arrangement that was made with the Russians that went on for a period of a couple of years?

Mr. GROGGINS. No. I don't think we can say it was a continuing arrangement. Each time there was a quantity to be disposed of we acted as the brokers or dealers and went to Russia and sold it.

We paid the British Government in pounds. We took from the Russians the commodities or currency that they had, and we were compensated that way.

Mr. COBURN. So these deals then were made from time to time, each month as additional rubber was available from the British stockpile?

Mr. GROGGINS. That is right.

Mr. COBURN. As I understand it, it was the Board of Trade of the United Kingdom that made the arrangement with the English company to sell the rubber in the stockpile?

Mr. GROGGINS. The London Board of Trade is the official authority.

Mr. COBURN. Yes. And the London Board of Trade is an arm of the British Government?

Mr. GROGGINS. That is correct.

Mr. COBURN. Comparable in some respects, at least, to our Department of Commerce?

Mr. GROGGINS. I would say so.

Mr. COBURN. Did the British Board of Trade know this rubber was moving to Russia.

Mr. GROGGINS. Oh, yes. They had no hesitancy.

Mr. COBURN. No effort on the part of your London company to conceal where this rubber was being sold?

Mr. GROGGINS. Oh, no, no. The British Government not only facilitates trade with Russia but insures the credit and extends credit and does a great many other things.

Senator SYMINGTON. Does what? Repeat that.

Mr. GROGGINS. Insures credit, permits the extension of credit and does a good many things to facilitate the trade with Russia, and they are not reluctant.

The West Germans, the French, the Italians, the Japanese all are engaged in this trade. Apparently they feel that they are justified in helping out their domestic manufacturers in gaining markets that are available.

We don't seem to think the same way.

Mr. COBURN. May I say, Mr. Chairman, if I may comment on this, the U.S. Government regards rubber as strategic and critical to the national defense, because we still have an objective of 750,000 tons in our stockpile.

Mr. GROGGINS. Well, one of the points you are making here is that with the improvement of synthetic rubber it is no longer in most senses a strategic and critical material.

Senator SYMINGTON. You mentioned three ways we could get rid of the stockpile. May I refer you to a fourth made in our statement this morning?

Senator Engle.

Senator ENGLE. No questions.

Senator SYMINGTON. Senator Case.

Senator CASE. Mr. Chairman, I would like to ask Mr. Groggins how did you make the approach to GSA, by personal interview or correspondence?

Mr. GROGGINS. Personal; I have known Mr. Casto for many, many years.

Senator CASE. You have known him for many, many years?

Mr. GROGGINS. Yes, sir.

Senator CASE. Did you write him any letters about this or did you make the proposal in writing?

Mr. GROGGINS. No. We had a personal meeting. I met him. I explained just what London had suggested, whether it was feasible, and then we discussed it.

Senator CASE. Did you receive anything in writing from him in connection with this rubber, this proposed rubber, transaction?

Mr. GROGGINS. No.

Senator CASE. How were you advised that the Department of Commerce would not issue an export license?

Mr. CROGGINS. By Mr. Casto on a subsequent meeting.

Senator CASE. Orally?

Mr. GROGGINS. Yes.

Senator CASE. There was no letter from Secretary Hodges or from any representative of the Department of Commerce relative to export licenses?

Mr. GROGGINS. Well, let me put it this way: It was not exactly that way. He said they were not in position to negotiate the sale to us subject to the granting of an export license without which, of course, I wouldn't negotiate.

Senator CASE. Did you discuss a possible price for the rubber that you would purchase from the GSA for this transaction?

Mr. GROGGINS. No. That wasn't necessary. We knew the method of price fixing and price adjustment that they had.

Senator CASE. During the course of the years have you bought rubber in other instances from GSA?

Mr. GROGGINS. No, we just sold to them.

Senator CASE. What?

Mr. GROGGINS. We only sold to them.

Senator CASE. You only sold them?

Mr. GROGGINS. That is right.

Senator CASE. But you did sell?

Mr. GROGGINS. Oh, yes.

Senator CASE. Have you bought any other items from the national stockpile for your trade?

Mr. GROGGINS. I don't believe so. My principal function has been putting it on the stockpile in the last 23 years.

Senator CASE. You have been selling to the Government rather than buying from?

Mr. GROGGINS. That is right.

Senator CASE. Would you consult your records when you return to your office and determine whether or not you have made any other purchases or have made any other proposals to purchase or made actual purchases from the national stockpile in the last 10 years?

Mr. GROGGINS. I will do that. I don't believe so.

Senator CASE. And so advise the committee?

(Letter from S. S. Groggins, dated May 2, 1962, is as follows:)

M. GOLODETZ & CO.,
New York, N.Y., May 2, 1962.

MR. RICHMOND C. COBURN,
Chief Counsel, Subcommittee on the National Stockpile and Naval Petroleum Reserves, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. COBURN: Relative to the request of Senator Case as to whether the firm I represent (M. Golodetz & Co.) made any other proposals to purchase or if we actually made any purchases during the last 10 years which question appears on page 53 of the unedited transcript of the hearings on April 23, 1962, the answer is "No, we did not."

Respectfully yours,

S. S. GROGGINS.

Mr. GROGGINS. I am negotiating on one now.

Senator CASE. What is that?

Mr. GROGGINS. That is on the deposit of manganese ore. The Government has a deposit of low-grade domestic manganese ore which it is trying to dispose of, and we have been discussing with them a means of disposing of that stockpile. It is about 350,000 tons.

Senator CASE. 350,000 tons of low-grade manganese ore?

Mr. GROGGINS. That is right.

Senator CASE. Do you have a sale in mind for that if you acquire it or are you just proposing to acquire it?

Mr. GROGGINS. No. We are negotiating with the Japanese who seem to be interested in converting that material.

Senator CASE. Do you know what the average percentage of metallic manganese is in that manganese ore?

Mr. GROGGINS. Yes. It is about 25 percent.

Senator CASE. About 25 percent. That would take considerable upgrading to bring it up to steel grade manganese, but the Japanese are willing to take it at that percentage?

Mr. GROGGINS. The suggestion is that we convert it into silico-manganese for which it might be adaptable, and they are prepared to take it, and I have been suggesting to GSA that if it is feasible we try to work with agriculture and pay for the cost of the additional material by taking surplus agricultural commodities so that the Government wouldn't have to pay any money.

Senator CASE. So that you would take some agricultural commodities and exchange—how would that transaction work?

Mr. GROGGINS. Well, you have 350,000 tons of manganese. If the whole transaction were taken, I dare say it could be converted on a metallic content to approximately 100,000 tons of silico-manganese. The difference in cost between 350,000 tons of low-grade manganese, using the El Paso stockpile as a criterion of value, and in which the Government got about $50 a ton for the material, for a little better material, I would estimate that the stockpile may be worth about $1½ million.

One hundred thousand tons of silico-manganese could be worth $20 million. The difference would be paid for by taking wheat, cotton, corn, or tobacco.

Senator CASE. Would the wheat, cotton, corn, or tobacco go to the Japanese for doing this upgrading?

Mr. GROGGINS. Generally.

Senator CASE. So they would wind up with both the upgraded manganese and the surplus commodities?

Mr. GROGGINS. They would have this low-grade material which they could use by blending it with other material which they would have for future use.

Senator CASE. And then you would be paid for an upgraded manganese ore?

Mr. GROGGINS. That is right.

Senator CASE. And the Government, where would the Government come out on this investment in the low-grade manganese ore?

Mr. GROGGINS. Well, it would have on the stockpile some usable material which would conform to national specifications instead of having this mountain of material which is absolutely unusable in its present form, and which should not be beneficiated, upgraded, in the normal way because the cost of the material would be far in excess of what you could buy good material for in the open market.

Senator CASE. Do the Japanese have the particular ability, using silicon manganese?

Mr. GROGGINS. They have, as the American ferroalloy industry has, a particular ability in being able to make the material. I daresay probably the factor that concerns them is the ability to get some trade out of the transaction.

Senator CASE. Under the proposal which you have been discussing with GSA would the Government come out whole, so to speak, on the investment it has in this El Paso low-grade manganese?

Mr. GROGGINS. Oh, no; it could never do that. It was paying fabulous prices for material during what was an emergency period and was paying a rate which was subsidizing the domestic industry.

While I think it is worth about $5 a ton, I guess the Government must have paid $20 or $30 a ton for that material. But these were the periods of the late forties, when Senator Symington, and several others who are on the Preparedness Subcommittee, were at the Munitions Board and wanting to know why we didn't have our adequate defense by having stockpiles that we thought we ought to have at that time.

Senator SYMINGTON. Would the Senator yield?

Senator CASE. Yes.

Senator SYMINGTON. So far as manganese is concerned that is one product that we have very little of in this country, or hardly any at all.

Mr. GROGGINS. None whatever.

Senator SYMINGTON. It takes 12 or 14 pounds of manganese, as I remember, to make a ton of steel; is that correct?

Mr. GROGGINS. I would say 14 to 17.

Senator SYMINGTON. Fourteen to seventeen. It has gone up.

Mr. GROGGINS. I am a member of the Manganese Industry Advisory Committee.

Senator SYMINGTON. We need manganese badly to handle our base industry, the steel industry.

Mr. GROGGINS. That is right.

Senator SYMINGTON. In rubber we are talking about a situation where the Government invested hundreds of millions of dollars to produce it over here, is that correct?

Mr. GROGGINS. That is true.

Senator SYMINGTON. Have you had any supplemental stockpile arrangements under Public Law 480 handled in your own firm?

Mr. GROGGINS. Oh, quite a bit.

Senator SYMINGTON. I do not want to get into these this morning, but would you furnish the subcommittee the details of all the transactions your firm has had under Public Law 480 for the supplemental stockpile?

Mr. GROGGINS. I told Mr. Coburn I would be available at a future date on this subject.

Senator SYMINGTON. Thank you.

Thank you, Senator Case.

Senator CASE. Going back to the manganese matter for a minute, I am just speaking from memory, but I was under the impression that for the stockpiling of manganese we sought to buy nothing of less than 35 percent metallic manganese, feeling that was as much below the 47 or 48 percent metallic manganese wanted by the steel industry as we should go.

You say this El Paso stockpile is about 25-percent grade?

Mr. GROGGINS. That is right. Senator Case, we have two different rules, one for the foreign material and one for the domestic material.

When it came to the domestic producers we were taking practically anything that had a manganese content. The producer was only paid for the manganese content on the basis of the rates that were in vogue then.

So far as the foreign material are concerned, the lowest we ever took was a minimum of 40 percent manganese.

Senator CASE. How much?

Mr. GROGGINS. Forty-percent manganese content.

I dare say there must be at least 2 million tons of that ore that I personally have negotiated and sold to the stockpile on it.

Senator CASE. Are you familiar with the manganese deposits in Montana and in South Dakota?

Mr. GROGGINS. Yes.

Senator CASE. Well, Mr. Chairman, this is not a hearing on manganese this morning, and I won't pursue it further, but the manganese subject is one that interests me a great deal.

Mr. GROGGINS. I will be glad to help and come back.

Senator SYMINGTON. Mr. Groggins will get ready for manganese and that means you had better get ready for Senator Case. [Laughter.]

Senator Cannon.

Senator CANNON. Mr. Groggins, just one more question on this manganese. Do I understand this trade proposal that you have outlined here is that you would purchase the manganese the low-grade manganese, and have it upgraded by the Japanese, paying them in surplus products; and we, in turn, would receive back the upgraded materials?

Mr. GROGGINS. That is right.

Senator CANNON. In other words, they would just upgrade it for us and not for themselves?

Mr. GROGGINS. True.

Senator CANNON. Would this involve shipping to Japan for upgrading and then shipping back over here the upgraded material?

Mr. GROGGINS. We would have to ship the 350,000 tons to Japan. They would eventually ship 100,000 tons of their material here.

Senator CANNON. And we would pay them in surplus agricultural products under your program?

Mr. GROGGINS. That is right.

Senator CANNON. Getting back to the rubber problem here, how much did you pay the British, and I am speaking compared to the market price or the world market price, if we can call it a world market price, for the rubber that you sold to Russia?

Mr. GROGGINS. Well, I haven't the specific figure, but it was the current market prices less the usual discounts for grade.

Senator CANNON. And that would be your normal procedure?

Mr. GROGGINS. That is right.

Senator CANNON. When you came to the GSA, I believe you indicated that you thought you might be able to get a better price when you came to them; is that correct?

Mr. GROGGINS. Yes. As I understood it, the difference is that fraction of a cent that is allowed for grade condition of the material, which will permit you to have an advantage in making the sale.

Senator CANNON. Then you would have, in turn, just simply traded it to Russia for barter goods which you could have sold on the market elsewhere?

Mr. GROGGINS. That is right.

Senator CANNON. It was possible, was it not, for Russia to purchase rubber from any of the rubber-producing countries at that time?

Mr. GROGGINS. Generally when doing so she uses and has to use hard currency.

Senator CANNON. Yes.

Mr. GROGGINS. The facility of using her commodities which she has available for sale would justify this transaction rather than the other.

Senator CANNON. But there was no limitation from any rubber producing country on the sale of the trade with Russia——

Mr. GROGGINS. No.

Senator CANNON (continuing). Of the rubber products?

Mr. GROGGINS. Not that I know of.

Senator CANNON. Do you know what commodities you accepted in exchange for this transaction of the British rubber?

Mr. GROGGINS. It was quite a number of commodities. We have taken some platinum, palladium, aluminum, zinc, chemicals.

Senator CANNON. Did you, in turn, trade any of those commodities to Britain or did you pay with a cash transaction?

Mr. GROGGINS. It was a cash transaction so far as the British were concerned. Our job is to dispose of these commodities which we take in trade and sell them around the world.

Senator CANNON. You stated that you thought that there had been no exchanges between Britain and Russia of recent months, that is, of the British rubber.

Why do you say you think there has been none in recent months?

Mr. GROGGINS. Well, I haven't seen the reports in the last couple of months, so I don't know. I can find out what the sales were for you within a day or two as to what has happened in, say, February and March.

Senator CANNON. Will you do that and submit it for the record?

Mr. GROGGINS. Yes.

Senator CANNON. Was the contract for the 50,000 tons completed, so far as you know?

Mr. GROGGINS. The 50,000 tons that I mentioned?

Senator CANNON. Yes.

Mr. GROGGINS. Oh, no.

Senator CANNON. That is still more or less an open-end contract; is that correct?

Mr. GROGGINS. No, no. There was no contract. I just began a negotiation for it last year, and once we were told that we couldn't negotiate, based on the export license being granted, that ended it, and whatever requirements they had they got them elsewhere.

Senator CANNON. I see. You did not satisfy that requirement from other sources?

Mr. GROGGINS. We probably contributed to the satisfaction of it by acting as their broker, which we do, in London from time to time.

Senator CANNON. Thank you very much, Mr. Groggins.

Mr. GROGGINS. Yes, sir.

Mr. COBURN. Thank you, Mr. Groggins.

Senator SYMINGTON. The next witness, Mr. Counsel.

Mr. COBURN. Deputy Secretary Trezise.

Senator SYMINGTON. Is Mr. Trezise here?

Will you raise your hand, please? Do you swear that the testimony you give the subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. TREZISE. I do.

Senator SYMINGTON. Please be seated. As I understand it, you have a prepared statement.

STATEMENT OF PHILIP M. TREZISE, ACTING ASSISTANT SECRETARY OF STATE FOR ECONOMIC AFFAIRS; ACCOMPANIED BY SYDNEY L. W. MELLEN, CHIEF, COMMODITIES DIVISION, OFFICE OF INTERNATIONAL RESOURCES, DEPARTMENT OF STATE

Mr. TREZISE. I have a prepared statement, Senator.

Senator SYMINGTON. Will you read it, please?

Mr. TREZISE. Indeed.

Mr. COBURN. Mr. Chairman, if I may ask, will you first identify yourself in your statement or shall we do that now?

Mr. TREZISE. My name is Philip Trezise. I am Acting Assistant Secretary of State for Economic Affairs.

Senator SYMINGTON. It is generally customary for the subcommittee to have 24 hours advance notice to look at any prepared statement. Would you tell the people in the State Department that in the future we would appreciate seeing a prepared statement 24 hours before given? We are waiving that and you may proceed with your statement.

Mr. TREZISE. Thank you, Mr. Chairman.

Mr. Chairman, when the decision was taken that we could dispose of 470,000 tons of rubber from the natural rubber stockpile, the executive branch recognized, of course, there would be foreign policy considerations to be examined.

We reflected that an ill-considered disposal could have a very serious impact on a number of foreign countries with whom it is important we maintain friendly relations.

Now, in the highly volatile market for rubber, as has been testified here earlier, a relatively small imbalance in the supply-demand situation can lead to wide fluctuations in prices.

The consequences of sharp price changes for rubber-growing countries can be very serious. Rubber exports represent 55 percent of the total value of total exports in Malaya, and about 40 percent in Vietnam, Liberia, Indonesia, and Thailand. There are smaller but still important percentages for Cambodia, Ceylon, and Nigeria.

In absolute terms a drop of 10 cents a pound in the price of rubber can result in a loss of about $150 million of foreign exchange earnings for Malaya.

All of the major producers are in southern and eastern Asia or in Africa, areas where there are important strategic and political interests of the United States.

All of these countries are underdeveloped countries passing through the first phase of development, so that what happens now could affect the course of events for many years to come.

For all of these reasons it was recognized that we could, in undertaking a disposal program, we should have safeguards to prevent market disruption.

It was not just a matter of assuring ourselves that sales would be carried out prudently and circumspectly. It was considered essential to proceed in such a way that at the outset the rubber-growing countries would understand what we were doing.

We went to the American industry and trade for consultations and advice, and having decided upon a tentative disposal program we undertook consultation with the rubber-growing countries and with the United Kingdom.

In the consultations with foreign governments it was made clear that any American disposal plan was subject to approval by the Congress. It was also made clear that the program to be adopted by the United States would not be an intergovernmental agreement but unilateral action. It was made clear finally that the U.S. Government might, in the future, change any program now adopted.

The program finally undertaken after all these consultations was as described to you earlier to dispose of 470,000 long tons of rubber over 9 years.

During the early period of the disposal program we encountered no foreign policy, foreign relations, difficulties.

In 1959 and 1960 the price of rubber was at a high level, and the disposal policy went smoothly.

At the beginning of 1961, however, it began to appear possible that changes had taken place in the rubber markets, and that changes might be needed in the disposal program.

During the latter part, the latter half, of 1961, in fact, the market price of rubber fell below the cutoff price of 30 cents, and we disposed that year of only about 30,000 tons.

So in these circumstances the executive branch began to reexamine the disposal policy, and in the course of this reexamination new consultations were held with the rubber-growing countries.

The outcome of the executive branch study was the announcement in November of 1961 of a new disposal policy which Mr. Casto described to you earlier.

This policy, as the subcommittee knows, encountered very serious criticism abroad. We had rather agitated reception, particularly in Malaya, and in the circumstances this Government decided to undertake a new round of consultations which were held in Washington in December with representatives of eight rubber-producing countries and the United Kingdom.

This meeting brought somewhat greater understanding of our position and our policy.

During the course of the meeting the proposal was offered that we consider announcing that when the average price of rubber during the preceding month was lower than 28 cents we would sell only deteriorated rubber from the stockpile.

Subsequently, this suggestion was adopted, and on January 12 the GSA issued a public announcement to this effect. This change in the disposal program, we think, has helped to ease the foreign policy problem that we encountered, and the disposal program has been proceeding under it smoothly, as you have heard earlier, during the 3 months, January, February, and March, when we disposed of 5,000 tons in each month. That brought the total for the disposal program to 142,750 tons over the period of the 3½ years.

Senator SYMINGTON. If I may ask a question: You say the plan now is to dispose of 5,000 tons a month?

Mr. TREZISE. That is correct.

Senator SYMINGTON. You have a million-plus tons on hand?

Mr. TREZISE. Yes.

Senator SYMINGTON. 50,000 tons would be 5 percent, would it not?

Mr. TREZISE. 60,000.

Senator SYMINGTON. 5,000 tons would be one-half of 1 percent, so your plan is to dispose of 6 percent of our total natural rubber, 12 times one-half of 1 percent in a year; is that right?

Mr. TREZISE. We are aiming, Senator Symington, at the 312,000 tons.

Senator SYMINGTON. The rise of stereotype rubber means that this inventory may become obsolete in the not too distant future; isn't that a fair statement?

Mr. TREZISE. It is our understanding that obsolescence is probably a strong statement.

Senator SYMINGTON. Obsolescence would be better than obsolete.

Mr. TREZISE. Well, this we think is probably too strong a statement about natural rubber.

Senator SYMINGTON. Will you give your statement to our staff member, and we will get it copied. You have not distributed it until right now?

Mr. TREZISE. No.

Senator SYMINGTON. We will have copies made.

Mr. TREZISE. I may say, Mr. Chairman, in the interest of brevity, I removed some of the textual material since Mr. Casto had already testified at some length.

Senator SYMINGTON. Thank you, Mr. Secretary.

Mr. Counsel?

Mr. COBURN. Mr. Secretary, first, may I ask you how long have you been in your present position?

Mr. TREZISE. I have been in Washington since October of 1961. I was transferred from Japan in October of 1961.

Mr. COBURN. How long have you been in the State Department?

Mr. TREZISE. Twenty years.

Mr. COBURN. You have been in your present position since October of 1961?

Mr. TREZISE. That is correct. That is not quite correct; I might amend that. I am Acting Assistant Secretary. My permanent job is Deputy Assistant Secretary of State for Economic Affairs.

Mr. COBURN. May I ask you this, Mr. Secretary, so we can get a full presentation of the views of the State Department with reference to this rubber disposal problem.

I believe you said that you thought that you would designate the rubber in the stockpile as being obsolescent, that that, perhaps, was too strong a statement. Did you say that?

Mr. TREZISE. I did.

Mr. COBURN. Would you give us your views of the State Department as to why you think it is not appropriate at this time to say that the rubber in the stockpile is obsolescent?

Mr. TREZISE. Well, at this time, Mr. Counsel, we can sell the rubber readily in the market.

Mr. COBURN. I'm sorry.

Mr. TREZISE. At the present time it is not obsolescent. I think Senator Symington was referring to a future date when it might become obsolete or obsolescent. I am not a technician in the field of rubber, Mr. Counsel.

It is our understanding that there will be uses for natural rubber for a considerable time to come. Now this could, of course, be proved wrong. Nobody can foresee the changes in technology that may ensue.

Mr. COBURN. However, I suppose you are aware of the fact that the leading people in the rubber industry, the manufacturing industry, have a feeling that these new stereo rubbers will take the place of natural rubber entirely?

Senator SYMINGTON. Excuse me, Mr. Counsel, as long as the witness is consulting with the gentleman with whom he is sitting, would the witness identify the gentleman.

Mr. TREZISE. I am sorry, Mr. Chairman. Mr. Sydney Mellen is with me. He is Chief of our Division of Industrial Resources in our Office of Resources.

Senator SYMINGTON. Of what?

Mr. TREZISE. We have an Office of Resources. He is Chief of the Division of Industrial Resources.

Senator SYMINGTON. Does that mean he has to do with rubber?

Mr. TREZISE. He does.

Mr. COBURN. Did you have my question in mind or shall I repeat it?

Mr. TREZISE. As I understand your question, Mr. Counsel, you say stereo rubber will replace natural rubber in most uses. This is not——

Mr. COBURN. I think it is the position of the industry people that it will replace natural rubber in all uses.

Is that the feeling in the State Department? We just want to get your position about this matter fully.

Mr. TREZISE. That is not our understanding, no.

Mr. COBURN. Why not?

Mr. TREZISE. We—may I ask Mr. Mellen to speak on this one? He has been working with the rubber people.

Senator SYMINGTON. Mr. Mellen, will you raise your right hand? Do you swear the information you give the subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MELLEN. Yes, sir.

Senator CASE. Would you ask Mr. Mellen, Mr. Counsel, how long he has been in this work.

Mr. COBURN. Yes.

Would you state your name and address?

Mr. MELLEN. Sydney Mellen, Mr. Counsel. I am living in McLean, Va., at present.

Mr. COBURN. And you are connected with the State Department?

Mr. MELLEN. Yes, sir.

Mr. COBURN. What is your present title?

Mr. MELLEN. Chief of the Industrial Materials Division.

Mr. COBURN. How long have you been Chief of the Industrial Materials Division?

Mr. MELLEN. I have been in substantially the same job since November 1957. The name of the Division has been changed recently.

Mr. COBURN. And prior to that what was your title in the State Department?

Mr. MELLEN. Prior to November 1957?

Mr. COBURN. Yes.

Mr. MELLEN. I was in the field, Mr. Counsel.

Mr. COLBURN. But in the same division?

Mr. MELLEN. No, no. I was abroad serving in South Africa, as a matter of fact.

Mr. COBURN. I see.

So it has been since 1957 then that you have specialized in the State Department with reference to commodities, we will say?

Mr. MELLEN. Yes, sir; that is right.

Mr. COBURN. Including rubber.

Mr. MELLEN. Yes, sir.

Mr. COBURN. Mr. Mellen, what was the attitude of the State Department with reference to the disposal of the natural rubber in our stockpile, let us say, prior to 1958?

Mr. MELLEN. I can only speak from personal knowledge, Mr. Counsel, of the policy since November 1957. I can answer any question subject to a lapse of memory, which I hope won't occur in that period.

For the earlier periods I would have to—I know parts of it. Other parts of it I just don't know.

Mr. COBURN. When you came into your position in 1957 were you not briefed about the attitude of the State Department in the past with reference to rubber?

Mr. MELLEN. Yes, sir. I knew that the general attitude of the Department in the past had been that there were important reasons for no undertaking a disposal of certain rubber.

Mr. COBURN. So that historically, let us say, prior to 1958 the State Department had taken the position that there should be no disposal of natural rubber from the stockpile?

Mr. MELLEN. That is right, Mr. Chairman.

Mr. COBURN. Now tell us why.

Mr. MELLEN. I really would prefer, Mr. Chairman, to either prepare myself properly on the subject, which antecedes my own experience, or else to have someone else who was engaged in it testify.

I just don't know what the particular reasons were in, let us say, 1956. I don't know what the particular foreign relations crisis at that time was. I was in South Africa and knew nothing about it.

I would assume there were important reasons. We can make mistakes, but I would think there were important reasons on all sides of that question at that time, and I am really not qualified to express a judgment or to summarize them.

Mr. COBURN. All right. Now——

Senator CANNON. Will counsel yield to me?

Mr. COBURN. Certainly.

Senator CANNON. Mr. Mellen, was that the same policy that was in existence at the time you came into office?

Mr. MELLEN. Yes, sir.

Senator CANNON. Why was that policy maintained by the State Department at that time, at the time you came into your position?

Mr. MELLEN. Well, at the particular time that I came in, Senator Cannon, it was in November 1957, and, as you remember, we were going through an industrial recession, not a very severe one, but one which had caused a rather pronounced decline in the price of raw materials around the world, copper and other things, but also particularly rubber; and, at the end of 1957 and early 1958 the price of rubber was at a level which, in those days, compared with the norm, was quite low, and there was a good deal of distress among the rubber-growing countries.

When, in the course of 1958 it began to appear that the market would rise partly because of the industrial recovery, partly for other reasons, we, the State Department, came to the conclusion that it was advisable and proper and desirable to dispose of rubber from the stockpile.

Senator CANNON. In other words, the policy was determined by a desire to support the world market price at the time you came in.

Mr. MELLEN. No, sir. You don't support a world market price, if you will allow me, simply by refraining from sale.

What you do is, if you decide not to sell something, you refrain from exerting a downward pressure on the market.

We thought that to exert a downward pressure on the market when the price was already low, and there was economic distress in some of the underdeveloped countries in which we had certain important national interests at stake, would be advisable.

Senator CANNON. Thank you, Mr. Counsel.

Mr. MELLEN. I think there was general agreement at that time that there was no disposition for disposal.

Senator CASE. Mr. Mellen, do you know what the quantity was in the national stockpile at the time you came into this position?

Mr. MELLEN. Approximately 1,250,000 tons, Mr. Senator.

Senator CASE. And it wasn't a matter of supporting the market price but rather a policy of supporting some of the underdeveloped countries which led to the restraint in disposing of the rubber?

Mr. MELLEN. Yes, sir, although, as I have said earlier, in 1958 we began to do a lot of very serious work looking toward an ultimate disposal.

Senator CASE. Well, with a rising price——

Mr. MELLEN. Yes.

Senator CASE (continuing). The State Department thought some disposals could be made without having a harmful effect upon these countries.

Mr. MELLEN. Yes, sir.

Senator CASE. I think you indicated earlier, you or Mr. Trezise, Mr. Trezise said, perhaps, a drop of 10 cents a pound would injure the Malayan economy to the tune of $150 million.

Mr. MELLEN. In 1 year; yes, sir.

Senator CASE. In one year. And the State Department was not wanting to get into the position of injuring countries that we were striving to develop better relations with?

Mr. MELLEN. Yes.

Senator CASE. Thank you, sir.

Mr. COBURN. Now, Mr. Mellen, as I understand it, in 1958 the State Department began to assume a different attitude with reference to the disposal of natural rubber in the stockpile.

Mr. MELLEN. Yes, sir.

Mr. COBURN. Will you tell us what it was that caused this change of thinking in the State Department?

Mr. MELLEN. I think the most important—I can only tell you what was in my mind; I think other things were in the minds of other people, but I was conversant with, I think, most aspects of the problem, and what seemed to me uppermost was the rapid progress being made in the new stereo regular rubbers. We foresaw—it didn't occur until a year later, I think it was on March 11 or so of 1959—that the public announcement was made about commercial sale of one of these new stereo regular rubbers. But our knowledge of developments in the industry led us to expect that it would be coming, and we thought that as soon as there was a reasonably firm and, if possible, rising market, it would be wise for the U.S. Government to begin to dispose of its large surplus.

Mr. COBURN. So a disposal plan was perfected in 1959?

Mr. MELLEN. Yes, sir.

Mr. COBURN. And the State Department approved of that plan?

Mr. MELLEN. Yes, sir.

Mr. COBURN. Now, Mr. Mellen, in connection with developing this disposal plan, did you cooperate with your counterpart in the Foreign Service of the United Kingdom with reference to their plan for disposal?

Mr. MELLEN. Yes, sir. We had intimate or close consultations at several points during 1959. We discussed the subject with them once or twice in 1958.

Mr. COBURN. So that really the American disposal plan was coordinated with the British plan?

Mr. MELLEN. Yes, sir. Theirs was coordinated with ours, I would say, because ours was very much bigger, as you know.

Mr. COBURN. But they were plans that were similar in most respects, were they not?

Mr. MELLEN. Substantially identical, Mr. Chairman. Only very minor——

Mr. COBURN. As to the quantities that were involved.

Mr. MELLEN. Yes. They were in different—the actual amount that the British were proposing to sell in each month was much lower than ours because their stockpile for disposal was lower.

Mr. COBURN. In other words, the two plans were closely coordinated?

Mr. MELLEN. Yes, sir.

Mr. COBURN. In other words, you had the same cutoff price when the general price was in effect?

Mr. MELLEN. Precisely, exactly.

Mr. COBURN. And you have the same maximum price which permitted unlimited sales above it.

Mr. MELLEN. Exactly; yes, sir.

Mr. COBURN. Did the British advise you where they were going to sell the rubber?

Mr. MELLEN. They would make it available to sale, for sale, to any purchaser. There was no discussion of its—where it was going.

Mr. COBURN. Where it was going.

Mr. MELLEN. No.

Mr. COBURN. After the British began making their sales, did they advise you where the rubber was going?

Mr. MELLEN. It was sold on the world—London is a big world market for rubber, and rubber moves from there all over Europe, to the continent of Europe, to the Western European countries, and undoubtedly also to Russia. Russia buys part of its rubber at all times in the London market.

Mr. COBURN. Well, my question was whether they advised you as to whether any of this rubber went to Russia.

Mr. MELLEN. No, sir; it never came up; no, sir. We never had any discussions as to which particular countries would be the recipients of it.

Mr. COBURN. Well, as the sales progressed did you learn that the British rubber was moving to Russia?

Mr. MELLEN. I don't think we were ever informed, no. I remember that the firm of Golodetz—there were trade reports, as I remember it—that the firm of Golodetz was making sales to Russian buyers or to Russian purchasers.

(The witness later supplied to the subcommittee supplementary information on this point, as follows:)

Subsequent review of the files showed that the State Department had received official reports as well as trade reports to the effect that rubber from the British stockpile was being sold to Russia. The official reports were made in mid-1960 by the American Embassy in London, based on information received from the British Board of Trade, that rubber from the British stockpile had been sold to a London dealer purchasing for the U.S.S.R.

Mr. COBURN. So you knew then that some of the English rubber was going to Russia?

Mr. MELLEN. I didn't know, but thought it likely.

Mr. COBURN. Did you make any protest to the English Government about that?

Mr. MELLEN. No, sir.

Mr. COBURN. Did it seem to be in any wise inconsistent to you that we have 750,000 tons of rubber in our stockpile as strategic and critical material for the war effort, and for them to be selling the same kind of material to Russia?

Mr. MELLEN. No, sir; not at all.

Could I explain that, Mr. Counsel? I don't want to——

Mr. COBURN. Of course. We want you to have every opportunity.

Mr. MELLEN (continuing). To give the impression that we didn't care. Of course, we care terribly about the wrong handling of strategic materials.

Trade in rubber is not under restriction in any way. It is freely sold and traded around the world. The Communist countries in the aggregate import some 500,000 tons a year, and they buy it in many places. They buy a lot of it in the Far East; they buy a little of it in London, and for all I know they can buy some in New York, although it would be quite an expensive cross-haul which would be apt to make it, in principle, a waste of money.

There is no list of strategic materials on which rubber is included as an item which cannot be shipped by us or by anybody else to the Soviet Union.

I think all of our exports to the Soviet Union are subject to license, and I suppose that is the basis for the Golodetz firm finding they could not get a clear and unconditional contract for the purchase of rubber from the stockpile here, with everybody knowing that it was going to go to Russia. They would first have to get an export license.

Mr. COBURN. Well, do you think then that rubber is no longer a strategic and critical material?

Mr. MELLEN. I think it still is in the stockpile of the United States, and that it is of great value in an emergency. In fact, it is imperatively needed. We cannot have aircraft tires or truck tires or jeep tires without natural rubber, and many other uses are highly essential.

But there is a great abundance of rubber in the world, and we have a surplus, and there is no difficulty whatever in the Communist countries acquiring substantially all they want.

Senator SYMINGTON. Will counsel yield?

Mr. COBURN. Yes.

Senator SYMINGTON. If that is true, and we have too much rubber, why didn't we sell rubber as the British did?

Mr. MELLEN. So far as I know, Mr. Chairman, if a firm wanting to buy from the stockpile and ship to Russia had gone to the Commerce Department and asked for an export license, I imagine they would have gotten it.

Senator SYMINGTON. These people just testified they did but were refused.

Mr. MELLEN. Did they testify, Mr. Chairman, they were denied an export license?

Senator SYMINGTON. They said they couldn't get it. The impression of the subcommittee was that they couldn't get a license. Are you saying that they were not denied a license?

Mr. MELLEN. I know nothing about it.

Mr. TREZISE. Mr. Chairman, may I say we are not familiar with this particular transaction. There may have been a price question. I imagine with a barter transaction the Secretary of Commerce can

withhold a license to export to the Soviet Union. If he did so in this case presumably there was some special factor.

But, in principle, rubber is not a controlled item in the world, and the Soviet Union can get all the rubber it needs in free markets all around the world.

Mr. COBURN. May I ask you, Mr. Secretary, do you think rubber is no longer a strategic and critical item?

Mr. TREZISE. Mr. Counsel, a great many of the items in our strategic stockpile, which was developed for use in a future emergency, are not on the so-called strategic list that is adhered to internationally by a great many nations. This is true not only of rubber but I would judge probably most of the items in the so-called strategic stockpile; they are not limited for shipment to Russia by international arrangement.

Senator SYMINGTON. Would you please answer the counsel's question? Would you repeat the question, then let us have the witness' answer?

Mr. COBURN. Do you regard rubber as a strategic and critical item to the national defense?

Mr. TREZISE. For our stockpile?

Mr. COBURN. Yes.

Mr. TREZISE. This is not a judgment for me to make, Mr. Counsel, as long as the people in charge who are determining what would be required in a future emergency say it, it is so, as far as I am concerned.

Mr. COBURN. It is?

Mr. TREZISE. Yes, indeed.

Mr. COBURN. At the present time?

Mr. TREZISE. Yes, indeed. But, as I say, these are different considerations.

Mr. COBURN. Then do we find ourselves in the situation of the British selling material to the Russians that we regard as strategic and critical?

Mr. TREZISE. The Soviet Union would have got this rubber in any event. This is a normal sale, as I understand it. There would be no inhibition, as Senator Cannon said, on the Soviet's getting all the rubber they needed, whether the British sold it or not.

The only reprehensible action I would consider would be—if the British were discounting price in this sale they were foolish, because at this time the price of rubber was high and they were losing money.

Senator SYMINGTON. You are losing me. [Laughter.]

I would hope for more direct information.

Do you say that the State Department did not know that the British were moving their rubber stockpile to the Russians, Mr. Mellen; was that your statement?

Mr. MELLEN. Mr. Chairman, I said we had no formal knowledge of it, no official knowledge.

Senator SYMINGTON. What do you mean by "no formal knowledge of it." Did you have informal knowledge of it?

Mr. MELLEN. There were trade reports which we read, which we saw.

Senator SYMINGTON. Didn't you think it was important enough, if it was such a strategic material, to check the trade reports?

Mr. MELLEN. No, sir; frankly, not, because if the Russians didn't buy it in London they would buy it in Singapore.

Senator SYMINGTON. The people over here tried to move our stockpile. We did not agree—unless the previous witness was making a mistake in fact under oath.

Mr. MELLEN. I think Mr. Trezise is right, that the Department of Commerce would be the one to give the subcommittee information about whether a license was denied or not. I had no knowledge of it and, obviously, Mr. Trezise, who wasn't here, had none.

Senator SYMINGTON. You had no knowledge that the British were moving their rubber stockpile to the Russians?

Mr. MELLEN. Only trade reports, which very frequently are incorrect and not dependable.

Senator SYMINGTON. You are in charge of the rubber program in the State Department?

Mr. MELLEN. Yes, sir; at the working level.

Senator SYMINGTON. Proceed, Mr. Counsel.

Mr. COBURN. May I ask you, Mr. Mellen, do you feel rubber at the present time is a strategic and critical material to the national defense?

Mr. MELLEN. I do, Mr. Counsel, very much so.

Mr. COBURN. So you would not be willing then to have all of our rubber declared surplus?

Mr. MELLEN. I think that would have to—it wouldn't be for me to decide. It would be for the Defense Department, and so on.

Mr. COBURN. I realize that, but we would like to get your views. You have been in this actively for some years.

Mr. MELLEN. I believe that natural rubber is here to stay, Mr. Counsel. I feel that very definitely.

Mr. COBURN. Are you anywise impressed in your thinking with reference to rubber being a strategic and critical material by the fact that the British evidently think that it is no longer a strategic and critical material and declared their entire stockpile surplus?

Mr. MELLEN. Mr. Chairman, you have to look at the different situations of Great Britain and ourselves. They have a relatively small rubber consumption at all times, much, much smaller than ours. They have—the haul is not nearly as long to their market as it is to ours. Their strategic needs are different from ours, and their access to the material is different from ours.

Senator SYMINGTON. If counsel would yield, do they have a major synthetic rubber program in the British Isles?

Mr. MELLEN. Synthetic rubber has been made in England for many years.

Senator SYMINGTON. What percent of their total has been synthetic?

Mr. MELLEN. Of their total use, I think approximately 40 percent is synthetic now.

Senator SYMINGTON. Made in the British Isles?

Mr. MELLEN. No. A lot of it is made here. This—I am speaking now mainly of the old SBR, the conventional type.

Senator SYMINGTON. What I am asking is, in the British Isles what percent of their rubber that they consume do they build in their own country or in the Commonwealth?

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Mr. MELLEN. Most of what is manufactured, I think, is manufactured in Great Britain, and I cannot quote offhand the capacity of their plant. I should think roughly 100,000 tons, something like that.

Senator SYMINGTON. Would you supply the amount, the percent of the total use?

Mr. MELLEN. Yes, gladly.

(The information referred to follows:)

Total consumption of rubber and synthetic rubber production and capacity, United Kingdom and Canada, 1961

[In long tons]

	Synthetic	Natural	Total
Total consumption:			
United Kingdom	116,400	166,200	282,600
Canada [1]	61,000	31,000	92,000
Total	177,400	197,200	374,600
Synthetic production:			
United Kingdom	105,100		105,100
Canada [1]	163,000		163,000
Total	268,100		268,100
Synthetic capacity:			
United Kingdom [1]	150,000		150,000
Canada [1]	200,000		200,000
Total	350,000		350,000

[1] Estimated.

NOTES

Portion of total United Kingdom consumption supplied by synthetic: 40 percent.
United Kingdom synthetic production as percentage of total United Kingdom consumption: 37 percent.
United Kingdom and Canadian synthetic production as percentage of total United Kingdom consumption: 95 percent.
United Kingdom and Canadian synthetic capacity as percentage of total United Kingdom consumption: 124 percent.
United Kingdom and Canadian synthetic production as percentage of total United Kingdom and Canadian consumption: 72 percent.
United Kingdom and Canadian synthetic capacity as percentage of total United Kingdom and Canadian consumption: 93 percent.

Senator SYMINGTON. Do you know what percent of rubber used in this country now is produced synthetically in this country?

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. What percent?

Mr. MELLEN. About 72, Mr. Chairman.

Senator SYMINGTON. Seventy-two percent of all the rubber we use in this country now is synthetic rubber; is that correct?

Mr. MELLEN. That is correct.

Senator SYMINGTON. Thank you, Mr. Counsel.

Mr. COBURN. It is a fact, is it not, Mr. Mellen, that the manufacture of synthetic rubber is not nearly as extensive in England as it is in the United States?

Mr. MELLEN. That is true.

Mr. COBURN. So we are much more self-sufficient in the sense of relying on synthetic rubber than the British?

Mr. MELLEN. May I make a distinction, Mr. Counsel?

Mr. COBURN. Surely.

Mr. MELLEN. The large volume of synthetic rubber—and it is a very large volume nowadays, it is 2 million tons and almost as large worldwide as the supply of natural rubber—but of that approxi-

mately 2 million tons I should think 80 or 90 percent is in the form of SBR, the conventional synthetics that were developed a good many years ago.

They are useful; we use—we make our automobile tires of that material; the British don't. The British use a considerable mixture of natural rubber in their tires for local reasons. But I think you probably, if I may attempt to guess, when you speak of synthetic rubber your mind may be reaching toward the new stereo regular rubbers.

Mr. COBURN. No, I am not.

Mr. MELLEN. I see.

Mr. COBURN. My point is just this, I do not want to argue with you in any sense.

Mr. MELLEN. No.

Mr. COBURN. My point is just this, Mr. Mellen, that considering all forms of synthetic rubber and all forms of uses of synthetic rubber at the present time, is it not a fact that the United States manufactures and uses a much higher percentage of synthetic rubber in the United States——

Mr. MELLEN. Absolutely.

Mr. COBURN (continuing). Than Great Britain does?

Mr. MELLEN. Absolutely. The United States is, by far, the largest manufacturer of synthetic rubber of different kinds.

Mr. COBURN. So we are more nearly self-sufficient so far as rubber is concerned than England.

Mr. MELLEN. That is probably true. I would want to check the figures. Yes, sir; I think that is true. I will supply the details in the material that the chairman has asked for.

Mr. COBURN. Despite which they have declared their entire rubber stockpile as surplus.

Mr. MELLEN. Yes, sir.

Mr. COBURN. And have sold nearly all of it?

Mr. MELLEN. Yes, sir.

Mr. COBURN. Now—excuse me, Senator.

Senator CASE. If counsel will permit an interruption, Mr. Mellen, are members of the British Commonwealth suppliers of natural rubber?

Mr. MELLEN. Yes, sir; several countries, Ceylon, Malaya, Nigeria.

Senator CASE. Would it be your opinion that the fact that members of the British Commonwealth are suppliers of natural rubber contributes to the policy of Great Britain to use natural rubber more largely than not to go into synthetics as heavily as we do?

Mr. MELLEN. I doubt if that is a major calculation, Mr. Chairman. It is possible, but I would doubt if that was a controlling consideration on their side.

Senator CASE. Do they have access to natural rubber through members of the Commonwealth in a way we do not?

Mr. MELLEN. No, sir.

Senator CASE. What do you mean by that? Do we have any dependencies or territories that sell——

Mr. MELLEN. What I meant, sir, was both we and they can buy rubber freely in Singapore, rubber produced in Malaya or Indonesia or any of the countries, some Commonwealth and some not.

Senator CASE. But, as a matter of policy, you say that we hesitate to break a market for these producers of natural rubber, and none of them are members of the United States, affiliated with the United States, in a direct political way.

Mr. MELLEN. No.

Senator CASE. But wouldn't that same consideration suggest to the British——

Mr. MELLEN. Yes, sir; I am sure of it.

Senator CASE (continuing). That they should avoid injuring the economy of members of the Commonwealth?

Mr. MELLEN. Yes, and also of less developed countries which are not members of the Commonwealth.

Senator CASE. Earlier either you or Mr. Trezise said that the—I think it was you—in 1959 and 1960, which would be the 2 years after you came in, there was no difficulty in the program. But in 1961 there were changes in the rubber market. Would you be more specific? What was the change in the market and what difference did that make in our problem?

Mr. MELLEN. In the first place of a temporary nature there was the fact that the rather pronounced shortage of natural rubber which existed at the latter part of 1959 and beginning of 1960 was corrected. It was corrected in large part by releases from the two stockpiles.

That, however, was a temporary fact. The factors of greater permanence were mainly two:

In the first place, the development of the new stereo regular synthetic rubbers on a commercial scale, the investment of substantial amounts of capital in the construction of plants to produce them in this country, and more recently in other countries, on the one hand, created a possible substitute for natural rubber which would be a strong competitive influence in the coming years, more or less continuously.

Secondly, there was beginning to be felt in the rubber economy of the world the greatly increased yield of the trees in natural rubber countries, trees which had been planted in the preceding decade.

Senator CASE. Now, both you and Mr. Trezise have indicated that foreign policy considerations enter into national policy with respect to disposals from the stockpile; is that correct?

Mr. MELLEN. Yes, sir.

Senator CASE. And you share that opinion with Mr. Trezise?

Mr. MELLEN. Absolutely.

Senator CASE. Does that extend to other items in the stockpile, as well as rubber?

Mr. MELLEN. I am sure it would; yes, Senator Case.

Senator CASE. Does it extend to the disposal of surplus commodities under the Public Law 480 program?

Mr. MELLEN. Yes, sir.

Senator CASE. Does the Department of State exercise any veto power over the sales of agricultural commodities under the Public Law 480 program?

Mr. MELLEN. The term "veto" is not quite exact. The disposal of surplus agricultural products under Public Law 480 is something which is administered by the Department of Agriculture, but the

Department of Agriculture consults all of the other agencies of the Government which have a material interest in the subject.

Senator CASE. If you say you do not have a veto power, how much power do you have in that field?

Mr. TREZISE. Senator Case, these matters, Public Law 480, as well as stockpile disposal policies, are discussed at the working level, interdepartmentally. The Department is one of—the State Department is one of, several agencies concerned, and we represent, of course, the foreign policy considerations.

In the event of an absolute inability to arrive at an agreement, I think in all cases the President would have to decide. So the Department does not veto the decision, but it——

Senator SYMINGTON. Will the Senator yield?

It is true, is it not, that you have a list of countries that you can ship to. That is agreed on before the Department of Agriculture gets into the program? They know which countries they can trade with. Isn't there a list that is approved by the Government?

Mr. TREZISE. Yes. There are countries, yes; but these can change, too, Senator Symington.

Senator SYMINGTON. Thank you, Senator.

Senator CASE. I don't want to pursue this too far, but just one or two more questions, because I think it sheds some light on the whole thing here. If the State Department enters into a determination of national policy on disposals from the stockpiles, and we have referred to Britain and rubber sales, what about the recent sales of wheat by Canada to Red China? Does this list to which the chairman has referred, does that forbid sales of wheat from our commodity surplus stocks to Red China?

Mr. TREZISE. Well, that list—it is not a list exactly—but our policy at the present time is to conduct a total embargo against Red China, North Vietnam, and North Korea, and Red China is on no list that we would sell to.

Senator CASE. So you would not or national policy would not, at this time, permit the sale of wheat, for example?

Mr. TREZISE. That is correct.

Senator CASE. Is the sale of wheat in the form of bulgur regarded as competitive with the rice-producing countries?

Mr. TREZISE. Well, in part, yes.

Senator CASE. Does the State Department because of that look with some prejudice against the sale of wheat in the form of bulgur to countries that would normally be importers of rice from the rice-producing countries?

Mr. TREZISE. Well, Senator, you say "with some prejudice." We look on each one of these as a new case, and if it appeared there would be a substantial displacement of the normal market of a friendly country, then we would want to consider this rather seriously. But in principle we don't make advanced determinations.

Senator CASE. Do you or does Agriculture have the final say with respect to sales from the commodity surpluses up to the time that they go to the President?

Mr. TREZISE. Well, I don't think anybody has the final say, Senator Case, except the President.

Senator CASE. Except the President?
Mr. TREZISE. Yes.
Senator CASE. Thank you.
Senator SYMINGTON. Senator Cannon?
Senator CANNON. No questions.
Senator SYMINGTON. Mr. Counsel?
Mr. COBURN. Mr. Mellen, I am sure the subcommittee would like to get the full views of the State Department here with reference to this rubber-disposal program, and I think maybe I have unintentionally sidetracked you a little bit. Will you give us the benefit of your views as to whether natural rubber in the future will be competitive with synthetic rubbers both from the standpoint of usage and from the standpoint of price?
Mr. MELLEN. Yes, sir; gladly.
As with many new developments, there has been a tendency to exaggerate the extent and importance of the recent technological breakthrough in synthetic rubber.
Mr. COBURN. You are referring now to the stereo rubber?
Mr. MELLEN. Yes, sir; stereo rubber; yes, sir. I will keep on that for a moment. I will be happy to——
Mr. COBURN. Excuse me for interrupting, but I wanted to be sure we understood you.
Mr. MELLEN. I am talking primarily about stereo because that is where the question is most pertinent.
I think perhaps the best answer on this is that at the end of 1961, December 31, the total manufacturing capacity in this country for stereo regular rubbers of both types was 125,000 tons.
The price is and was highly competitive. Notwithstanding that, the actual production of these plants is now at a rate of 50 percent of capacity or less; and of the total production only 60 to 80 percent is being sold.
In other words, there the manufacturers of tires in this country and abroad are still continuing to use natural rubber in preference to these new synthetics although the new synthetics, the stereo regular rubbers, are there with this very substantial present capacity. That is one point.
If I may go on—you asked, also, will the price——
Mr. COBURN. Certainly.
Mr. MELLEN. I do foresee, and I think all people who are engaged and have been engaged in the study of rubber believe, that there will be intense competition between the two materials; that is, the natural rubber, on the one hand, and the new stereo regular rubbers, on the other; and to a minor extent the old-fashioned rubbers, the old-fashioned synthetics, if I can refer to them that way, and in consequence the price will be declining.
At the same time, we are greatly impressed, more impressed, I think, than the newspapers frequently are, by the technological breakthrough which took place some years ago in natural rubber, whereby the yield of rubber plantations can be increased by replanting with pedigreed special stock of a high-yielding variety, can be increased from the average of 350 pounds per acre, per year—that was the normal situation a few years ago—to 1,000 pounds per acre, per year, or 1,500, and

there are plantations which are producing in excess of 2,000 pounds per acre, per year.

In other words, there is a tremendous increase in the potential production per acre of natural rubber which, in the course of time, will permit a substantial reduction in the price of natural rubber.

Mr. COBURN. Excuse me for interrupting you occasionally, but I want to make sure we get your full views.

Mr. MELLEN. Please.

Mr. COBURN. Do I understand you to say then if the production of natural rubber per acre can be substantially increased as you have indicated that it has on some plantations, may be as much as 300 percent, that would substantially reduce the cost of production of rubber per pound, natural rubber?

Mr. MELLEN. Yes; not in exact proportion, but very substantially, very substantially.

Now, the question of cost of production is a mysterious field, and each producer keeps his own cost-accounting secrets to himself.

I would say that generally the best estimates or judgments that we can get hold of are that the new stereo regular rubbers can now be produced at a cost of, say, between 23 and 25 cents a pound.

If you have industry witnesses later you may want to probe a little to see whether they have different figures in mind. It is a variable thing, and a judgment thing, but somewhere in that order.

Now, the cost of producing natural rubber today spreads over a very, very wide range, depending upon the age of the trees, whether they are old trees or new high-yielding pedigreed trees, and also on the methods and on the fertility and the use of fertilizer and a lot of other things. But the range probably is from, let us say, delivered in New York, perhaps 15 cents a pound up to 28, and perhaps a little higher.

Now, in the future, I would guess——

Senator SYMINGTON. Excuse me, you say cost up to 15 cents a pound?

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. Of natural rubber?

Mr. MELLEN. Yes, sir; I mean to say delivered in New York.

Senator SYMINGTON. And several years ago the price was 48 cents.

Mr. MELLEN. Yes, sir. That, of course, is the most efficient plantations known, and the range of cost in the less efficient plantations and especially by the small holders, which constitute a large part of the total, is very much higher.

But the point is that great progress can be made in bringing down the cost of natural rubber. It takes time. After you put a seedling in the ground, you have to wait 7 years before you begin to get your return from it.

Incidentally—there is a point I will come back to, I guess, when I finish this, if you will allow me—the cost of production of the synthetic rubbers, the new stereo regular rubbers, can, perhaps, be reduced a little more, maybe 10 percent in the next 5 years, maybe another 10 percent in the next 5 years, up to about 1970. Nobody knows exactly.

You will find people better able to testify on that than I am, but it is in the range of 20 to 25 cents a pound, a little over, a little under, for the foreseeable future.

If the rubber-growing countries are able in some cases with our help, to accelerate the replanting of their acreage, they should be able to get their costs of rubber down, on the average, to very, very competitive levels, perhaps lower, perhaps higher, but it is impossible to predict who is going to win.

My judgment is that natural rubber will survive and be able to compete successfully for many, many years to come, for 20 years, let's say.

Mr. COBURN. With the stereo rubbers?

Mr. MELLEN. Yes, sir. And if I may, as an indication that this is not just a bureaucrat's ivory tower judgment, I would like to point out that the big tire manufacturers in this country, and they all have synthetic plants, they all have old-fashioned synthetic plants, and nearly all of them have synthetic plants for the manufacture of the new stereo regulars, they have an investment of $150 million, roughly speaking, in plantations, some of them, all of them, all of the large tire manufacturers in this country, have invested more money in the past 2 years, several million dollars, on the order of $10 to $15 million, has been placed in plantations, either in opening up new areas or in replanting areas already owned, in order to increase their production of natural rubber.

This means that the trees this $10 or $15 million has been invested in, in the last 2 years, since the development of the new stereo regular rubbers, these trees will not come into production for the next 7 years.

I am sure you have as much respect as I have for the business acumen and long-range smartness of Goodyear and Goodrich and Firestone and these other companies.

They are investing significant amounts of money today in the natural rubber production business.

Mr. COBURN. As I understand it, Mr. Mellen, part of the natural rubber, perhaps about 50 percent of the natural rubber, of the world is produced on plantations. Would that be a fair statement?

Mr. MELLEN. That is a pretty good guess, I would think.

Mr. COBURN. Where the cultivation is well organized and production is brought up to a relatively high level in the business; isn't that right?

Mr. MELLEN. Yes, sir.

Mr. COBURN. About half of the natural rubber is produced from what are called small holdings, is that right?

Mr. MELLEN. The figure I would want to check, but it is in the general range of correctness, I would think; that would be my own guess.

Mr. COBURN. The small holdings would be some native farmers, as we call them, of a few trees?

Mr. MELLEN. I think 5 acres is the average in most countries.

Mr. COBURN. And where the family does all of the work on the plot, and the farmer hires no labor at all?

Mr. MELLEN. That is right.

Mr. COBURN. Any attempt to upgrade the production of natural rubber by the planting of better and more efficient trees is, however, something of a long-range project, isn't it?

Mr. MELLEN. Yes, sir.

Mr. COBURN. It takes about 7 years for a rubber tree to come to the point of producing rubber, and I would assume—but if I am wrong

correct me—that it would be relatively easier to improve the production of rubber on the plantations than it would among the small holders; is that right?

Mr. MELLEN. Quite right, Mr. Chairman, and the replanting has taken place so far to the greatest extent on the plantations. There has also been some replanting by some of the small holders.

Mr. COBURN. At the present time, Mr. Mellen, the stereo rubbers and the old synthetic rubber pricewise are in a favorable position to natural rubber in this country, are they not?

Mr. MELLEN. That is right.

Mr. COBURN. Lower?

Mr. MELLEN. Lower. The price of cis-polyisoprene as a substitute for natural rubber is cheaper.

Mr. COBURN. But you feel by the upgrading of natural rubber in the future, natural rubber is going to hold its place in the world and still will be a product that will be extensively cultivated?

Mr. MELLEN. That is right, sir; and I think the fact that the big tire companies in this country are investing millions of dollars would indicate they think so, too.

Mr. COBURN. Therefore, it would be an important factor in the world economy?

Mr. MELLEN. Definitely.

Mr. COBURN. In competing with the synthetic rubbers?

Mr. MELLEN. Yes, sir.

Mr. COBURN. But I believe you also agree, do you not, if such becomes the case it will mean that the price of natural rubber as well as synthetic rubber will be at a lower level than it is now.

Mr. MELLEN. Exactly. We foresee a declining trend for the next 10 years.

Mr. COBURN. Which represents something of a problem.

Mr. MELLEN. It does.

Mr. COBURN. I mean something for us to think about in connection with our disposing of our stockpile of rubber, doesn't it?

Mr. MELLEN. Exactly, a great problem.

Senator SYMINGTON. Let me ask a question. Mr. Mellen, what would you say the average price, the average hourly rate, would be in the stereo plant in this country or synthetic rubber plant in this country? Do you have any figures on it?

Mr. MELLEN. Do you mean the rate of production at present?

Senator SYMINGTON. No, the average wage cost.

Mr. MELLEN. Wage cost? I haven't. I suppose it is—I could only guess, Mr. Chairman.

Senator SYMINGTON. Well, I saw some figures put out by the Steel Institute that $2.75 an hour was the average. That might be comparable to the price in the oil industry, for example.

Mr. MELLEN. That sounds like a good likely figure to me, Mr. Chairman.

Of course, there aren't many men in a synthetic rubber plant. It is mostly pipes.

Senator SYMINGTON. In other words, you don't think that the cost of labor is particularly important in the synthetic rubber business, is that your point?

Mr. MELLEN. That is right; yes, sir.

Senator SYMINGTON. You could say the same thing about the steel industry which I once worked in. You hardly ever see any workers any more in a steel mill, because of automation; but you will agree that the price of labor in the steel industry has become a rather important problem recently, will you not?

Mr. MELLEN. It has. That is a rather different situation.

Senator SYMINGTON. Different?

Mr. MELLEN. Yes, sir; I think so.

Senator SYMINGTON. The oil companies are more thoroughly automated than the steel companies.

Mr. MELLEN. Yes. Those petrochemical processes can largely be done in great machines.

Senator SYMINGTON. Have you ever been to a rubber plantation and watched them strip a tree?

Mr. MELLEN. Yes, sir; I visited one.

Senator SYMINGTON. Our idea is to improve the standard of living of countries we have given a great deal of aid to; is that correct?

Mr. MELLEN. We believe it is in our interest; yes, sir.

Senator SYMINGTON. The price in the rubber business in this country is probably around $2.75 an hour. Do you happen to know what they pay per hour on these plantations?

Mr. MELLEN. It is terribly low, obviously.

Senator SYMINGTON. Would you give us a figure?

Mr. MELLEN. I would have to supply it.

Senator SYMINGTON. If I told you in some of them it was 8 cents an hour, would you disagree with that?

Mr. MELLEN. I think it very likely.

Senator SYMINGTON. 8 cents an hour on a 40-hour week would be about $3.20 a week.

Mr. MELLEN. Yes.

Senator SYMINGTON. You still feel that the trend will be downward in the price of natural rubber?

Mr. MELLEN. Definitely, Mr. Chairman. It is largely because of this rising wage factor, which is important, and I thank you for putting it in the record, that the economies that can be obtained through the planting of these new high-yielding trees do not translate themselves into equivalent, exactly equivalent, savings.

Senator SYMINGTON. What we want are facts. The taxpayer now owns a good many hundred million dollars of rubber. Some of our friends have sold their rubber stockpiles.

You mentioned companies that have invested abroad. Do you know the head of one of the companies you mentioned has for years been warning this country about the danger incidental to building up this rubber stockpile because of the possibility of getting into a situation which we are in now?

Mr. MELLEN. Yes, sir. There are—I am aware of those views.

Senator SYMINGTON. You feel that actions of these companies justify your position?

Mr. MELLEN. It seems so to me, Mr. Chairman; yes, sir.

Senator SYMINGTON. Thank you, Mr. Counsel.

Will we have an industry representative this afternoon?

Mr. COBURN. Yes, we will, Mr. Chairman, several of them.

Senator SYMINGTON. Senator Cannon, will you chair the hearing?

Senator CANNON. Yes.

Senator CANNON (presiding). Counsel has indicated he has a matter of about 5 minutes of questions, Mr. Mellen, so if we may proceed.

Mr. COBURN. Mr. Mellen, I will make it brief now, but I did want to ask you one or two things before we quit.

We are now disposing of our rubber at the maximum rate of 5,000 tons a month, aren't we?

Mr. MELLEN. Yes, sir.

Mr. COBURN. That is the most we can dispose of under our present disposal plan.

Mr. MELLEN. Yes, sir.

Mr. COBURN. Or 60,000 tons in 1 year?

Mr. MELLEN. Yes, sir.

Mr. COBURN. So that it will take us 5, 5½ years, at the very best to dispose of the rubber that remains undisposed of in the present disposal plan?

Mr. MELLEN. That is correct; yes, sir.

Mr. COBURN. Taking all facts under consideration, how would you feel about increasing the amount of the rubber to be disposed of in this current disposal plan?

Mr. MELLEN. Mr. Chairman, that question comes up from time to time, and I believe some work is being done in other agencies on it now. We feel for our part in the State Department we must be continuously ready to examine new ideas or new facts, and to deal with them in an objective and balanced way.

At the present moment, I believe that our overall national interest would be injured more than aided by increasing that limit. But it is a complicated subject and one that needs to be gone into very thoroughly before anyone can be convinced.

Mr. COBURN. But your own present view is that we should not increase the disposal?

Mr. MELLEN. My own view is that 5,000 tons a month at the present time is about the limit of what could be disposed of without causing either or both of two things: One, a disruption of prices or, second, a psychological and political reaction which would be costly to us.

Mr. COBURN. In Southeast Asia?

Mr. MELLEN. Yes, sir.

Mr. COBURN. And in Africa?

Mr. MELLEN. Yes, also; yes, sir.

If I may make a point, there are enemies of the United States and of our system and of our beliefs in all of these countries, and at a time when rubber prices are declining and life is becoming tough, beginning to be tough, they are beginning to feel the pinch, and we get cries of pain already from those countries, as the price of rubber goes down for a variety of reasons which have nothing to do with us, they suffer increasingly.

Now, if at a time when they are feeling pain, the enemies of the United States can get up and say, "This is happening because the United States is following an imperialist policy of dumping its surpluses." That can do us injury. It is false, but it can nevertheless be—nevertheless it is a fact we have to live with.

Mr. COBURN. May I ask you this though, Mr. Mellen: If we con-

tinue to dispose of our rubber under the present plan at the present rate, it will be 5 years to 5½ years before we get rid of all of it.

Mr. MELLEN. Yes, sir. That would be a total of 8 years since it was started, and if you will remember——

Mr. COBURN. Excuse me.

Mr. MELLEN. Excuse me, may I have a word?

Mr. COBURN. Yes, go ahead.

Mr. MELLEN. If I may, Mr. Counsel, I was saying when the rubber disposal plan was submitted to Congress, it was essentially that 470,000 pounds should be disposed of over approximately 9 years, and I relate that to what you have just been saying, that it may be about 8 years before we dispose of it all, maybe more.

Mr. COBURN. It will be then at the very best at the end of 1967 before we are able to dispose of all the rubber that is in the present plan; isn't that right?

Mr. MELLEN. Yes, sir; that is about right, maybe 6 years.

Mr. COBURN. At which time we will still find ourselves with 750,000 tons of rubber in the national stockpile.

Mr. MELLEN. Yes, sir.

Mr. COBURN. Well, the objections you have voiced here to disposing of more rubber than we are now, as I understand it, are two: (1) The impact on the world market; (2) the political effect in some of the underdeveloped countries.

In 1967 when we come to the end of our disposal plan and still have 750,000 tons to dispose of that situation will not have changed, will it?

Mr. MELLEN. It will probably be worse because the price of rubber will be lower.

Mr. COBURN. Yes. So we are really just putting off the evil day, aren't we, by not increasing our rate of disposals?

Mr. MELLEN. We foresee an evil day; yes, sir.

Mr. COBURN. We will have the same problem at the end of 1967 that we have now, won't we?

Mr. MELLEN. I think so.

Mr. COBURN. With reference to rubber disposal.

Mr. MELLEN. It seems to me we want to dispose of as much as we can as early as we can without incurring injury to the overall interests of the United States.

Mr. COBURN. I have no further questions, Senator.

Senator CANNON. Thank you, Mr. Mellen.

The hearing will be in recess until 2:30 this afternoon. Thank you very much for being with us.

(Whereupon, at 12:30 p.m., the hearing adjourned to reconvene at 2:30 p.m. the same day.)

AFTERNOON SESSION

Senator SYMINGTON (presiding). The hearing will come to order.

Mr. Counsel, will you call the next witness?

Mr. COBURN. Yes, Mr. Chairman.

Mr. John L. Collyer, please.

Senator SYMINGTON. Mr. Collyer, it is a pleasure to see you. It is the custom of the committee to swear all witnesses.

Will you raise your right hand?

Do you swear that the testimony you give this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. COLLYER. I do.

Mr. COBURN. Will you state your full name and address, please, sir?

TESTIMONY OF JOHN L. COLLYER, AKRON, OHIO

Mr. COLLYER. John Lyon Collyer, Akron, Ohio.

Mr. COBURN. Mr. Collyer, were you ever in the rubber manufacturing business?

Mr. COLLYER. Not in the State Department. Yes, sir, I am. I entered the rubber industry in 1923. I had been transferred from the Bethlehem Steel Co. I joined a great British rubber manufacturing company starting a plant in the United States, Dunlop Rubber Co. of England. My job was manufacturing.

In 1929, I was to go to Britain with the parent company on a special assignment.

Mr. COBURN. Would you mind speaking a little more closely to the microphone? Pull it to you a little, if you please, so we can all hear you.

Mr. COLLYER. I mentioned that I entered the rubber manufacturing business in 1923 in Buffalo, N.Y., where the Dunlop Rubber Co. of England, a great British rubber manufacturing company and owner of plantations, started for the first time operations in the United States.

My first position, although I had never been in a rubber plant before, was vice president in charge of manufacturing and technical.

In 1929, I was asked by the parent company to go to England to fill in as manager of their largest plant, occasioned by the death of the former manager, and the 3 months stretched out into 10 years, and I became comanaging director of the British company.

In fact, in manufacturing operations at that time they had 8 or 10 different companies, including Germany and Japan. They were large owners of rubber plantations in Malaya. I first became concerned about the rubber situation around 1937 and 1938.

In my visits to my company's plant in Germany, I saw the production of airplane tires mounting. That was true in Japan. So when I came home as president of B. F. Goodrich Co. in September 1939—I actually arrived, I think, in November—that I advised my concern within the company, and I was pleased to find that the B. F. Goodrich Co. had for many years, I think going back to 1923, been working on synthetic rubber, and I knew from what was disclosed to me that they were further ahead than the Germans were with their synthetic rubber.

I talked to some people in Government and at that time I think it was felt unbelievable that we would ever be faced with a rubber crisis. During one of my talks I met a Senator who gave me great encouragement and about 4 or 5 or 6 hours of his personal time in one sitting. That was President Truman. And with that encouragement we moved along.

In May 1940, 18 months before Pearl Harbor, to try to bring home to the American people the seriousness of the rubber situation, we had

grouped together in New York City people from Government, the press, and industry, and told our story. As president of the company I suggested at that time that the rubber lands could well be lost to us either by blocking of shipping or capture by the enemy, and that to me synthetic rubber was the answer.

At the same time we strongly recommended that our Government build up the stocks of crude rubber. In fact, we recommended it prior to that, and that is what I wanted to lead into: that I was one of the ones, I think, who urged this Government to purchase crude rubber.

July 5, 1940, I made a report on rubber to Americans alert to the meaning of independence and preparedness with only the reference to crude rubber.

On June 14, 1940, the Military Affairs Committee of the U.S. Senate held hearings on the Nation's rubber situation. I appeared before that committee, and the chairman in his introduction said that the meeting had resulted from the public announcement we had made on the critical situation in rubber. Then I read from this report:

> The president of B. F. Goodrich—
>
> myself—
>
> who was called to testify, outlined the pattern which we believe should be followed to make a start in establishing a national insurance policy for rubber. He urged building up a large stockpile of natural rubber in this country and the erection of Government-financed plants for the production of synthetic rubber.

Mr. Jesse Jones, who was at that time head of the RFC, took on the responsibility of making the early stockpile purchases, and I am sure that a very creditable job was done. He had an industry advisory committee that worked with him, and those purchases, I think, ran around 18.5 cents a pound. To emphasize how apathetic and unknowledgeable people in rubber were that nothing would happen, there was, in effect, a form of cartel, the International Rubber Relation Committee, the British, Dutch, and French.

The purpose of this plan was to try to equalize supply and demand of crude rubber and to keep the price reasonably stable. But a year after war broke out in Europe in 1939, those countries, through their plan, continued to restrict production of crude rubber, in the interest of stabilizing the price.

That program, I think, ended in 1944.

It is my memory that the record shows that through the State Department, the United States was invited to join the program because at that time we had our synthetic rubber, and, although the British, Dutch, and French had lost their plantations, they were looking to the future.

Our country very wisely, I think, decided not to follow along in that program.

In 1940, the consumption of rubber in the United States was about 650,000 tons. About 97 percent of it was rubber imported from overseas, most of it from the other side of the world. Our Government made many studies on synthetic rubber, but it was not until 1941 that the first plants were authorized, and from that point on I think one of the most wonderful jobs I have ever had any association with was done, the industry furnishing finance and counsel and the

companies in the rubber industry, the oil and chemical companies, doing the job.

It was necessary to drastically reduce the consumption of crude rubber, as we used to call it in those days.

The word "natural" seemed to come in when it looked as though synthetic rubber would be a serious competitor.

So consumption was reduced. Synthetic rubber plants were built with great speed. They took lots of effort. There were technical committees, construction committees, and production got underway and the buildup in consumption in the United States was very marked and steady. And in the last year of the war, 1945, I think our consumption ran about 750,000 tons, and the first postwar year, which was so important, we ran up, I think it was close to 900,000 tons, and it was rubber that made possible the rapid reconversion in the pursuits of peace.

At the end of World War II we had in this country, in the hands of the Government stockpile and the rubber manufacturing industry and all the other people who had rubber, just 100,000 tons. When all the ships were in after Pearl Harbor, we had about an 8-month stock at that time, which was very little for the manufacturing.

So, again, after World War II, I recommended the increasing of that crude rubber stockpile, one of the reasons being that the rubber lines had been lost to the enemy; that they had to be rehabilitated.

The staffs had been in prison camps and had to be organized, and it was obvious that there would be a problem in changing. Some mention was made this morning of the quality of the synthetic rubber.

The B. F. Goodrich Co., trying to help in the rubber supply position after the war, as one of our postwar planning had developed a passenger car tire that was 9.5 percent synthetic rubber, and this was 1945, and we also stated that this was better than any crude rubber passenger car tire ever made, so even in those days synthetic rubber was very important in passenger car tires.

Having a voice in the building up of the rubber stockpile, I naturally watched things very carefully, and my company—I retired from active service—sent me copies of many letters that I wrote, but they seem to date back to 1951 when I moved the other way.

Mr. COBURN. May I ask you, Mr. Collyer, before you start telling about the letter that you began sending to Government agencies that had to do with the management of the rubber stockpile, what was it that caused you to change your viewpoint from the standpoint of—well, it is not quite a change of viewpoint. What was it that first caused you to feel that we had enough rubber in the stockpile or perhaps too much rubber?

Mr. COLLYER. It was mainly our experience the last year of World War II.

I served in an emergency period as Special Director of Rubber Programs in the War Production Board. The late President Roosevelt invited me to go down and help over a hurdle. And in that last year, of all the about 700,000 tons of rubber consumed in the United States, better than 86 percent of it was synthetic rubber. And it was clear to me that we were going to continue to make great progress.

Mr. COBURN. What year was that, now?

Mr. COLLYER. This was 1945 that I served as Special Director of Rubber Programs, but in 1951, based on estimates that had been made within the B. F. Goodrich Co., and by industry committees, it was abundantly clear that ruling out great damage from bombs and another war, that we had more than enough rubber to see us through a 5-year war.

Mr. COBURN. All right. And with that in mind, what, if anything, did you do about it?

Mr. COLLYER. What did we do?

Mr. COBURN. What did you do?

Mr. COLLYER. Well, I would like to read an extract from a letter I wrote in March of 1951 to Mr. Eric Johnston, who was then—I don't know whether it was the Administrator of Price Stabilization, but it was the appropriate Government to write to.

I said:

The stockpile objective is the keystone of U.S. rubber policy. This objective should now be materially reduced in the light of changed conditions which differ greatly from the conditions existing when the present objective was established. These factors are constantly working to make us less dependent on crude rubber:

(*a*) The present objective includes a provision for sufficient crude rubber to meet consumption requirements during the period when the American rubber plants were being taken out of mothballs. Now that the American rubber facilities are achieving capacity production, this provision is no longer necessary.

(*b*) Rubber now being converted into finished military products is not being withdrawn from the stockpile but is being supplied from current imports. We estimated that in 1951 there will be 150,000 tons of all types of rubbers used in military products for the defense effort, most of which will not be put into service. This material represents a stockpile in being and its rubber content should be included in stockpile totals.

(*c*) The performance of products made from American-made rubbers—

that is, synthetic rubbers—

is constantly being improved. New types have been developed. Cold rubber is now in mass production and usage.

Cold rubber was a development that greatly increased the tread life of rubber, compared to crude rubber, in passenger-car tires.

New compounding materials have been discovered. New components are available. New techniques have been tested. The result is that American-made rubbers can now replace crude rubber much more effectively than during World War II. This statement can readily be confirmed by a review of industry and Government test results.

Mr. COBURN. All right, thank you, Mr. Collyer.

Now, did you, after that, continue to press your point?

Senator SYMINGTON. What was the date of that letter, Mr. Collyer?

Mr. COLLYER. March 1951.

Mr. COBURN. Mr. Collyer, did you continue to press your point that we had more rubber in the stockpile than we had had heretofore?

Mr. COLLYER. Yes, I did. I wrote a great many letters to people in Government. A further reason that I had, which came a little later, and I mentioned it publicly, that congressional leaders of both parties were urging at that time that all unessential expenditures be stopped, and it seemed perfectly clear to me that any rubber in surplus should be disposed of.

Mr. COBURN. Mr. Collyer, I have here—I may not have all of the letters.

Mr. COLLYER. I do not think you have, sir.

Mr. COBURN. I do have some very good letters, I think, that bear on the question that we have before the committee this afternoon. One of them is dated June 29, 1955. It was a letter that you wrote to Dr. Arthur S. Flemming, then Director of the Office of Defense Mobilization.

By 1955, June of 1955, had the synthetic rubber situation been changed markedly by the bringing out of new synthetic rubbers, by the development of new synthetic rubbers?

Mr. COLLYER. Not of new synthetic rubbers. What we called the general purpose synthetic rubber in World War II, our GRS, had not changed very much except for the cold rubber feature which I mentioned for passenger-car tires.

But I indicated that great strides had been made in the compounding. You will hear from Dr. Stretem of the Firestone Co. later, if you are interested in it. Very great progress was made then.

But, to answer your question, the quality of all types of products made from synthetic rubber was improved.

Mr. COBURN. What I had in mind was, had the stereo rubbers been developed by, say, June of 1955, when you wrote this letter?

Mr. COLLYER. I do not think so. The B. F. Goodrich Co., I think the record shows, made the first public announcement in that area. In the B. F. Goodrich laboratories we duplicated the tremendous rubber or natural rubber or crude rubber molecule, and in appraising rubbers or identifying them, it is possible to X-ray and you get a different thumbprint for each one. But in 1955, I think, we made the first announcement.

Mr. COBURN. Mr. Chairman, I have here a copy of a letter that Mr. Collyer wrote to Dr. Flemming, dated June 29, 1955, which I would like to introduce into the record, and I would like to read this letter, if I may.

Senator SYMINGTON. Without objection.

(The letter referred to is as follows:)

JUNE 29, 1955.

Dr. ARTHUR S. FLEMMING,
Director, Office of Defense Mobilization,
Washington, D.C.

DEAR DR. FLEMMING: On the 31st of December 1954, I wrote you regarding the Government's crude rubber stockpiling program and suggested that the appropriate departments of Government should bring up to date all of the facts which would assist in developing the answers to these two questions:

(1) What is the proper stockpile level in the light of current military knowledge and planning, and considering the advancing state of rubber technology?

In this connection, it is our understanding that today the Armed Forces of the United States are adequately equipped with most types of finished rubber products, that pipelines are full, and that additional quantities of some finished products are being stored against future needs.

(2) How can the present stocks be reduced to a lower level in line with real national defense needs without violating the letter and spirit of the international commitments of our State Department relating to governmental management of the crude rubber stockpile?

Mr. W. S. Floyd, in his reply dated the 14th of January 1955, stated that a review of the crude rubber stockpiling program had been initiated in July 1954, and that military programs had delayed final submission of the military tire requirements. However, he anticipated completion of the review within the next few months. Our own studies lead us to believe that when this review is completed it will show that a total of 900,000 long tons of crude rubber in this country, including both Government and private stocks, would be adequate for a 5-year, all-out war, based on the assumption that we would not be able

to import a single additional pound during the full 5-year period. Whether an all-out war fought with today's weapons could last as long as 5 years may be questioned.

We also believe that action can be taken to reduce the stockpile to a lower level at times such as the present when the world prices of crude rubber are substantially above its cost of production and above the cost of competing materials without violating the letter or spirit of the international commitments of our State Department and without harmful effect on our friends in the rubber-growing areas. The Government's crude rubber stockpile affords, I believe, an opportunity to reduce the taxpayers' burden through the orderly sale of a minimum of 200,000 tons. The total tonnage of crude rubber now in the United States (in Government and private stocks) is, as you know, approximately 1,300,000 tons.

Sincerely yours,

JOHN L. COLLYER.

Mr. COBURN. You remember writing that letter, do you, Mr. Collyer?

Mr. COLLYER. I do, Mr. Counsel.

Mr. COBURN. I notice from this letter that you, yourself, had cognizance of the fact that at this time our stockpile objectives were based on the assumption that we would fight a 5-year war?

Mr. COLLYER. That is true.

Mr. COBURN. And since that time it has been reduced to 3 years, which, of course, markedly reduced our objectives.

Now, I also notice that you say here that: "The world prices of crude rubber are substantially above the cost of production," at the time you wrote this letter. That was true; was it not?

Mr. COLLYER. It was, to the best of my knowledge.

Mr. COBURN. It was a propitious time, then, to dispose of rubber in the stockpile; was it not?

Mr. COLLYER. It was.

Mr. COBURN. Because the price was good?

Mr. COLLYER. I might give some price figures in the period we are talking about.

Mr. COBURN. Please do.

Mr. COLLYER. These figures were sent to me. But in 1953 the price of rubber had gotten down, the average price for the year, to 24¼ cents.

In 1954, to 23.64.

In 1955, it had climbed to 39 cents, which was the highest price in many years, going back to the 1920's.

And it seemed to me that this was the time to move with the least harm to the rubber-growing areas. In fact, there would not have been any harm.

Mr. COBURN. Yes.

Mr. Collyer, I have another letter that you wrote to Dr. Flemming, then Director of the Office of Defense Mobilization, dated June 27, 1956, on the same subject, which, Mr. Chairman, I would like to incorporate in the record.

Senator SYMINGTON. Without objection.

Mr. COBURN. And to read it, if I may.

(The letter referred to is as follows:)

JUNE 27, 1956.

Dr. ARTHUR S. FLEMMING,
Director, Office of Defense Mobilization,
Washington, D.C.

DEAR DR. FLEMMING: A press release from the Office of Defense Mobilization dated June 19, 1956, stated that the decision was made following a review

started some time ago of the stockpile objectives and inventory "but no change is being made at this time in the stockpile objectives for natural rubber." This announcement was surprising and extremely disappointing to me because we had every reason to believe that the latest review supported the contention that the present stockpile objective is much higher than it needed to be to provide an adequate margin of safety in the event of a 5-year emergency, even if we were not able to import a single pound of natural rubber during that 5-year period.

You will recall that the statistical and technical committees of the Rubber Manufacturers Association, at the request of the Chemical and Rubber Division of the Department of Commerce, completed new calculations of our Nation's civilian rubber requirements which showed that a total of 4,010,000 long tons of new rubber would be sufficient to cover all essential civilian requirements except tires, tubes, and fuel cells with ample factors of safety for a 5-year emergency beginning January 1, 1956. Of this total, 582,000 tons, or 14.5 percent, should be crude rubber or its equivalent.

The Chemical and Rubber Division later made minor adjustments to these calculations to allow for slightly higher production of trucks, buses, and house trailers shown in the latest official estimates from the Business and Defense Services Administration. These revisions, however, could not have increased the crude rubber requirements to more than 600,000 tons. Previous studies of military requirements support our belief that military needs for tires, inner tubes, and fuel cells for a 5-year emergency cannot require as much as 1.5 million long tons of new rubber. In fact, the changed concepts of warfare, together with the finished product inventories of the Armed Forces, make it probable that the new military requirements should total no more than 1 million tons. However, if we use the high estimate of 1.5 million tons in calculating the crude rubber requirements at the same rate as for civilian products, 14.5 percent, we arrive at a very safe total of 218,000 tons. Thus it appears that about 800,000 tons, and certainly not more than 850,000 tons, of crude rubber would provide for all essential civilian and all military requirements for a 5-year emergency with an ample margin of safety.

We now have in this country over 1,300,000 tons of crude rubber: about 1,200,000 tons in the national stockpile and some 109,000 in private hands. Thus we have from 458,000 to 500,000 tons more than would be needed in a long war with massive land forces such as were maintained during World War II.

When you met with the rubber industry committee on February 14, 1956, although specific figures were not disclosed, it was understood that the calculations of requirements were acceptable to the Office of Defense Mobilization. The general impression was that at least 300,000 tons could safely be released from the stockpile. It is for these reasons that we are unable to understand what grounds could justify the decision announced on June 19.

My concern is not based on the decision that the Government-owned stockpile of crude rubber should not be reduced at this time, but, rather, on the press statement "that no change is being made at this time in the stockpile objectives for natural rubber." A stockpile disposal program should, of course, be formulated only after careful study. However, the first step is a recognition of the fact that a substantial surplus exists. I look forward to receiving your comments.

With kind regards.

Very sincerely,

JOHN L. COLLYER.

Mr. COBURN. Do you remember writing that letter, Mr. Collyer?

Mr. COLLYER. Yes.

Mr. COBURN. And it expresses the views——

Mr. COLLYER. Yes.

Mr. COBURN (continuing). Pretty much that you had expressed in your earlier letter that I read. That was written, as I understand it, this letter, shortly after the announcement was made that the Government would not reduce its maximum objectives?

Mr. COLLYER. That is true.

Mr. COBURN. For stockpile rubber?

Mr. COLLYER. I think at that time it was certainly my view, but also the view of most companies in the rubber manufacturing industry that had studied the supply-demand position.

Mr. COBURN. And now I have here another letter, Mr. Collyer, written by you, that is dated the 28th of January 1957, to Dr. Flemming on the same subject.

Mr. Chairman, I do not want to prolong the hearing unnecessarily. I might ask that this letter be introduced in the record.

Senator SYMINGTON. Does it, in effect, express the same philosophy of Mr. Collyer?

Mr. COBURN. Yes. I simply request the reporter to copy this letter in the record, but I will not read it because it does express the same views as in the two earlier letters.

Senator SYMINGTON. Without objection, the letter will be incorporated into the record at this point. I think it would be good to read this letter.

Mr. COBURN (reading):

JANUARY 28, 1957.

Dr. ARTHUR S. FLEMMING,
Director, Office of Defense Mobilization,
Washington, D.C.

DEAR DR. FLEMMING: The President in his recent state of the Union message pointed out that the "principal threat to the efficient functioning of a free-enterprise system is inflation." One effective method of preventing inflation is to reduce Government expenditures. I heard Secretary of the Treasury Humphrey state yesterday on the "Meet the Press" television program that Government expenditures can and should be reduced and that this is everyone's job, the executive branch, Congress, and the people.

That is why I am again telling you that the B. F. Goodrich Co. believes that there is an opportunity to make a substantial reduction in the Government's investment in the national crude rubber stockpile and also in the Government's expenditures for maintaining that stockpile. We estimate that the stockpile now includes at least 300,000 long tons more of crude rubber than would be needed for our national defense even in the event of a 5-year, all-out war.

If new Government estimates were to be made now based on today's concepts of equipment required for war, we are of the opinion that they would show that the surplus of crude rubber in the stockpile is in excess of 300,000 tons. The value of this 300,000-ton surplus at current market prices is approximately $200 million, and the value of the total stockpile is the staggering sum of $800 million. The cost of storing and rotating only the estimated surplus, excluding interest on investment, is probably of the order of $10 million a year. By disposing of the surplus, the Government would make a substantial reduction in total Government expenditures without in any way jeopardizing our Nation's security.

A point 4 project for the replanting of low-yield acreage in the rubber-growing countries would be much more in the long-range interests of these countries and their people than is the unnecessary expenditure for carrying surplus rubber in the stockpiles. A project designed to stimulate replanting by the Indonesian small holders who now produce 60 percent of the total output of that country could contribute to higher living standards for the entire area. Some part of the savings in storing and rotating surplus might be appropriated for such a project in Indonesia and other rubber-producing countries.

As I explained in my letter of August 27, 1956, and in conversation with you on September 20, we do not advocate the dumping of the surplus, but rather the development of a sound disposal plan which would not disturb either our domestic economy or our relations with other nations. I read in the press that you will shortly be leaving the service of the Government.

JOHN L. COLLYER.

Mr. COBURN. Do you remember writing that letter, Mr. Collyer?

Mr. COLLYER. That is my signature there.

Mr. COBURN. The date of that letter is the 28th of January 1957, Mr. Chairman.

Now, I have another letter here that is dated May 13, 1957, written by you to George M. Humphrey, Secretary of the Treasury, which I would like to incorporate in the record and read, if you please, Mr. Chairman.

Senator SYMINGTON. Without objection.

Mr. COBURN (reading):

DEAR SECRETARY HUMPHREY: Our company's estimates of the quantity of rubber consumed in U.S. military products, which I mentioned to you last Saturday, show that approximately 42,500 long tons of new rubber (crude rubber plus manmade rubbers) were consumed in such products in 1956. Of this total, about 13,000 tons, or 30 percent, was crude rubber, having a present market value of about $9 million. These estimates are based on factors developed for the years 1951 and 1952 and for the first 6 months of 1953, when actual usage of rubber in military products was reported, and on the number of tires purchased by or for the Defense Department in 1956.

The ratio of crude rubber usage to the total is well below the civilian experience, primarily because of the desire of the military to encourage development of products using higher ratios of domestically produced rubbers in case we were forced to rely on domestic sources in the event of an emergency.

Now that the industry has developed products satisfactory to the military with higher ratios of manmade rubber, we can see no reason why larger quantities of crude rubber could not be used if it were decided to use for military purposes some of the excess quantity of crude rubber now in our national stockpile.

With kind regards.

Yours sincerely,

JOHN COLLYER.

You remember writing that letter, do you, Mr. Collyer?

Mr. COLLYER. Yes, sir.

Mr. COBURN. And I have here, Mr. Chairman, a letter written by——

Senator SYMINGTON. Mr. Counsel, may I ask a question there?

Mr. COBURN. Yes.

Senator SYMINGTON. Mr. Collyer, you wrote these letters. Did you get answers to them?

Mr. COLLYER. I have in my papers here answers to several letters that I wrote.

Senator SYMINGTON. If we send you up copies of the letters counsel asked be put in the record, if you have replies to those will you be good enough to send us copies of same for the record?

Mr. COLLYER. I shall be glad to do that.

(Letters referred to are as follows:)

THE B. F. GOODRICH CO.,
Akron, Ohio, July 18, 1955.

Dr. ARTHUR S. FLEMMING,
Director, Office of Defense Mobilization,
Washington, D.C.

DEAR DR. FLEMMING: I thank you for the information given to us by Mr. W. S. Floyd in his reply dated July 14 to my letter to you of June 25, regarding the surplus of crude rubber in the national stockpile.

We were disappointed to learn that the review of the stockpile objective had again been delayed and that you cannot proceed with this review until early fall. We assume that by "early fall" you mean by October 1.

Mr. Floyd has misinterpreted the intent of our recommendations. We believe, of course, that only such rubber as has been properly determined to be surplus

should be sold and that the sale should be handled so as to have a minimum of influence on prices. However, as pointed out in our letter, we believe that when crude rubber prices are substantially above the cost of competing materials, the surplus can be sold without harmful effect on our friends in the rubber-growing areas.

With kind regards.

Yours sincerely,

JOHN L. COLLYER,
Chairman of the Board.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
Washington, D.C.

Mr. JOHN L. COLLYER,
Chairman of the Board, the B. F. Goodrich Co.,
Akron, Ohio.

DEAR MR. COLLYER: Mr. Flemming has asked that I reply to your letter of June 29, 1955, in which you again raise certain major questions regarding the Government's crude rubber stockpiling program which you originally formulated in your letter of December 31, 1954, and to which we could give only provisional answers in my letter to you of January 14, 1955.

The validity of that complete review of the rubber stockpile program which you and we agree is called for obviously depends in large part on submission by the military of estimates for military tire requirements firmly based on revised military programs. When I wrote you in January we anticipated receiving these requirements shortly. Our expectations, however, were not realized and recent consultations now place the date when we can proceed here at early fall.

We greatly regret this delay but feel sure that we cannot properly anticipate the outcome of the review and take steps affecting the size of the stockpile now, out of a feeling that world crude rubber prices may be too high. While prices and the supply situation have, in past, necessarily affected somewhat the tempo of stockpile acquisition, now that the Government has such huge stockpile stocks, it increasingly seeks to manage them with a minimum of influence on prices, one way or the other.

On various stockpiled materials, changes in requirements or other conditions have led to a reduction of stockpile objectives with consequent surpluses. Disposal of such surpluses has, however, been very deliberate and under the safeguards outlined in the Stock Piling Act.

I am glad to have had this opportunity to explain the present status of the rubber stockpile review. The cooperation of the rubber industry will be needed in completing it. And if the completed review shows what you anticipate, further cooperation will be required in making adjustments.

We again thank you for your constructive comments.

Sincerely yours,

W. S. FLOYD,
Assistant Director of ODM for Materials.

THE SECRETARY OF THE TREASURY,
Washington, May 16, 1957.

Mr. JOHN COLLYER,
Chairman of the Board,
The B. F. Goodrich Co.,
Akron, Ohio.

DEAR JOHN: Thanks for yours of the 13th.

I have taken this up with Gordon Gray, as per copy of letter enclosed. I will be most interested in his reply. It certainly is a worthwhile suggestion to follow up to see if it will not develop into a practical operation.

Very best to you.

Sincerely,

George,
GEORGE HUMPHREY.

May 16, 1957.

Hon. GORDON GRAY,
Director, Office of Defense Mobilization,
Washington, D.C.

DEAR GORDON: Enclosed please find a letter from John Collyer on a subject that he has talked about several times.

I am sure we have too much rubber in the stockpile and that we should be able to recapture some money for the Treasury by letting some of it go down, at least to a normal amount. However, I have been opposed to permitting sales of any stockpile items in the general market even though they are in excess of our needs because I just don't think that the Government can possibly get into the position or habit of buying and selling stockpile items. It is all too easy, if this once starts, for it to become a habit, and I think there is nothing more dangerous.

This suggestion of using some of the excess stockpile to supply, in part, current defense requirements is worth careful thought and study. While indirectly it would affect the market because of reduced Government buying, it would be sufficiently remote so that I wonder if most of the objection would not be removed.

Won't you study it over and see what you think. I certainly would like to turn some rubber into money if we can. If we can't do something of this kind, somebody will suggest that we make our checks out of this rubber so that they will surely bounce.

Very best to you.

Sincerely,

_____ _____.

Mr. COLLYER. I think that I recall one comment that Dr. Flemming made in replying to one letter, which is significant, that we had to be very sure that we were right about these estimates, because certainly in time of war they would be needed.

Now, I assume that he, in consultation with others, had taken into account such things as the bombing of synthetic rubber plants and destroying warehouses.

My own view at that time—and it has not changed—was that you cannot play so safe in time of an emergency that you may undermine just what you are trying to achieve and wreck the economy in doing it. And, of course, it is possible to bomb not only synthetic rubber plants, but also the plants consuming that rubber, the manufacturing plants. But I did want to mention that aspect of it.

Mr. COBURN. Mr. Chairman, I have a letter that was written by Mr. Humphrey, Secretary of the Treasury, to Mr. Gordon Gray, who was then the Director of the Office of Defense Mobilization, which comments on the earlier letter that Mr. Collyer had written to Mr. Humphrey.

I would like to introduce this in the record and read it, if I may.

Senator SYMINGTON. Without objection.

Mr. COBURN (reading): "May 16, 1957," on the letterhead of the Secretary of the Treasury in Washington.

DEAR GORDON: Enclosed please find a letter from John Collyer on a subject that he has talked about several times. I am sure that we have too much rubber in the stockpile and that we should be able to recapture some money for the Treasury by letting some of it go down at least to a normal amount. However, I have been opposed to permitting sales of any stockpile items in the general market, even though they are in excess of our needs, because I just do not think the Government can possibly get into the position or habit of buying and selling stockpile items.

It is all too easy, if this once starts, for it to become a habit, and I think there is nothing more dangerous.

This suggestion of using some of the excess stockpile to supply, in part, current defense requirements is worth careful thought and study. While, indirectly, it would affect the market because of reduced Government buying, it would be sufficiently remote so that I wonder if most of the objection would not be removed.

Won't you study it over and see what you think? I certainly would like to turn some rubber into money if we can. If we can't do something of this kind, somebody will suggest that we make our checks out of this rubber so that they will surely bounce.

Very best to you.

Sincerely,

GEORGE.

And now, Mr. Chairman, I have a memorandum from Mr. Gordon Gray, Director of ODM, in reply to Mr. Humphrey.

I would like to incorporate this in the record and read it, if I may.

Senator SYMINGTON. Without objection.

Mr. COBURN (reading):

MAY 18, 1957.

DEAR GEORGE: I have your letter of May 16 enclosing a letter to you from John Collyer. Let me say that I would like you to consider this letter an expression of personal opinion, for I have not yet sought any staff advice.

I agree that we have too much rubber in the stockpile, and, of course, under present Cabinet policy we cannot dispose of it on the general market. I am not sure in my own mind that the policy is altogether sound. I am wondering if we couldn't dispose of it under a carefully prepared program and over a considerable period of time. It seems to me that if industry knew what we proposed to do and if it were clear that we would faithfully follow the proposal, it would not put the Government in the business of buying and selling stockpile items to the detriment of the general market.

With reference to John Collyer's suggestion of using some of the excess stockpile to supply, in part, current defense requirements, I agree that we should give careful thought and study to this proposal. Accordingly, I will have this matter thoroughly explored. It is my view that we should study the whole stockpile situation. Rubber is not the only problem.

Sincerely,

GORDON GRAY.

As I understand it, Mr. Collyer, he is commenting on the thought that you had that in some way some of this stockpile rubber might be used to reduce our defense purchases?

Mr. COLLYER. That is my understanding of the statement he made.

Mr. COBURN. And that is what you had in mind?

Mr. COLLYER. Very much so.

Mr. COBURN. Is it not when you communicated with Mr. Humphrey?

Senator SYMINGTON. Senator Cannon, have you any questions at this time?

Senator CANNON. No questions.

Senator SYMINGTON. Mr. Collyer, you heard the suggestion we made this morning, which counsel will develop.

Do you see any flaw in moving this stockpile by defense payments to producers in part in the natural rubber?

If tires sold are by B. F. Goodrich or another company, could they not take back a portion of that in stockpile rubber?

Mr. COLLYER. I should think so, and I hope that when Mr. Ormsby appears, that you will ask him that same question. But my judgment is "Yes."

I assume, in this same vein, that under our dollar aid program to many nations, that if some of the dollars are being used to purchase rubber on the open market, that consideration might be given to send-

ing rubber from which tires are made. I do not know what volume that would be.

Senator SYMINGTON. I think that is already being done.

Mr. COLLYER. Good.

Senator SYMINGTON. We will check the record.

I am glad to have your opinion because of your extraordinary knowledge of this subject. I would like to ask one question here. Is there any belief in your mind that natural rubber will become more competitive, and synthetic rubber less competitive, in the future?

Mr. COLLYER. Looking ahead 5 years, and assuming no all-out war, I would expect that manufacturers of all types of manmade rubber will continue to make progress in having those rubbers more valuable. It was mentioned this morning that there is a great variation in the price of producing the crude rubber. It was also mentioned that American manufacturing companies have investments in rubber-growing areas.

The B. F. Goodrich Co. decided to make an investment in Liberia, I think it was the year before we announced the duplication of the tremendous rubber molecule.

We had really signed on the dotted line, and we might have been able to withdraw, but we thought, as this would be very low-cost rubber, that we would go on with the investment that we made.

Now, I think a figure was mentioned this morning of 15 cents delivered in New York for the efficient plantations. Some might be a little lower and some higher, but taking that figure, any company that could make rubber at 15 cents during the next 5 or more years is certainly going to make money out of rubber. But there are also a great many high-cost areas, and I think that with the competition of the manmade rubbers, that the crude rubber price would come down, as was indicated this morning, to really meet competition, which would make a problem for the native or other person who might have some of the high-cost production.

That is why I was so interested in trying to do something to help with the replanting in the countries where there were no programs for that.

Mr. COBURN. Mr. Chairman, may I also say that it will create a problem for us if we sell our rubber at a lower price as we go on.

Mr. COLLYER. We have that problem. I continue to watch rubber prices very carefully. In 1953, the average price of crude rubber was 24¼ cents.

In 1954, it was 23.64 cents.

Now, I am sure that at that time we heard from the rubber-growing-area governments that the price was too low and what could we do about it. But then, as I mentioned earlier, the price came back in 1956 to 34 cents; in 1957, to 31 cents.

It seems to me—of course, hindsight is easier, but I rather felt this way at the time—that we in our disposal program might just miss the boat on each program we got out with this competition that I mentioned and a falling price, and, although we talk average prices for a year, that during any year there are ups and downs in the market.

During the last year or two, I think those variations have been very few. But that could be changed in some future years. I have read in the paper about the problem that the Dutch and Indonesia are

having. If that developed into some military effort, there might be blockading of ships and a temporary shortage of rubber, and what I want to say is that I think the 36-cent price which was set, above which, as I recall it, unlimited quantities of rubber could be sold, I think the way the market was moving at that time, that that price was too high.

It is my own personal judgment, and I am not speaking for the B. F. Goodrich Co. or the rubber industry in any way, that this 32-cent price is not going to move rubber, and that if we did get along with our rubber-growing friends in 1954 and 1955, rather 1953 and 1954 when the price was in the 23- to 24-cent area, that perhaps under any modification of this disposal program we have a price of certainly below 32 cents and even 26 or 28 cents, which gets down close to the selling prices of the new rubbers, that there might be a better chance of moving rubber. That is a personal opinion.

Mr. COBURN. Mr. Chairman, I have just two or three pieces of correspondence that I would like to incorporate in the record here that are those of this witness.

I have here a memorandum, or, rather, a letter from Secretary Humphrey to Mr. Gordon Gray, again commenting on this matter of disposing of excess rubber, dated May 21, 1957:

DEAR GORDON: Thanks for yours of the 18th concerning the sale of excess stockpile. I am sure that in this particular case it would meet with the approval of industry for you to gradually sell out some rubber, but I am just afraid to have the Government start such a procedure because I have seen the pressures that take place when the "shoe is on the other foot" when the market is bad and when business people are down here begging us to buy for stockpile to support the market and thus avoid imposition of tariffs and all sorts of other operations. So that, just as a general rule, it seems to me that it is far better for the Government to refuse ever to use the stockpile for anything but defense, with no buy or sell for any other reason at any time.

I am sure you are right that the whole stockpile situation needs reviewing, that rubber isn't our only problem, and that undoubtedly we have too much in a number of places. This will be especially true as we get the revisions for requirements for the Defense Department and abandon the previous program of at least a 5-year war.

We tried our best to get this down to a 3-year basis some time ago without too much success. If there is some way to work off excess stockpile a little at a time by use of the stockpile for actual defense supply in lieu of new purchasing, that, it seems to me, is the safest and best way of correcting excess items.

Then I have here another memorandum which is dated June 6, 1957, or a letter, rather, from George B. Beitzel, Assistant Director to Gordon Gray, Director of the ODM, on the subject of rubber, and I would like to incorporate this in the record and read it. [Reading:]

I have read the correspondence between you and Secretary Humphrey, as well as Mr. Collyer's letter to Secretary Humphrey. The suggestion that the Department of Defense use natural rubber now in the stockpile sounds interesting, but under the law we cannot take any material from the stockpile without going through the regular procedure of giving 6 months' advance notice.

A transfer to DOD would be in the same category as an actual sale of material from the stockpile. It would seem, therefore, that all you could tell Secretary Humphrey is that his idea is a good one but that it cannot be done under the present regulations.

Of course, these letters indicate that he is really trying to recapture some money for the Treasury. On the other hand, he states that he is opposed to permitting sales of any stockpile items in the general market. He is really on both sides of the fence. His letter of May 21 indicates a little more on the side

of doing something about the size of the stockpile than he is in holding to the position of not touching any material in the stockpile.

As you know, I am preparing a paper on this subject of disposing of some 165,000 tons of our natural rubber in stockpile. I hope that you will carry it through to the Cabinet and get approval for such a program.

Mr. Collyer, I do not want to extend the record unnecessarily. As far as you know, there was never any decision made at that time, which was in June of 1957, for the use of stockpile rubber to pay in part for defense purchases?

Mr. COLLYER. No.

Mr. COBURN. Nothing came of that suggestion?

Mr. COLLYER. I do not recall any further followup on that.

Mr. COBURN. Now, Mr. Collyer, since these letters of yours were written urging that the stockpile be substantially reduced, we have adopted a disposal plan for the sale of 470,000 tons of rubber, and this morning the testimony was that we have sold about a third of it so far.

How do you feel about the possibility of disposing of rubber at a higher rate than we are now disposing of it, which cannot exceed 5,000 tons a month? Do you have any views on that at the present time?

Mr. COLLYER. I think my main comment is the one that I made:

That the 32 cents is perhaps too high; that the trend is downward; and I think that with the cooperation of most of the rubber-growing governments who have the stockpile actually hanging over their heads all the time it is in being would perhaps agree that if we took a lower figure and in these swings of the market, a certain day or week came when you could sell considerable rubber, then it would be well to do it.

With the program of so much a month, I think that is perhaps a good part of the program, but you wouldn't necessarily dispose, you wouldn't dispose of any more rubber that way than you do at present.

Mr. COBURN. Well, I had in mind whether you have any views as to whether the disposal program should be changed to permit the sale of more than 5,000 tons of rubber in 1 month.

Mr. COLLYER. I would rather have Mr. Ormsby comment on that, but I believe part of the program is that under the present program, if the price of rubber in New York is above 32 cents, that unlimited quantities can be sold. Previously it was 36 cents.

The point I am making, we are following a falling market and just missing the boat.

Mr. COBURN. Is there anything that has occurred since you wrote the last of these letters in 1957 to cause you to change your views with reference to our having too much rubber in the stockpile?

Mr. COLLYER. No.

I never advocated doing away with the entire stockpile, and I was interested in the view of Mr. Mellen of the State Department that crude rubber is still a valuable material. In most of the manufacturing countries in the world that I know of, manmade rubber is used practically 100 percent in passenger car tires, but in the airplane tires and large truck tires that he mentioned, it still is important.

Now, the new rubbers which were mentioned that duplicate or really exceed the performance, the products exceed the performance of products made of natural rubber, we have a little excess capacity today, but without any crude rubber it would mean rapid building of plants to supply the needs for the uses where natural rubber or the material is equal or better than manmade rubber would be needed.

Mr. COBURN. You think it is desirable for us to retain some natural rubber in the stockpile at the present time?

Mr. COLLYER. Yes, sir.

Mr. COBURN. You wouldn't——

Mr. COLLYER. But if I were to guess a quantity, I certainly wouldn't say more than 400,000 or 500,000 tons at the most.

Mr. COBURN. I think that is all, Mr. Chairman.

Senator SYMINGTON. Mr. Collyer, how much natural rubber do you think we should keep in the stockpile?

Mr. COLLYER. 400,000 or 500,000 tons. I think that is a top figure, and I am not saying we should always keep it. I feel personally that these new rubbers, depending on competition, will make advances, and, as they do, it would steadily lessen our need.

Now, mention was made this morning of the British selling their rubber. I did say before World War II that their stocks of rubber weren't very good, and it became the responsibility of the United States, and rightly so, because we had rubber during the World War II period, to supply rubber products to our allies, and then still our allies, as they may feel that we have so much rubber in our stockpile that there would be enough for both of us.

Senator SYMINGTON. Thank you.

Since 1951, when we had over 1 million tons of rubber, and we still have over 1 million tons, you have been recommending that we reduce the size of our stockpile. You now think that we could reduce it, based on your experience, around 50 percent.

You mentioned the fact that we were missing the boat in a falling market. That was your term, was it not?

Mr. COLLYER. Yes.

Senator SYMINGTON. And with the growth of these stereo rubbers we might miss the boat badly in a falling market, unless we start moving some of this rubber.

Would you subscribe to that?

Mr. COLLYER. That could well be.

Senator SYMINGTON. Do you believe it?

Mr. COLLYER. Oh, yes, I do.

Senator SYMINGTON. Apparently you were a prophet in this rubber stockpile picture. You have been very kind to come down and talk with us. We appreciate it.

Mr. COLLYER. I think one thing should be mentioned, and I think this is to the credit of both the Government and those of us who wanted to slow down the buying or stop the stockpile buying: That we actually did, I think, work out something where we stopped. At one time I was afraid we might have 2 million tons in the stockpile.

Senator SYMINGTON. About what time was that?

Mr. COLLYER. Well, we started buying for the Korean war and then we kept on buying after that. It was mentioned, I believe this morning, that we stopped buying in 1954.

I think the reply that I have from Government, that we stopped it a little earlier, at the end of 1953.

Senator SYMINGTON. I remember one material we had stated requirements more than the total known reserves in the world, underground and on top of the ground.

Senator Cannon, have you any questions?

Senator CANNON. No questions.

Senator SYMINGTON. Again let us thank you for your courtesy in coming down.

Mr. COLLYER. I am very pleased, indeed, sir.

Senator SYMINGTON. Mr. Counsel, who is your next witness?

Mr. COBURN. Mr. Chairman, Mr. Walter L. Lingle, Jr., is the next witness.

Senator SYMINGTON. Mr. Lingle, the custom of this committee is that witnesses be sworn.

Do you solemnly swear that the testimony you give the committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LINGLE. I do, sir.

Mr. Chairman, I have with me Mr. Frederick C. Spreyer of our organization. You may wish to ask him for some testimony because he is more familiar with it than I am.

Senator SYMINGTON. Raise your right hand, please.

Do you swear the testimony you give this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SPREYER. I do.

Senator SYMINGTON. Have you a prepared statement?

TESTIMONY OF WALTER L. LINGLE, JR., DEPUTY ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT; ACCOMPANIED BY FREDERICK C. SPREYER, SPECIAL ASSISTANT TO THE ASSISTANT ADMINISTRATOR FOR MATERIAL RESOURCES

Mr. LINGLE. I do, Mr. Chairman. I am sorry to say I am new in this operation and I did not realize 24 hours was required. I was advised just before I left that this was going to be needed.

Senator SYMINGTON. Mr. Counsel, will you first ask questions identifying Mr. Lingle.

Mr. COBURN. Will you state your name and address, please?

Mr. LINGLE. I am Walter L. Lingle, Jr., at the present time the Deputy Administrator of the Agency for International Development.

Mr. COBURN. Commonly known as AID?

Mr. LINGLE. Commonly known as AID.

Mr. Fowler Hamilton is the Administrator. He would be here today but he is out of the city and I am representing him. I have been here on the job only for about 6 weeks so that I am quite a neophyte at what I am about to do.

If there is any merit in what has happened, I think it is because Mr. Hamilton has been responsible.

Mr. COBURN. Mr. Lingle, may I just ask you to tell us what you did before you came with AID?

Mr. LINGLE. I was the executive vice president of the Procter & Gamble Co., and for the past 15 years I have been responsible for their oversea operations.

Mr. COBURN. Now, you have a statement you say you would like to read?

Mr. LINGLE. Yes, I do, sir.

Mr. COBURN. I would be glad to hear from you.

Mr. LINGLE. The Agency for International Development and its predecessor agencies have for several years been providing funds to some of its recipient countries to finance purchases of crude rubber. However, the Agency for International Development has no statutory or administrative responsibility to dispose of strategic and critical materials excess to the requirements of the national stockpile. That is the responsibility of the Office of Emergency Planning.

The President, in his message to the Congress on the administration's proposed foreign assistance bill for fiscal year 1962 stated that the U.S. Government intended to make use of its nonagricultural surpluses in the foreign assistance program.

On the initiative of the Office of Emergency Planning, an interagency committee was established in April 1961, to study ways to use available surplus stockpile materials in the foreign assistance program to the extent practicable. This committee is under the chairmanship of the Office of Emergency Planning and includes representatives of the Departments of State, Treasury, Commerce, Agriculture, and Interior; General Services Administration, Bureau of the Budget, the Export-Import Bank, and the International Cooperation Administration—now the Agency for International Development.

On May 15, 1961, the task force requested that GSA prepare a table of materials available for sale under approved disposal programs. It requested further that a study be made to resolve difficulties previously encountered in attempting to use stockpile rubber in foreign aid programs. Even before this action by the task force, the ICA tried to dispose of stockpile rubber in a program for Turkey. At that time, this effort was unsuccessful because of two factors: (1) the established U.S. Government floor price for crude rubber was 30 cents per pound, while the open market price was fluctuating around 28 to 29 cents per pound, and (2) the stockpile rubber was aged and required "hotroom" treatment facilities which the Turkish importers did not have.

GSA developed the requested list of available materials by the task force and on October 10, 1961, ICA sent a circular message to 72 oversea missions advising them of some 22 stockpile items approved for disposal, including raw rubber, and usable in programs financed by ICA. It was pointed out that whenever practicable and consistent with the objectives of our programs, such commodities should be purchased from GSA. On December 12, 1961, AID sent a followup circular to the same countries calling special attention to rubber and announcing a new GSA pricing formula. This pricing policy tends to overcome one of the major problems encountered in the earlier effort to use stockpile rubber. However, the absence of treatment facilities in some AID recipient countries is a problem still to be overcome. Relatively few of the AID recipient countries—primarily Korea, China, Pakistan, Greece, and Turkey—import crude rubber. To date, no direct sales of crude rubber have been consummated through the foreign assistance program this fiscal year. However, Morocco has submitted a request for $200,000 for crude rubber to be purchased from GSA and has the facilities to thaw the rubber. We also have cabled Korea inquiring whether that country has facilities to thaw the aged rubber.

In a further attempt to use stockpile materials, a plan was devised, in cooperation with GSA, to include a special provision in AID procurement authorization for tires and tubes to require suppliers to purchase stockpile rubber in an amount equal to 100 percent of rubber in the tires and tubes sold under the authorization. This potential is over $8 million.

AID has, therefore, been cooperating and will continue to cooperate with the other agencies of Government in disposing of strategic and critical materials through the foreign assistance program.

That concludes my statement.

Mr. COBURN. Mr. Lingle, I want to make sure that I understand and that the committee understands your statement here. Did I understand you to say that in some instances the AID or its predecessor has sent crude rubber overseas, or, rather, sent money overseas, American dollars overseas, to buy crude rubber at a time when we had too much crude rubber in our stockpile?

Mr. LINGLE. That is correct, sir, although I understand that the crude rubber in our stockpile was not usable in the countries involved because of the lack of thawing facilities.

Mr. COBURN. Not always, but sometimes it could be so used; is that correct?

Mr. LINGLE. I am told that it was rather rare that it could be used.

Mr. COBURN. So that it is very rare, then, that you are able to work out an arrangement whereby, instead of sending dollars overseas, you can sent crude rubber from the stockpile overseas to take the place of the dollars that you used to send overseas to buy crude rubber?

Mr. LINGLE. I understand that historically that has been true, sir, because of the lack of thawing facilities in the countries taking the crude rubber.

Mr. COBURN. So you do not have much prospects then of correcting that situation, do I understand you?

Mr. LINGLE. I cannot say that that is the case, sir. I am not familiar enough with the process.

Mr. COBURN. Who could tell us that? Could Mr. Spreyer tell us that?

Senator SYMINGTON. How do you spell your name, sir?

Mr. SPREYER. S-p-r-e-y-e-r.

Mr. COBURN. Tell us what your position in AID is, will you please?

Mr. SPREYER. I am Special Assistant to the Administrator for Material Resources.

Mr. COBURN. Now, Mr. Spreyer, so that I am sure we all understand this problem—maybe I have not made it very clear—as I understand it, in times past AID or its predecessor has included in its foreign aid program for certain countries American dollars that were used when they got overseas to purchase crude rubber at a time when we had more crude rubber than we knew what to do with in our own stockpile; is that not true?

Mr. SPREYER. That is correct, sir.

Mr. COBURN. Now, has an effort been made by AID to correct that situation by sending crude rubber to these countries instead of dollars?

Mr. SPREYER. Sir, this crude rubber needs to be thawed in a hot room. These facilities are not available in the recipient countries which have been receiving crude rubber under AID financing, and

they are not available now except in this one case of Morocco, which Mr. Lingle mentioned in his statement.

Mr. COBURN. So we have not been successful, then in trying to substitute crude rubber for dollars?

Mr. SPREYER. That is correct.

Mr. COBURN. In the foreign aid sent overseas?

Mr. SPREYER. That is correct, sir.

Senator SYMINGTON. Is it quite a problem to thaw rubber?

Mr. SPREYER. Sir, I am not a technician nor an expert, but I understand that it is thawed for 1 or 2 days in a room at a temperature of about 105°.

Senator SYMINGTON. And for how many days?

Mr. SPREYER. Two days, I believe, sir.

Senator SYMINGTON. Do you not think these countries could work out a building that could get up to 105° and keep the temperature there for a couple days?

Mr. SPREYER. That is possible, sir.

Senator SYMINGTON. Possible but not probable?

Mr. SPREYER. Well, it is very probable also, sir. I am certain they could.

Senator SYMINGTON. Why did we not suggest that they do it, in order to eliminate this problem of thawing?

Mr. LINGLE. Mr. Chairman, if I may interrupt, I think this is a matter that we would have to investigate. I do not believe that we would be prepared to say what the technical problem is, but we would be very glad to investigate.

Senator SYMINGTON. If you would. I think it is a fine idea that recently AID has attempted to supply rubber, instead of supplying money. With that premise, it would seem, from the little I know about it, that if the only problem is thawing the rubber, a little ingenuity could work it out.

Would you give us a statement for the record at this point as to what is the problem?

Mr. LINGLE. I think it is a technical problem which we will have to investigate, sir.

Senator SYMINGTON. All right, sir. We will ask somebody later on about it. It probably involves more than just thawing rubber, does it not?

Mr. LINGLE. I cannot answer that question.

Senator SYMINGTON. Thank you.

Go ahead, Mr. Counsel.

Mr. COBURN. May I ask you this: There are some American companies, manufacturing companies, rubber manufacturing companies, who do have facilities for the thawing of this Government stockpile of rubber, do they not, or do you know?

Mr. LINGLE. In the foreign countries I do not know.

Mr. COBURN. No, I am talking about in the United States, American rubber manufacturing companies in this country.

Mr. LINGLE. Oh, I think they must have in this country, yes.

Mr. COBURN. Who do have facilities for thawing this Government stockpile rubber. Have you tried having them do the thawing before you ship it overseas in your foreign aid program?

Mr. LINGLE. I have not.

To my knowledge, this has not been investigated, although I suspect that there is a cost factor involved which could be considerable.

Mr. COBURN. Well, you have, however, made some arrangements that have permitted the use of the crude rubber in the stockpile in connection with your aid program, have you not?

Mr. LINGLE. Yes, we have, sir.

Mr. COBURN. As I understand it, in your foreign aid program AID purchases a considerable quantity of finished rubber products such as tires, tubes, and things of that sort; is that right?

Mr. LINGLE. These are purchased by the recipient countries with funds received by us, yes.

Mr. COBURN. Purchased by the recipient countries?

Mr. LINGLE. With funds provided by us, purchased by the recipient countries with funds provided by the AID Organization.

Mr. COBURN. I had understood that AID purchases these finished rubber products from American manufacturers in this country in some instances, is that not correct?

Mr. LINGLE. If they do, I did not realize that was the case.

Mr. COBURN. Maybe Mr. Spreyer can tell us that. Will you take over, Mr. Spreyer, please?

Is it not a fact that in some instances AID purchases finished rubber products from American manufacturing companies for the purpose of shipping these products overseas in your foreign aid program?

Mr. SPREYER. This is correct, sir. The normal procedure is that we allocate a credit to the recipient country. They, in turn, do the purchasing. But in some instances GSA, our purchasing agent, does make some direct purchases.

Mr. COBURN. Well, whether the purchase is made by you directly or made by the recipient country in the United States, the result is all the same, is it not?

Mr. SPREYER. That is correct.

Mr. COBURN. And, as I understand it, just this year, since early March 1962, AID has begun, wherever possible, to use rubber in the stockpile to pay the American rubber manufacturer from whom you buy these finished rubber products to be sent overseas in your program?

Mr. SPREYER. That is correct, sir.

Mr. COBURN. And you have done that in three instances, have you not?

Mr. SPREYER. I believe it is four instances, sir. I believe it is in connection with tire purchases for Korea, Cambodia, Pakistan and Turkey.

Mr. COBURN. What are those purchases in all, in amounts?

Mr. SPREYER. Sir, there is a total amount of $8.4 million. This was initiated only in March of this year. I just spoke with Mr. Casto of GSA and he told me as of now about $11,000 in purchases have been identified in this area, but this will continue on over the length of the contracting period of the procurement authorization which is 9 months to a year.

Mr. COBURN. As I understand it, so that everyone can understand how you work this out, the way you handle a situation of this kind is that when you need tires, we will say, for a part of your foreign aid that is to be sent to Korea, you will order those tires from an American manufacturer, and then you will use your foreign aid money to buy

natural rubber from the stockpile, and then will pay the American manufacturer with the natural rubber that you have bought from the national stockpile. Is that the way it works?

Mr. SPREYER. Sir, those are not the exact mechanics of it, but it ends up that way. It results that way.

Mr. COBURN. Does it?

Mr. SPREYER. Yes.

Mr. COBURN. I see. That is the substance of it?

Mr. SPREYER. That is correct.

Senator SYMINGTON. What are the natural mechanics of it? If it does not operate that way, then how can you get to the same end unless you do it that way?

Mr. SPREYER. Well, sir, we issue a procurement authorization that has an identifying number on it.

Senator SYMINGTON. To whom do you issue it?

Mr. SPREYER. That is issued to the recipient country.

Senator SYMINGTON. Yes?

Mr. SPREYER. The recipient country suballocates funds under that procurement authorization to private importers or governmental importing agencies within the recipient country. They, in turn, after they have placed orders with American suppliers——

Senator SYMINGTON. Wait a minute. "They," who is "they"?

Mr. SPREYER. The private importers or the governmental importers.

Senator SYMINGTON. Are they generally in this country?

Mr. SPREYER. No, in the recipient country.

Senator SYMINGTON. In the recipient country you have an importer?

Mr. SPREYER. Yes. Let us take, for example, Pakistan.

Senator SYMINGTON. I am interested because of these supplemental stockpile deals. Let us take Pakistan and try to follow you.

Mr. SPREYER. We have some Pakistani private importers.

Senator SYMINGTON. Right.

Mr. SPREYER. And perhaps the Pakistan Government may have a governmental agency which imports.

Senator SYMINGTON. Right.

Mr. SPREYER. They are suballocated credits under the procurement authorization which we issue to the Government of Pakistan.

Senator SYMINGTON. We issue what to the Government of Pakistan?

Mr. SPREYER. A procurement authorization.

Senator SYMINGTON. And that means that they can buy?

Mr. SPREYER. This sets up a credit for them. Let us say——

Senator SYMINGTON. A credit with whom?

Mr. SPREYER. With the U.S. Government.

Senator SYMINGTON. With what agency in the U.S. Government?

Mr. SPREYER. It is set up with a U.S. bank to which we send a letter of commitment.

Senator SYMINGTON. A what?

Mr. SPREYER. A U.S. bank, a private bank.

Senator SYMINGTON. A private bank in this country?

Mr. SPREYER. Correct, sir.

Senator SYMINGTON. Who gives them that from the Government?

Mr. SPREYER. The United States, AID sends the private bank a letter of commitment committing us to $2 million for Pakistan for tires and tubes.

Senator SYMINGTON. I understand.

Mr. SPREYER. Under this procurement authorization which we have issued to the Government of Pakistan.

Have I lost you, sir?

Senator SYMINGTON. No. I am getting a little worried about you.

Mr. SPREYER. The Pakistani importer——

Senator SYMINGTON. I tell you what you do. You write down this afternoon exactly the way these $2 million are handled as a result of the U.S. Government giving a letter of credit to a private bank which, in turn, is represented in Pakistan, who gives it to an importer in Pakistan, who then comes back here and buys tires.

Will you do that?

Mr. SPREYER. Right, sir.

Senator SYMINGTON. Please do not say "they" anywhere, or "it." Each time please name the agency or the bank or the government in question and send it to us so we can get it in the record tomorrow. Will you do that?

Mr. SPREYER. Right, sir.

Senator SYMINGTON. Thank you, Mr. Spreyer.

(The statement referred to follows:)

STATEMENT OF AGENCY FOR INTERNATIONAL DEVELOPMENT/GENERAL SERVICES ADMINISTRATION PROCEDURE COVERING THE PURCHASE OF TIRES AND TUBES UNDER AID PROGRAMS IN PARTICIPATION WITH THE GSA STOCKPILE RUBBER DISPOSAL PROGRAM

(1) AID/W (Agency for International Development in Washington) receives from the U.S. AID (the AID mission in a recipient country) a request to finance tires and tubes for that country. The document used to make the request is termed a "procurement authorization application" or (PAA). This PAA is a request agreed to by the government of the recipient country and the U.S. AID for a dollar credit in a given amount to finance the purchase of tires and tubes. This document designates the name of the U.S. bank to which AID/W is to send a letter of commitment which guarantees to the U.S. bank that the U.S. Government will reimburse the bank for funds paid out in accordance with instructions received from the central bank of the recipient country for purchases of tires and tubes made under the terms and conditions of the PA issued to the recipient country.

(2) Subsequent to review and approval of the PAA, AID/W issues a document termed a "procurement authorization" or (PA) to the government of the recipient country. This PA has an identifying number, date, and dollar value. It is, in effect, a contract between the Government of the United States and the government of the recipient country under the terms of which the United States obligates itself to make available to the recipient country (through a U.S. bank) a given dollar credit to finance tires and tubes. This PA contains a special provision which reads as follows:

"Financing of all rubber tires and tubes under this authorization shall be limited to those transactions on which suppliers agree to purchase at the option of the U.S. Government and under applicable procedures and within quantity and price restrictions contained in current stockpile rubber plans, excess natural rubber from the U.S. strategic and critical stockpile in amounts equal to 100 percent of the sales price of the tires and tubes supplied.

"Full particulars concerning the procedure which will govern under this participation program may be secured from the General Services Administration, Defense Materials Service, Washington 25, D.C."

Concurrent with the issuance of the PA to the recipient country, AID/W sends to the U.S. bank designated by the recipient country in the PAA a so-called letter of commitment. This letter of commitment, as mentioned above, is identified by number with the PA sent to the recipient country. It is a guarantee to the U.S. bank that the U.S. Government will reimburse that bank for all payments made to U.S. suppliers of tires and tubes to the recipient coun-

tries in accordance with the terms of the letters of credit that that U.S. bank is requested to issue to U.S. suppliers by the central bank of the recipient country. The total dollar value of the letter of commitment is the same as the total dollar value of the PA issued to the recipient country.

(3) Subsequent to the receipt of the PA by the recipient government, the recipient government either through one of its agencies or the central bank of the country issues import licenses for tires and tubes, either to a governmental purchasing agency of the recipient country or to private importers of the recipient country. When the importer of the recipient country has agreed with the U.S. supplier to the terms of purchase, he deposits in the central bank of the recipient country the equivalent in local currencies of the dollar credit that has been allocated to him for the purchase of tires and tubes. The central bank of the recipient country then requests the U.S. bank holding the letter of commitment to issue a letter of credit to the U.S. supplier in behalf of the importer of the recipient country.

This letter of credit contains the identifying number of the PA which was issued by AID/W to the government of the recipient country to finance the purchase of tires and tubes. A copy of this letter of credit is sent by the bank to GSA.

(4) Within 5 working days from the date of notification of a contract for an order for tires and tubes under this PA, the supplier is required to furnish GSA written notification of such contract, or order, identifying the same by the PA number, date, and value, and setting out the approximate quantity of stockpile rubber which the supplier will be obliged to purchase under the participation program.

(5) Within 15 working days from date of notification of contract or order for tires and tubes, the supplier shall, in writing to GSA, designate the quantities, grades, and proposed mutually acceptable date(s) on which such grades and quantities of stockpile rubber to be acquired will be priced. The period from which such date(s) shall be selected shall not exceed 180 calendar days from the date of the related contract or order for tires and tubes. Subject to the provisions of (6) below, each pricing date so selected shall represent the date on which the supplier shall enter into a separate contract for the predetermined quantity of stockpile rubber.

(6) Immediately upon receipt of the notice provided in (5) above, GSA will advise the supplier whether the arrangements set out in such notice are acceptable to GSA. If GSA is not in position to accept any portion of the commitment because the monthly quota has been taken up, or for any other reason, GSA shall furnish the supplier with a waiver on such portion, releasing the supplier from obligation to purchase the quantity of stockpile rubber involved.

(7) The permissible delivery periods relating to each stockpile rubber purchase contract shall be the current month or any of the succeeding 3 months from the effective date of the rubber purchase contract.

(8) Prices applicable under each stockpile rubber purchase contract shall be New York market prices, determined, if the parties fail to agree, by quotation of the Rubber Trade Association, for the particular grades and delivery period of stockpile rubber specified, less prevailing GSA discount. All other terms and conditions relating to such sale shall be in accordance with the "special terms and conditions for the sale of crude rubber" (GSA form 336) or such other terms and conditions as may be in force under the GSA rubber stockpile disposal program at the particular time.

Senator SYMINGTON. Senator Cannon, have you any questions?

Senator CANNON. You have lost me.

Mr. COBURN. I have none.

Senator SYMINGTON. Mr. Lingle, we want to thank you. I am sorry we had to keep you waiting this morning, but you saw how it went, and we are very grateful that you have come down here to try to help us out in this situation.

Incidentally, I think this is a good idea you have developed, and if you can thaw this rubber out, I hope you get it underway.

Mr. LINGLE. We will work on that.

Senator SYMINGTON. The next witness, Mr. Counsel.

Mr. COBURN. Mr. Mathias W. Niewenhous, Mr. Chairman.

Senator SYMINGTON. Mr. Niewenhous, as you know, we swear witnesses in this subcommittee.

Will you raise your right hand?

Do you swear the testimony you give this subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. NIEWENHOUS. I do.

Mr. COBURN. Will you state your name and address, please?

TESTIMONY OF MATHIAS W. NIEWENHOUS, CONSULTANT, OFFICE OF EMERGENCY PLANNING

Mr. NIEWENHOUS. Mathias W. Niewenhous.

Mr. COBURN. Mr. Niewenhous, are you in the Government service?

Mr. NIEWENHOUS. Yes, sir. I am a consultant for the Office of Emergency Planning.

Mr. COBURN. Were you formerly a full-time man in the Office of Emergency Planning?

Mr. NIEWENHOUS. Yes. I was retired in September 1961, and since that time I have been acting as a consultant.

Mr. COBURN. How long were you with OEP or have you been with OEP?

Mr. NIEWENHOUS. Well, prior to that I was Director of Chemical, Agricultural, and Forest Products Division from about the middle of June 1959 until the time that I retired. Rubber was under my jurisdiction.

Mr. COBURN. Where were you before you came into OEP?

Mr. NIEWENHOUS. I have been in Government for 20 years. Do you want me to tell you——

Mr. COBURN. Oh, well, not all the details, no. [Laughter.]

Now, Mr. Niewenhous, I want you to tell us about the various objectives that have been established from time to time with reference to natural rubber in the stockpile.

Mr. NIEWENHOUS. The first objective that I have a record of was established November 20, 1944, in the amount of 600,000 long tons by the Army-Navy Munitions Board with the concurrence of the Secretary of the Interior who had joint statutory responsibility.

At that time Mr. Forrestal was Secretary of the Navy, Robert Patterson, Under Secretary of War; and Harold Ickes, Secretary of the Interior who signed the document.

Mr. COBURN. That objective of 600,000 tons was established on November 20, 1944; is that right?

Mr. NIEWENHOUS. Yes, sir.

Mr. COBURN. Now, at that time we didn't have a maximum and a basic objective as we have now?

Mr. NIEWENHOUS. No, sir.

Mr. COBURN. Just that one objective?

Mr. NIEWENHOUS. That is right.

Mr. COBURN. All right. When was that objective changed?

Mr. NIEWENHOUS. That was changed on December 2, 1949, when the quantity was 1,040,000 long tons, and the determining agency at that time was the Munitions Board, with the concurrence of the Secretary of the Interior.

Mr. COBURN. You do not need to go into the people who were involved in this that I asked you.

When was the next change in the objective made?

Mr. NIEWENHOUS. The next change was November 2, 1950, when it was established at 1,230,000 long tons.

Mr. COBURN. Who was it that established that objective, the Munitions Board again?

Mr. NIEWENHOUS. The Munitions Board.

Mr. COBURN. With the concurrence of the Secretary of the Interior?

Mr. NIEWENHOUS. Yes.

Mr. COBURN. There still was only one objective at that time?

Mr. NIEWENHOUS. That is correct.

Mr. COBURN. All right. Now, when was this objective of 1,230,000 tons changed?

Mr. NIEWENHOUS. Well, it was reconfirmed on November 8, 1951.

Mr. COBURN. Reconfirmed, did you say?

Mr. NIEWENHOUS. Yes.

Mr. COBURN. It was established, I thought you testified, on November 8, 1951.

I beg your pardon, it was reconfirmed, all right, on November 8, 1951. Go ahead.

Mr. NIEWENHOUS. On June 22, 1956, the 1,230,000 long tons were reconfirmed by the Office of Defense Mobilization.

Mr. COBURN. All right.

Mr. NIEWENHOUS. That action was taken by Arthur S. Flemming and signed by Victor A. Cooley, who was the Deputy Director at that time.

Mr. COBURN. When was this objective of 1,230,000 tons changed?

Mr. NIEWENHOUS. On June 25, 1958, the objective was changed into two parts, the basic 420,000 long tons, and the maximum 600,000 tons.

That was at a time when the stockpile objectives for all materials were changed from a 5-year to a 3-year period.

Mr. COBURN. That is the war concept was changed from 5 to 3 years?

Mr. NIEWENHOUS. Yes.

Mr. COBURN. Resulting in an automatic change of the objectives?

Mr. NIEWENHOUS. That is correct.

Mr. COBURN. Of all stockpiled materials?

Mr. NIEWENHOUS. Yes, sir.

Senator SYMINGTON. Will counsel yield?

Mr. COBURN. Yes.

Senator SYMINGTON. That date was when?

Mr. NIEWENHOUS. June 25, 1958.

Senator SYMINGTON. What you did then, you cut your stockpile objective from around 1,200,000 to 600,000.

Mr. NIEWENHOUS. Yes, sir.

Senator SYMINGTON. Is that correct? So you cut it in half.

Mr. NIEWENHOUS. Yes, sir.

Senator SYMINGTON. Since that time in 1958 we have known that the maximum we needed was 600,000 tons; is that correct, sir?

Mr. NIEWENHOUS. Yes, sir.

Senator SYMINGTON. When did the Government first decide to take some action based on that reduction?

Mr. NIEWENHOUS. I am sorry, I didn't get that.

Senator SYMINGTON. When did the Government first decide that they would try to sell some of the rubber in the stockpile as a result of that decision in June 1958?

Mr. NIEWENHOUS. That was in October of 1959.

Senator SYMINGTON. So you decided in June of 1958 that you had 600,000 tons too much rubber, but you didn't do anything about it for 15 months; is that correct?

Mr. NIEWENHOUS. Well, that was really a mathematical decision at that time. That was done without a study of what the requirements are.

Senator SYMINGTON. What was it that was a mathematical decision?

Mr. NIEWENHOUS. Because of going to the 3 years instead of the 5 years so that just automatically cut down the objective.

Senator SYMINGTON. In other words, the requirement automatically went down to 600,000 from 1.2 million, or thereabouts, as a result of the from 5- to 3-year decision in June of 1958; is that right?

Mr. NIEWENHOUS. Yes.

Senator SYMINGTON. Even so, couldn't you have started moving rubber at that time? You just had Mr. Collyer's testimony that he had been thinking we ought to start looking at this since, given in 1951.

Mr. NIEWENHOUS. Well——

Senator SYMINGTON. I will withdraw the question, counsel.

Mr. COBURN. Mr. Witness, as I understand it, this objective that was changed automatically on June 25, 1958, was changed once more until now, and when was that?

Mr. NIEWENHOUS. It was changed on March 18, 1959, basic 560,000 long tons, maximum 750,000 long tons.

Mr. COBURN. Who was responsible for that change?

Mr. NIEWENHOUS. Leo A. Hoeg was the Director at that time.

Mr. COBURN. OCDM?

Mr. NIEWENHOUS. Yes.

Mr. COBURN. Is that the present objective?

Mr. NIEWENHOUS. That is the present objective.

Mr. COBURN. Or objectives. All right.

Now, Mr. Niewenhous, you have told us when these various objectives in rubber were established. I would like to have you go back in your thinking to 1956 at which time the maximum objective or the only objective was 1,230,000 tons.

Was there at that time a study made to determine whether the objective in rubber should be changed?

Mr. NEIWENHOUS. Yes, there was.

Mr. COBURN. Decreased?

Mr. NIEWENHOUS. Yes.

Mr. COBURN. And who made that study?

Mr. NIEWENHOUS. Well, that study was made by a stockpile committee, and the study principally was made by the Department of Commerce, BDSA of the Department of Commerce, but we had an interdepartmental advisory committee which also worked on it.

Mr. COBURN. Of course, OEP was in this advisory committee, were they not?

Mr. NIEWENHOUS. Oh, yes.

Mr. COBURN. Because OEP had the final—or it was then ODM had the ultimate—responsibility if change was to be made?

Mr. NIEWENHOUS. That is right.

Mr. COBURN. What was the recommendation of the staff in that study, 1956?

Mr. NIEWENHOUS. Well, the staff acted in an advisory capacity.

Mr. COBURN. Yes.

Mr. NIEWENHOUS. And they recommended that the objective be changed from 1,230,000 to 700,000 tons.

Mr. COBURN. 700,000 tons?

Mr. NIEWENHOUS. Yes.

Mr. COBURN. Yes.

What did they recommend, if anything, with reference to the disposition of the surplus?

Mr. NIEWENHOUS. Well, they recommended that the surplus be disposed of.

Mr. COBURN. And that the objective be dropped to 700,000 tons?

Mr. NIEWENHOUS. Yes.

Mr. COBURN. At that time we were still adhering to the 5-year war concept; were we not?

Mr. NIEWENHOUS. Yes.

Mr. COBURN. Now, after that staff recommendation was made, what other body, if any, studied the possible reduction of the objective?

Mr. NIEWENHOUS. Well, that went to a committee called the IMAC, Interagency Material Advisory Committee, for their advice.

Mr. COBURN. That was a committee composed of representatives of all interested departments?

Mr. NIEWENHOUS. Yes, sir.

Mr. COBURN. All right.

Mr. NIEWENHOUS. Government agency committee.

Mr. COBURN. Yes. What was their recommendation?

Mr. NIEWENHOUS. Well, their recommendation was an objective of 1,035,000 long tons.

Mr. COBURN. That is, that the objective be reduced from 1,230,000 tons to 1,035,000 tons.

Mr. NIEWENHOUS. That is correct.

Mr. COBURN. We were still operating under the 5-year concept at that time; weren't we?

Mr. NIEWENHOUS. Yes.

Mr. COBURN. In that study that was made by IMAC where they made that report, was the State Department represented?

Mr. NIEWENHOUS. Yes, sir.

Mr. COBURN. How did they vote on that?

Mr. NIEWENHOUS. They objected to it.

Mr. COBURN. That is, they dissented from the report?

Mr. NIEWENHOUS. Yes.

Mr. COBURN. They did not want to make any reduction in the objective?

Mr. NIEWENHOUS. That is correct.

Mr. COBURN. What was the final result of that study, Mr. Niewenhous?

Mr. NIEWENHOUS. Well, the Director of the ODM, at that time, took it up with the Defense Mobilization Board.

Mr. COBURN. Who was the director then?

Mr. NIEWENHOUS. Flemming.

Mr. COBURN. Dr. Arthur S. Flemming?

Mr. NIEWENHOUS. Arthur Flemming.

Mr. COBURN. All right.

What occurred?

Mr. NIEWENHOUS. Well, they made a study of it, and recommended due to a certain amount of uncertainties that the objective remain at the 1,230,000 tons.

Mr. COBURN. Mr. Chairman, I have here a portion of the minutes of a meeting of the Defense Mobilization Board held on June 6, 1956, which I would like to incorporate into the record and read the part of the minutes that are being incorporated.

Senator SYMINGTON. Without objection.

Mr. COBURN (reading):

DEFENSE MOBILIZATION BOARD MEETING NO. 112, WEDNESDAY, JUNE 6, 1956

Present, Board members, alternates, and staff:
Hon. Arthur S. Flemming, chairman.
Hon. James P. Mitchell, Secretary of Labor.
Hon. Laurence B. Robbins, Assistant Secretary of the Treasury.
Hon. Thomas P. Pike, Assistant Secretary of Defense.
Hon. D. Otis Beasley, Administrative Assistant Secretary of the Interior.
Hon. Frederick H. Mueller, Assistant Secretary of Commerce for Domestic Affairs.
Mr. Thorsten V. Kalijarvi, Deputy Assistant Secretary of State for Economic Affairs.
Mr. L. B. Taylor, Commodity Stabilization Service, Department of Agriculture.
Mr. Winfield Reifler, Assistant to the Chairman (representing the Chairman), Board of Governors Federal Reserve System.
Mr. G. Lyle Belsley, Federal Civil Defense Administration.
Mr. Joseph F. Vaughan, ODM, Executive Secretary—

and others who were there by invitation.

Natural rubber stockpile policy under the Strategic and Critical Materials Stockpiling Act of 1946.

Discussion of this item was based on an ODM staff paper of the above title to which was attached a statement prepared by the Department of State entitled "Foreign Policy Considerations in Regard to Rubber Stockpile Disposal." Copies of the paper had been made available to the members of the Board in advance of the meeting.

There followed a brief presentation by the Department of State on the political and economic implications that could result should the United States undertake a program under which the stockpile objective would be lowered and the surplus in the stockpile disposed of.

The chairman indicated that while he is willing to assume from the facts presented that the stockpile objective could be lowered, he is aware that even an indication that the United States intended placing surplus rubber stocks on the market would create a very difficult international situation.

The chairman suggested and the Board concurred that a statement be prepared for public release which would indicate the following:

"That the stockpile objective has been under review and there are certain factors in the picture which cannot be evaluated in an accurate and satisfactory manner. Therefore, there will be no change in the stockpile objective or in the program for the rotation of rubber in the stockpile."

Senator SYMINGTON. Would you read that last part, please?

Mr. COBURN. The quote?

Senator SYMINGTON. Yes.

Mr. COBURN (reading):

"That the stockpile objective has been under review and there are certain factors in the picture which cannot be evaluated in an accurate and satisfactory manner. Therefore, there will be no change in the stockpile objective or in the program for the rotation of rubber in the stockpile."

Mr. Niewenhous, following this action of the Defense Mobilization Board of not reducing the stockpile objective in rubber, which was then at 1,230,000 tons, was there any other Government policy decision that had the effect of holding the inventory of rubber at its then level?

Mr. NIEWENHOUS. Yes. On February 1, 1957, a policy was adopted that no disposals would be made of any materials in the stockpile as long as they remained on the strategic and critical material list.

Mr. COBURN. That decision was made by whom, what body?

Mr. NIEWENHOUS. I think that was a Cabinet decision.

Mr. COBURN. What was that?

Mr. NIEWENHOUS. I think that was a Cabinet decision.

Mr. COBURN. That was a Cabinet decision; was it not?

Mr. NIEWENHOUS. Yes.

Mr. COBURN. That policy remained in effect until when?

Mr. NIEWENHOUS. That remained in effect until June 30, 1957, when DMO, Defense Mobilization, Order No. 7 was put into effect.

Mr. COBURN. You mean June 30, 1958, don't you? You said 1957.

Mr. NIEWENHOUS. June 30, 1958, excuse me, yes.

Mr. COBURN. When a directive called DMO–V7 was put into effect?

Mr. NIEWENHOUS. That is correct.

Mr. COBURN. By the Office of Defense Mobilization.

I won't ask you to go into the details of it but merely to connect this up before I close with you. Subsequent to that this rubber disposal plan that we have heard about today was prepared pursuant to direction of ODM, was it not?

Mr. NIEWENHOUS. That is correct.

Mr. COBURN. And is still in operation.

I have no further questions, Mr. Chairman.

Senator SYMINGTON. I would ask one question.

Apparently about 4 years ago we decided we had too much rubber from the standpoint of what we needed in case of war. Since that time we have sold very little of that rubber.

You are retired from the Government now, as I understand it?

Mr. NIEWENHOUS. Yes, sir.

Senator SYMINGTON. Could you give this committee or subcommittee your frank opinion as to why this has been true? Why haven't we sold more rubber, based on your knowledge of this subject? If we didn't need it, why didn't we move it, especially as a previous witness has shown we could have done so advantageously?

Mr. NIEWENHOUS. Well, I believe the principal reason, of course, was our foreign relations—that selling a large quantity of rubber might have a bad effect on the market price and might be detrimental to these countries that produce rubber.

Senator SYMINGTON. What you are saying is that the policies and programs incident to the stockpile have, in effect, been policies that recognized our diplomatic problems; is that a fair statement?

Mr. NIEWENHOUS. Yes, sir.

Senator SYMINGTON. Also that the stockpile has been used as a method for maintaining world prices.

Mr. NIEWENHOUS. I don't believe that was the purpose. It may have worked out that way, but I don't believe that was the purpose.

Senator SYMINGTON. What would be the aspect incident to foreign relations if it wasn't maintaining the price?

Mr. NIEWENHOUS. Well, I think it was—the thinking was at that time that you could put so much rubber on the market without having a really bad effect upon the price, and it was determined at that time about the quantity that the market might take would be 5,000 tons a month.

Senator SYMINGTON. I am only asking you why it was done.

It was used as a method for maintaining the price, was it not?

Mr. NIEWENHOUS. It looks like that.

Senator SYMINGTON. Senator Cannon, have you any questions?

Senator CANNON. No questions.

Senator SYMINGTON. Thank you very much, Mr. Niewenhous.

Mr. COBURN. Mr. Chairman, the next witness is Dr. John Street.

Senator SYMINGTON. Will you raise your right hand, please?

Do you swear the testimony you give this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. STREET. I do.

Mr. COBURN. Will you state your name and address, please?

TESTIMONY OF JOHN N. STREET, VICE PRESIDENT IN CHARGE OF RESEARCH, FIRESTONE TIRE & RUBBER CO.

Mr. STREET. John N. Street, Akron, Ohio.

Mr. COBURN. What is your business, Mr. Street?

Mr. STREET. I am vice president in charge of research of Firestone Tire & Rubber Co.

Mr. COBURN. Move up close to your loudspeaker so that everyone can hear you.

How long have you been in the synthetic rubber development program?

Mr. STREET. I was very active in the GRS program starting in the midthirties; was very active in the setting from the technical angle of the Government program when GRS plants went in; followed the production and the development from there on through.

In 1945–46 I was in Washington for about 6 months with the Rubber Reserve in charge of research and development with an industry group who were helping Rubber Reserve at that time; and I followed this synthetic rubber research and rubber development program ever since.

Mr. COBURN. As I understand it, the GRS rubber that you have referred to was a synthetic rubber that was developed in the Government-owned plants, was it not?

Mr. STREET. Well, Mr. Counsel, I would like to correct that a little bit.

Mr. COBURN. Please correct it in the interest of the facts.

Mr. STREET. The GRS program, I think, was developed by private industry as a product prior to Pearl Harbor. I had between 50,000 and 100,000 tires on the road before Pearl Harbor, which taught us

how the Government could get into synthetic rubber and the plants be put in.

Mr. COBURN. So the original development then was by private industry such as your company?

Mr. STREET. Well, I think all of the Big Four companies had a part in that development before Pearl Harbor came along. I think we were ready for it.

Mr. COBURN. But the GRS rubber was made originally almost entirely in these Government-operated plants.

Mr. STREET. Oh, no question about that. What I am trying to say is that merely the technology was worked out.

Mr. COBURN. Yes, all right.

Mr. STREET. Then it was a Government program, of course, that put GRS in being.

Mr. COBURN. Was this GRS rubber, synthetic rubber, usable for all kinds of manufactured rubber products?

Mr. STREET. No, and it still is not.

Mr. COBURN. What are the limitations?

Mr. STREET. In other words, today it is used in high proportions in passenger tires, but we must have natural rubber for the larger tires, and the larger the tire the more urgent it is that we have natural rubber.

In other words, your truck tires basically will run low in the SBR or GRS types. Your passenger tires will run very high proportions.

Mr. COBURN. So the truck tires, bus tires, heavy military equipment tires, the GRS rubber will not do the job alone, will it?

Mr. STREET. They will not do the job. The tires fail early.

Mr. COBURN. But GRS——

Senator SYMINGTON. A couple of questions, as a matter of interest. You say you had 100,000 tires on the road. When did you put your first tires on the road?

Mr. STREET. Well, the first—what happened was we developed a rubber that looked like it was usable. You first check out a few tires on the road to make up your mind——

Senator SYMINGTON. When did you put your first tires on the road?

Mr. STREET. In 1937.

Senator SYMINGTON. 1937.

Mr. STREET. Then we put in pilot plants where we would make a continuing day-to-day production of rubber and use that rubber in the manufacture of tires and put them out on a regular daily basis in order to build up the history as to whether they would stand up in commercial service or not.

Senator SYMINGTON. We have heard consistently that synthetic rubber was all right for passenger tires, but that natural rubber was essential for truck tires. I would ask two questions along those lines.

First, what percent better is the natural rubber in a heavy truck tire than synthetic, or putting it another way, how many percent in miles longer will the natural rubber tire go?

Mr. STREET. If we are talking truck tires, sir, your problem is this: The truck tire, being a very heavy, thick member, generates heat, and the tires get quite hot. When they get too hot you have weakness in the cord body, which may break because of higher temperature.

I would put it to you this way rather than a percentage difference: Late in the war, where we used a lot of synthetic in the truck tires industrywide, they would tell us this, even with load and speed restrictions it would take three synthetic tires to do the job of two natural rubber tires.

Now, that isn't entirely a matter of wear; it is a matter of the occasional breaking up before the tire is worn and other weaknesses that happened.

Senator SYMINGTON. I understand. The next question concerns this new stereo rubber. Did you agree it will eliminate much of the disadvantage synthetic had for certain applications?

Mr. STREET. In my opinion, with the new stereo rubbers we no longer need natural rubber in the market. Now, there are some who are not prepared to go that far yet, because the conservatism of the rubber industry, which is logical and right, is such they need production history to be sure there are no production problems, to get hundreds of thousands of tires out on the road.

We still have not had time to do that. But from a research and development angle, the products we have built, which are the tough ones, that we have held up and have performed, I am sure the job can be done.

Senator SYMINGTON. The next question then is obvious.

If that is true, the longer we hold onto this dollars billion-plus inventory, which Mr. Collyer recommended many years ago we cut heavily, the greater the danger we have of holding something obsolescent to the point of being obsolete; is that true?

Mr. STREET. You might conclude that is true. However, it is my feeling that natural rubber will be in the commercial pattern from now on. I am saying to you that if it were cut off we could do the job with the stereo rubber if we have to.

Senator SYMINGTON. From a price standpoint——

Mr. STREET. But I agree with the comment you made that the longer we wait the more problem we will have.

Senator SYMINGTON. Thank, you, Doctor.

You say this as a representative of one of the companies with very large, if not the largest, oversea holdings, do you not?

Mr. STREET. We have large oversea holdings, yes.

Mr. COBURN. Of natural rubber?

Mr. STREET. That is right.

Mr. COBURN. Doctor, to get back to GRS rubber for just a moment, is it still being used widely in the manufacture of finished rubber products?

Mr. STREET. Oh, yes; and the usage of GRS is actually increasing and, in my opinion, that is due to the fact that as time goes on we learn more about how to compound it, how to use it effectively, and there is also a price advantage to us which served as the driving point to do that.

Mr. COBURN. As late as 1960, as I understand it, about two-thirds of the rubber that was consumed in this country was the GRS rubber, and about one-third natural rubber; isn't that right?

Mr. STREET. That is approximately correct.

Mr. COBURN. That was before the stereos had come in in any amount.

Mr. STREET. This last year I believe the actual figure is 58.8 percent of the total new rubber used in GRS.

Mr. COBURN. In the United States?

Mr. STREET. In the United States.

Mr. COBURN. What is the present price of the GRS rubber, today's rubber?

Mr. STREET. It is delivered at 23 cents.

Mr. COBURN. Natural rubber, I believe it has been testified is now 28½.

Will you tell us, Mr. Witness, when it was that the stereo rubbers were first developed in the sense of being announced by the companies?

Mr. STREET. I believe Goodrich and Firestone announced stereo rubbers simultaneously.

Mr. COBURN. When was it?

Mr. STREET. I believe that was the fall of 1954.

Mr. COBURN. How many kinds of stereo rubbers are there?

Mr. STREET. Today there are two types.

Mr. COBURN. What do you call them?

Mr. STREET. One is called polyisoprene, the other is called polybutadiene.

The polyisoprene is the one which is chemically identical to or very similar to natural rubber. In other words, natural rubber is essentially a stereo polyisoprene as grown by the rubber tree, and we learned how to put together a synthetic product, which is practically identical chemically to the natural rubber.

Mr. COBURN. Because of that, in your opinion, can polyisoprene rubber be used for all of the purposes that natural rubber can be used for?

Mr. STREET. It is my opinion that it can be.

Now, there are some minor differences which require some compounding changes, but with compounding changes my answer to you would be, yes.

Mr. COBURN. Who manufactures the polyisoprene?

Mr. STREET. It is manufactured today by Shell in a plant on the west coast. They are opening another plant in Ohio within the next month or so. We understand that Goodyear will shortly be manufacturing.

Mr. COBURN. What is the price——

Senator CANNON. Will counsel yield?

What is the base used in polyisoprene, in the polyisoprene tire?

Mr. STREET. It is a material called isoprene which, again, is derived from petroleum. We call the material, well, Goodyear is producing it from propylene which, again, is a readily available material from crude oil or from nitrogas. It can be made from pentane, which is a normal component of gasoline.

Senator CANNON. What is the base of the other type?

Mr. STREET. Butadiene. The polybutadiene, the butadiene is made from either butane or butylene. Butane again is a normal component of crude oil or of natural gas. The butylene comes from butane, from petroleum, and is a byproduct in the cracking of gasoline.

Senator CANNON. Thank you very much.

Thank you, Mr. Counsel.

Mr. COBURN. What is the present price of polyisoprene?

Mr. STREET. Polyisoprene is available on the market at 24 cents.

Mr. COBURN. How much?

Mr. STREET. 24 cents, delivered.

Mr. COBURN. What is the present capacity, let us say, at the end of this year, by the end of 1962, what will be the capacity of this country for the manufacture of polyisoprene?

Mr. STREET. It has been announced as 90,000 tons.

Mr. COBURN. 90,000 tons.

Now, Dr. Street, I want to ask you about polybutadiene. That is made by whom?

Mr. STREET. Polybutadiene is made by Phillips Petroleum, American Synthetic Rubber, Goodyear, Firestone, Goodrich-Gulf. Goodrich-Gulf have announced it would be in this spring.

Mr. COBURN. What other uses of polybutadiene relative to natural rubber?

Mr. STREET. Polybutadiene is somewhat different from polyisoprene because it is not a substitute. It is a rubber having properties differing from any rubber that we have. Therefore, we believe strongly that it will make a market for itself regardless of price competition.

It will probably be used in combination with both GRS and with natural rubber. In other words, as it works into commercial usage, it probably will replace an appreciable amount of natural rubber.

Mr. COBURN. Does it have any limitations so far as use is concerned?

Mr. STREET. Yes.

Mr. COBURN. If that is a sensible question, it may not be.

Mr. STREET. As a matter of fact, each of these rubbers, whether it be natural or whether it be SBR or whether it be polybutadiene, all have desirable properties. But they have undesirable properties, and to that extent I don't think they can be considered a direct substitute one for the other as is the case with synthetic polyisoprene and natural rubber. Those two are very close.

Mr. COBURN. Can polybutadiene be used for the manufacture of heavy truck, bus and military equipment tires?

Mr. STREET. We believe that it will be used there in combination with natural rubber to replace, say, possibly on a 50-percent basis, to replace 100 percent natural rubber, because when so used we believe we can get results which are improved over using a 100-percent natural rubber stock.

Mr. COBURN. What is the current price of polybutadiene?

Mr. STREET. 27½ cents as of 1 week ago.

Mr. COBURN. What will be the capacity of this country for the manufacture of this product, say, by the end of this calendar year?

Mr. STREET. I would have to add it up, sir.

Mr. COBURN. Sir?

Mr. STREET. I am afraid I would have to add it up; 160,000 tons.

Mr. COBURN. So by the end of this year the industry believes that the capacity of this country for the manufacture of stereo rubbers will be about 250,000 tons in total?

Mr. STREET. That is approximately correct. In saying that let me qualify it to this extent: remember, we have an entirely new polymeri-

zation process going into production. We put those plants in to produce certain capacities.

On the other hand, we have not had operations long enough to pin down exactly what their capacity will be. That you only learn through experience.

My own feeling is that, in all likelihood, after those plants are running for 1 year, 2 years, they can produce more than that.

Mr. COBURN. Dr. Street, one more thing, and I think this will be sufficient for me; how do you feel about the prospects of the stereo rubbers competing pricewise with natural rubbers in the future?

Mr. STREET. Well, I think our answer is what has been done. In other words, here our company is running a large plantation, we are putting money into stereo rubbers. At the same time we are still plowing money into the plantation.

We think that competitively they will be in the same general range. We do not know today which one, which way, the cards will fall.

Mr. COBURN. But the price will tend generally downward, you think, do you, in the rubber market because of the competition between the synthetics and the natural rubber?

Mr. STREET. Probably a trend downward; yes.

Again let me emphasize that with these new stereo plants we are not too sure where the cost will lie. When we put them in we estimate about what the cost will be. History on new plants is that you learn better ways and shortcuts, and so on, so there probably will be a trend downward.

Mr. COBURN. It is a fact, is it not, that in the manufacture of these stereo rubbers that there is a very low incidence of labor costs?

Mr. STREET. Proportionately, yes.

Could I go back to something that the Senator may remember when we went into GRS 20 years ago? We pointed out that the estimated amount of manpower required to produce 40,000 tons of synthetic rubber, including the base raw materials, were approximately 2,000 men. Compared to that at that time we considered that to produce 40,000 tons of natural rubber required more nearly 30,000 men.

Mr. COBURN. So that labor costs is one of the problems that makes the production of natural rubber——

Mr. STREET. That is correct.

Senator SYMINGTON. Do you think you would pay in this country 2,000 men of the skill to make this synthetic rubber more than you would pay the 30,000 men on a natural rubber plantation, or less?

Mr. STREET. Well, as of this time, I would guess, and it is purely a guess, that the 2,000 men would be paid more.

Senator SYMINGTON. Thank you.

Mr. COBURN. What do you think the prospects are in these underdeveloped countries that produce most of the natural rubber for increased wage costs?

Mr. STREET. Well, you have two things going contrary to one another, and you are asking for an estimate where is it going to come out.

The improved yield per acre will undoubtedly lower their costs. But what happens to labor costs during that 7 years while you are waiting for that to come into production, which is going to drive it the

other way? The net will probably be downward, but how much we do not know.

Mr. COBURN. Well, Dr. Street, I will ask you this one more question and then I am through.

As I understand it, however, it is your belief that within the next few years, as soon as the United States is able to increase its plant production for the development of stereo rubbers, that we will be on a self-sufficient basis so far as rubber is concerned?

Mr. STREET. We can be, yes.

Mr. COBURN. That is all.

Mr. STREET. As a matter of fact, even under emergency conditions, conversions could be made on present plants very quickly, so that I don't think the time factor is too important; and certainly I think that pattern will be cleared up well before you can clear up your stockpile. [Laughter.]

Mr. COBURN. I am sure of that. That is all.

Senator SYMINGTON. Senator Cannon.

Senator CANNON. No questions.

Senator SYMINGTON. Doctor, we want to thank you. Speaking on behalf of the committee, we appreciate your coming down. Because of you and Mr. Collyer, we know a lot more about this problem than we did earlier this morning.

Mr. Counsel, when is your next hearing going to be?

Mr. COBURN. We are going to reconvene on Wednesday morning.

I have one more witness here that I think I would only ask to bring up a table which he has prepared, and which I will introduce in the record and not read, that that will complete our hearing.

Senator SYMINGTON. I do not want to run out but I promised to go to another meeting at 4:30.

Can we make that as a deposition?

Mr. COBURN. Can we introduce that chart on Wednesday?

Senator SYMINGTON. Could you, Mr. Ormsby, come back Wednesday morning?

Mr. ORMSBY. If necessary, I will.

Senator SYMINGTON. If you will give us the table we will try very hard not to have to ask you to do that.

Mr. ORMSBY. You have the table. Did I give that to you or not?

Mr. COBURN. Yes; I do have it.

Senator SYMINGTON. Senator Cannon has very graciously agreed to stay for another 5 minutes or so, so the witness can be heard.

Mr. COBURN. We can complete the matter in that time easily, Mr. Chairman. I appreciate that.

So if you will come forward then.

Senator CANNON (presiding). Mr. Ormsby, you understand it is the custom of the committee to have the witnesses sworn, so if you will raise your right hand, Do you solemnly swear that the testimony you are about to give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ORMSBY. I do.

Senator CANNON. You may proceed, Mr. Counsel.

Mr. COBURN. Thank you, Mr. Chairman.

Will you state your name and address, please.

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TESTIMONY OF ROSS R. ORMSBY, PRESIDENT, RUBBER MANUFACTURERS ASSOCIATION

Mr. ORMSBY. Ross R. Ormsby, Hartsdale, N.Y.

Mr. COBURN. Mr. Ormsby, are you in any way connected with the rubber industry?

Mr. ORMSBY. Yes. I am president of the Rubber Manufacturers Association. I have held that position since January 1, 1955.

Mr. COBURN. And the members of that organization are composed of the principal rubber manufacturers in the country?

Mr. ORMSBY. Yes. We have about 170 members and, of course, the major rubber companies are all members of the association.

Mr. COBURN. By that I mean the companies that are engaged in the manufacturing of the end rubber products.

Mr. ORMSBY. That is right.

Mr. COBURN. For instance, tires, tubes, and things of that sort.

Mr. ORMSBY. That is correct. We represent people who make something out of rubber.

Mr. COBURN. Some of these companies are also engaged in making synthetic rubber?

Mr. ORMSBY. That is correct.

Mr. COBURN. Mr. Ormsby, you, at my request, I believe, prepared a table of the U.S. rubber consumption from 1954 to 1961 broken down between total natural and total synthetic rubber consumed, did you not?

Mr. ORMSBY. That is right; I did.

Mr. COBURN. Mr. Chairman, I would like to incorporate into the record to be copied here, but I will not read it all, this that Mr. Ormsby prepared.

Senator CANNON. Without objection.

(The document referred to follows:)

U.S. rubber consumption

	1954		1955		1956		1957	
	Long tons	Percent to total	Long tons	Percent to total	Long tons	Percent to total	Long tons	Percent to total
Total natural	596,285	48.36	634,800	41.50	562,088	39.13	538,761	36.78
Total synthetic	636,727	51.64	894,899	58.50	874,394	60.87	925,879	63.22
Total new rubber	1,233,012	100.00	1,529,699	100.00	1,436,482	100.00	1,464,640	100.00

	1958		1959		1960		1961	
	Long tons	Percent to total	Long tons	Percent to total	Long tons	Percent to total	Long tons	Percent to total
Total natural	484,492	35.51	555,044	34.10	479,048	30.74	425,441	28.15
Total synthetic	879,912	64.49	1,072,726	65.90	1,079,245	69.26	1,086,152	71.85
Total new rubber	1,364,404	100.00	1,627,770	100.00	1,558,293	100.00	1,511,593	100.00

Mr. COBURN. Mr. Ormsby, I notice from looking at the table that the use, percentagewise, of natural rubber in this country has in-

creased—I mean of synthetic rubber has increased every year since 1954 through 1961.

Mr. ORMSBY. That is correct.

Mr. COBURN. In 1954, 51.64 percent of our total rubber consumption was synthetic, was it not?

Mr. ORMSBY. That is right.

Mr. COBURN. But by 1961 it had risen to 71.85 percent.

Mr. ORMSBY. That is right.

Mr. COBURN. And correspondingly, the use of natural rubber percentagewise declined every year in this country from 1954 to 1961.

Mr. ORMSBY. That is correct.

Mr. COBURN. Mr. Ormsby, I had wanted to ask you a number of other things, but the lateness of the hour is going to cause me to shorten my questioning. I hope you will understand that.

Mr. ORMSBY. It is perfectly understandable.

Mr. COBURN. I would ask you one thing more: There has been some testimony here today about the possibility of Government departments using the rubber, the natural rubber, in the stockpile as a means of obtaining American rubber manufacturers of rubber products——

Mr. ORMSBY. Yes, sir.

Mr. COBURN (continuing). For purchases made of the American manufacturers.

Do you think that the manufacturers would look favorably, we will say, on the Defense Department doing that sort of thing, at least in part?

Mr. ORMSBY. It is entirely possible that—it would depend on the amount of rubber that could be involved in the total purchases of military products. I think it would be much better to do it that way than it would be to try to arrange anything on a specification control basis.

Mr. COBURN. You think that is preferable in many ways to increasing the sales, and when the sales are thrown directly on the market, do you?

Mr. ORMSBY. Well, yes.

Of course, you do have a problem that at the moment the current AID program which was mentioned earlier today is within the 5,000-ton limit.

Mr. COBURN. Yes.

Mr. ORMSBY. So it really doesn't help you any on what you are talking about if you have this within the 5,000-ton limit.

Mr. COBURN. What is the position of your association with reference to adding these purchases of that kind to the 5,000 monthly amounts that we are setting?

Mr. ORMSBY. Our industry would think that it would be to the advantage of the Government to put the AID program certainly outside of the 5,000-ton limit.

Mr. COBURN. And if the Department of Defense came into any program of that kind to also put it outside of the 5,000-ton limit?

Mr. ORMSBY. I would think that would be right. I would have to review that a little bit with the industry.

Mr. COBURN. I believe that is all I have.

Senator CANNON. Mr. Ormsby, what is the feeling of your organization with respect to a raising of the limits of the 5,000 tons per month?

Mr. ORMSBY. Well, you have got several problems on raising the limit in disposing of your rubber. I don't like to take very much time. It has been mentioned earlier about the frozen rubber that is in the stockpile.

There has also been mention made of the types of grades in the stockpile. The stockpile contains mostly the grades 1, 2, 3 smoke-ribbed sheets, and I think our total dry rubber consumption would be, a rough estimate would be, only 20 percent of those grades.

There are many small companies and many manufacturers in the United States that prefer not to use stockpile rubber, who do not participate in buying stockpile rubber because they do not have capacity to thaw, they do not have thawing capacity, and they prefer not to use the rubber, and so I think you have to take a look at it at all times as to what our total dry rubber, natural dry rubber, consumption is in the United States with respect to raising the amounts.

I would agree with the statements made earlier by Mr. Collyer that a change could be made in reducing the price at which you could sell unlimited quantities.

Natural rubber, being a commodity market proposition and, after all, natural rubber is marketed on the world basis, and the United States today is only using about 20 percent of the output of natural rubber, so you have about 80 percent of natural rubber being used outside of the United States.

If there would be conditions existing in the interruption of supply of natural rubber or if there could be a demand for natural rubber occurring outside of the United States, it could affect the price upward, and if that occurred, certainly I think it would be to the interest of the U.S. Government to take advantage of that and sell as much as they could, presumably at a lower price than is now existing in the plan.

Senator CANNON. Do you share the view of some of the witnesses here today that we should do something to expedite the sale of the stockpile of rubber we have on hand?

Mr. ORMSBY. We think so. We think we are going to take a long time to sell the surplus that is now declared to be a surplus.

We also think that you have much more of a surplus in the stockpile than has been declared. So that the more you can expedite the sale of rubber in view of the long-term trend of probably lower prices, we think that is to the advantage of the Government without—at the same time bearing in mind having a minimum effect upon the market.

We think it would not be to the interest of the U.S. Government if you came out with an announcement which would materially affect the market, reduce the market, which would then cause you to get less for your rubber than you would normally get.

Senator CANNON. Do you also agree with the view expressed here that we are likely to face a declining market in the future, declining price market in the future, for the surplus rubber?

Mr. ORMSBY. Over the long-term pull, I think that is correct. There may be ups and downs, as I explained, occurring possibly because of an increased demand outside of the United States or because of certain interruptions in the supply of rubber that could occur in southeast Asia.

Senator CANNON. One more question, Mr. Ormsby. You already stated that you believed our stockpile requirements are higher than they need be. Do you have a figure in mind that you believe is a reasonable figure for the stockpile?

Mr. ORMSBY. I don't have any precise figure. This would be more or less my own personal opinion. We will have—we will participate in making a study again this year and furnishing our ideas with respect to civilian requirements. But I would certainly agree with the statement made by Mr. Collyer that at this time four or five hundred thousand tons would be a very maximum, and I think that each year that goes by that goes lower, you see.

Senator CANNON. Thank you very much.

Do you have anything else?

Mr. COBURN. Senator Symington had one thing he wanted to ask, Mr. Chairman.

Senator Symington asked that this be asked of you before you leave the witness stand. Do you have any other ideas or suggestions of any kind that might be employed to reduce the size of our stockpile, other than what has already been discussed?

Mr. ORMSBY. Well, in the sale of rubber out of the stockpile, our industry has always urged that, of course, in a selling policy the Government must be competitive with the fresh rubber coming onto the market, and that is why we wrote to the Government in 1960 when we felt that more rubber could be sold, urging that allowances be given for the cost of thawing the rubber and handling the type of rubber that was in the stockpile.

There is this great problem and, at that time, we recommended that Government receive orders for No. 4 rib sheets, No. 5 rib sheets, even though they don't have them in the stockpile, but which they, in turn, could deliver either a three or two or one against it.

In other words, you do have certain limitations in the disposition of your rubber because of the grades in the stockpile, which we do not use in great quantity. So there could be a careful look at your sales policy with respect to the disposition of rubber in the stockpile.

Mr. COBURN. Do you think that the market could absorb a larger disposal of rubber than 5,000 tons a month, without serious implications?

Mr. ORMSBY. I think there could be months when that could be done, and you would have to take a—normally we think in terms, Mr. Coburn, of the price of rubber generally which kind of determines the supply-demand.

If the price is low relative to what it has been, that indicates a plentiful supply. If it starts to rise that indicates a shortness of supply.

Mr. COBURN. As I understand it then, you think our sales plan should not be limited to any specific amount each month, but that we should have more freedom in our sales plan?

Mr. ORMSBY. I think that is correct. But I wouldn't suggest that you have any less authorization certainly than 5,000 tons per month.

Mr. COBURN. That is all.

Senator CANNON. Thank you very much, Mr. Ormsby, for appearing here today.

Mr. Counsel, you say the next hearing will be Wednesday morning?

Mr. COBURN. At 10 o'clock.

Senator CANNON. Who will be the first witness at that time?

Mr. COBURN. Dr. Arthur S. Flemming will be here at that time. Whether he will be the first witness or not, I am not sure.

Senator CANNON. Dr. Flemming will be here as a witness on Wednesday?

Mr. COBURN. Yes.

Senator CANNON. Thank you very much. The hearings will be recessed until Wednesday at 10 o'clock in the morning.

(Whereupon, at 4:45 p.m., the hearing was adjourned to reconvene at 10 a.m., on Wednesday, April 25, 1962.)

STOCKPILE INVESTIGATION

WEDNESDAY, APRIL 25, 1962

U.S. SENATE,
SUBCOMMITTEE ON THE NATIONAL STOCKPILE
AND NAVAL PETROLEUM RESERVES OF THE
COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The subcommittee (composed of Senators Symington (chairman), Thurmond, Engle, Cannon, Case of South Dakota, and Beall) met, pursuant to notice, in room 235, Old Senate Office Building, at 10:05 a.m.

Present: Senators Symington (presiding), Thurmond, Cannon, Case, and Beall.

Also present: Richard C. Coburn, chief counsel to the subcommittee; T. J. May, assistant counsel; J. H. Zimmer, assistant counsel; Edward O. McCue III, assistant counsel; and James J. Gehrig, special assistant to Senator Symington.

Senator SYMINGTON (presiding). This hearing of the Senate Subcommittee on the National Stockpile will now come to order.

I have a short statement.

On Monday we presented a plan for reducing Government stockpile inventories; namely, payments for various manufactured products purchased by the Defense Department for the current multibillion dollar defense program be made at least in part by the Government delivering raw materials to the supplier in lieu of dollars. These materials would be of a kind necessary for that supplier to have, in order to fill the order in question.

We believe this proposal should apply to the defense production inventory and the supplemental stockpile as well as the national stockpile.

We also believe it should include all Government agencies that use the materials in question in any real quantity. That would include such agencies as the National Aeronautics and Space Administration (NASA), the General Services Administration (GSA), the Agency for International Development (AID), and the Atomic Energy Commission.

Mr. Counsel, your first witness is Dr. Flemming?

Mr. COBURN. Yes, Dr. Arthur S. Flemming.

Senator SYMINGTON. Mr. Secretary, would you raise your right hand?

It is the custom of this committee that the testimony is under oath.

Do you swear that the information you will give this committee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FLEMMING. I do.

Senator SYMINGTON. Proceed.

Mr. COBURN. Will you please state your name and address?

TESTIMONY OF DR. ARTHUR S. FLEMMING, PRESIDENT, UNIVERSITY OF OREGON (FORMER DIRECTOR OF THE OFFICE OF DEFENSE MOBILIZATION)

Mr. FLEMMING. Arthur S. Flemming, Eugene, Oreg.

Mr. COBURN. What is your present occupation, Dr. Flemming?

Mr. FLEMMING. President of the University of Oregon.

Mr. COBURN. How long have you been in that position?

Mr. FLEMMING. Since July 1 of last year.

Mr. COBURN. Dr. Flemming, would you tell us when it was that you occupied the position of Director of ODM?

Mr. FLEMMING. I was first Acting Director of ODM beginning on January 20, 1953, and I served until February 1957.

Mr. COBURN. Until February 1957, you say?

Mr. FLEMMING. Yes.

Mr. COBURN. Who did you succeed in that office?

Mr. FLEMMING. Mr. Henry Fowler, who is now the Under Secretary of the Treasury.

Mr. COBURN. What was the date that you succeeded him, did you say?

Mr. FLEMMING. On January 20, 1953.

Mr. COBURN. And you were in that office, you say, until February 1953?

Mr. FLEMMING. 1957.

Mr. COBURN. 1957, excuse me.

After that did you withdraw from the Government service or did you go to another post?

Mr. FLEMMING. I returned to my position as president of Ohio Wesleyan University, and on August 1, 1958, I was sworn in as Secretary of Health, Education, and Welfare.

Senator SYMINGTON. Mr. Flemming, have you got a prepared statement?

Mr. FLEMMING. Mr. Chairman, I do.

Senator SYMINGTON. The custom of this subcommittee is to submit prepared statements 24 hours before delivery.

When did you deliver it?

Mr. FLEMMING. It was delivered this morning. I was not advised of the custom of the committee.

Senator SYMINGTON. Would you like to read your statement?

Mr. FLEMMING. Mr. Chairman, I would appreciate it.

I am grateful to you for giving me the opportunity of presenting my points of view on some of the matters that have been discussed by this committee.

As Director of Defense Mobilization from the early part of 1953 to February 1957——

Senator SYMINGTON. Excuse me. Have you got any other copies with you?

Mr. FLEMMING. Yes.

The staff of the committee requested that we supply you with 200 copies, which we have.

Mr. COBURN. The staff of our committee did?

Mr. FLEMMING. Yes.

Mr. COBURN. This is the first time I have heard of the statement. I have not received it until just now.

Mr. FLEMMING. There are 200 copies around here.

Senator SYMINGTON. When did you bring the statement down?

Mr. FLEMMING. I brought it in just as I came to the hearing.

Senator SYMINGTON. When did they ask you for 200 copies?

Mr. FLEMMING. Yesterday.

Senator SYMINGTON. Did you tell them at that time you had a prepared statement?

Mr. FLEMMING. Yes.

Senator SYMINGTON. Whom did you tell?

Mr. FLEMMING. Mr. Keefer told Miss Foote in Mr. Coburn's office. She asked that we provide you with 200 copies, so I had 200 copies run off last night in order to comply with the request of the committee.

Mr. COBURN. Was that yesterday afternoon? I do not want to make too much of this, but was that yesterday afternoon?

Mr. FLEMMING. Yes, it was sometime yesterday. These were run off at the request of the committee at my expense.

May I continue, Mr. Chairman.

Senator SYMINGTON. Will you proceed, please?

Mr. FLEMMING. As Director of Defense Mobilization from the early part of 1953 to February 1957, I kept three guidelines in mind as I discharged my responsibilities in the materials area.

The first of these guidelines was that the Office of Defense Mobilization should do everything possible to insure steady progress in the direction of achieving both the Nation's expansion and stockpile goals.

There was no question in the minds of any of us but that the international situation was such as to call for working on both of these goals with a sense of urgency.

There should be a change in the word "concluded" to "concurred."

Senator SYMINGTON. Is this your statement or Mr. Keefer's?

Mr. FLEMMING. This is my statement, which I typed out and turned over to a firm here in Washington, and I had no chance to proofread it until the first thing this morning.

Senator SYMINGTON. I am sorry we have had this mix-up. Mr. Keefer asked that we give you the record yesterday, which was not printed, which we did, the transcript.

Mr. FLEMMING. That is correct, the record of the hearing on Monday.

Senator SYMINGTON. That is right.

Mr. FLEMMING. And also I requested earlier a copy of the transcript of the hearing a week ago Monday, because I tried to purchase it from Ward & Paul and was informed that under the orders of the committee that it could not be purchased.

Senator SYMINGTON. But you were provided with it?

Mr. FLEMMING. I was provided with it, and I appreciate it very much. We concurred wholeheartedly——

Senator CASE. Mr. Chairman, just a minute.

Did I understand that copies of the transcript are not available on purchase?

Senator SYMINGTON. The transcript itself we have not made available for purchase because we wanted to give the witnesses, as well

as the members of the committee, an opportunity to look at the transcript before it became available. We have given the transcripts, as soon as they were reviewed, to all people who were not at the hearings but who would like to have them.

Senator CASE. Are transcripts of the sworn testimony available to the sworn witnesses for change?

Senator SYMINGTON. At any time.

Senator CASE. You mean they can change their testimony after it has been taken?

Senator SYMINGTON. I think it is custom that they can change any grammatical errors, though, of course, they could not change the thought.

Senator CASE. They should not be permitted to change statements of fact.

Senator SYMINGTON. I agree.

Mr. FLEMMING. We concurred wholeheartedly in the statement of the Joint Committee on Defense Production in its fifth annual report, dated January 25, 1956, that—

> the progress heretofore made in the development of the mobilization program should not result in a feeling of complacency or any relaxation in our preparedness efforts.

The second guideline I kept in mind was to administer the materials program in such a manner as to avoid weakening the economy, a guideline that grew out of the conviction that our mobilization base must rest on a solid economic foundation.

In adhering to this guideline I believed I was adhering strictly to the intent of Congress in passing the Strategic and Critical Materials Stockpiling Act. In reporting the bill to the House of Representatives the Committee on Military Affairs made the following statement:

> Section 3(a) provides for the purchase of materials. Such purchases are to be made so far as is practicable from supplies in excess of the current industrial demand. This provision, which was not contained in the 1939 act, establishes the policy of an orderly purchase program, designed to acquire materials at reasonable cost and with minimum interference to the normal operations of producers and consumers.

My third guideline was to keep at the lowest possible minimum governmental trading in strategic and critical materials so as to make it clear that the Government was not attempting to use a defense program to manipulate the materials and metal markets of this country and the world.

In adhering to this guideline I believe that I was adhering strictly to the intent of the Congress in passing the Strategic and Critical Materials Stockpiling Act in 1946.

For example, in reporting that bill to the House of Representatives that the Committee on Military Affairs in explaining why it had not provided the flexibility in the disposal of materials from the stockpile that the Army and Navy had requested said:

> Greater flexibility is not required and would, without any compensating advantage, cause detriment to the mining industry. The existence of discretionary authority to release stockpile materials except for war purposes, for rotation to prevent deterioration, or by reason of obsolescence—would present a grave threat to the stability of mining operations and to the confidence necessary to maintain a sound and healthy domestic mining industry. It would thus imperil our major source of many of these materials. The provisions

of section 3(e), under which Congress retains the key to the stockpile, are designed to minimize this threat.

I believe that the Congress was on solid ground when it took this position. I believe that it is still a sound position to take. That is why I expressed the views I did in the following exchange with Congressman Vanik of Ohio relative to the deferral of copper deliveries in a hearing before the Banking and Currency Committee of the House of Representatives on March 13, 1956:

Dr. FLEMMING. Mr. Congressman, under the Stockpiling Act, you cannot sell from the stockpile.

Mr. VANIK. Should we not amend the act, then?

Dr. FLEMMING. Well, I will be very glad to discuss that. The act is very specific, and there is a lengthy history back of this provision, to the effect that once material goes into the stockpile, it is insulated, except where the President finds its release is necessary for the common defense.

The reason that many Members of the Congress and many people outside of the Government were very much interested in having that particular provision inserted, was that they did not want to see this stockpiling program operate in such a way that you would have huge quantities of material hanging over the market, which could be disposed of almost at the whim of somebody in the executive branch of the Government.

Mr. VANIK. They wanted to avoid a dumping?

Dr. FLEMMING. That is correct.

Now, if at any time we feel that the condition of a particular stockpile is such as to justify disposing of some of the material in the stockpile, we can of course always come to the Congress with a specific program. But it has got to be a very specific one, the Congress would then have hearings on it, everything would be right out on top of the table, and there would not be any one of these quick maneuvers on the part of somebody to bolster a market or do something else to the market, and I personally think, Congressman, that from the long-term point of view, that the Congress was very wise in enacting law in the way in which it did.

Just think, right now we have just under $6 billion worth of material in the stockpile. I think that it is a good thing for the country to know that no one can play with that stockpile.

At the hearings before this committee on April 16, 1962, witnesses suggested to the committee that I should have followed a different course or action than the one I did follow in connection with scheduled deliveries of copper to both the national stockpile and the Defense Production Act inventory.

Mr. COBURN. Excuse me, Dr. Flemming. May I interrupt you?

This statement says that the hearings before this committee on April 16, 1962. That is an error, is it not?

Mr. FLEMMING. No, that is just what I mean. Before this committee that I am appearing before right now.

Mr. COBURN. Oh, I see. All right.

Mr. FLEMMING. It is my considered judgment that the course of action suggested to this committee would have been in direct conflict with all three of the guidelines which I have just identified and would, therefore, have constituted irresponsible conduct in the discharge of the duties of my office.

Before presenting my reasons for this conclusion I desire to call to the attention of this committee a judgment by the Joint Committee on Defense Production relative to the course of action that I did follow. This judgment is set forth on page 42 of the committee's sixth annual report, dated January 22, 1957, and reads as follows:

The tight copper supply situation which began in mid-1954 continued into the first quarter of 1956, then eased as supply and demand came into near balance.

One of the principal factors for this easing was the deferring of deliveries to Government of copper under contract during the first and second quarters of 1956 and the postponement of previously deferred deliveries.

The Joint Committee on Defense Production has functioned as a watchdog committee ever since the passage of the Defense Production Act in 1950. They haven't always agreed with the executive branch. In the 4 years that I served as Director of Defense Mobilization I was very much impressed with the thorough, able, and conscientious manner in which the members of the staff of this committee discharged their responsibilities and with the consideration which the members of the committee gave to the work of the staff. I feel that this committee functioned in harmony with our constitutional concept of the checks and balances that should prevail as between the legislative and executive branches of our Government.

Not once did this committee suggest a course of action similar to that outlined by witnesses to this committee last week and which I will discuss at a later point in my statement.

Starting with the fourth quarter of 1954 and running through the second quarter of 1956 I issued a series of directives in which I authorized the General Services Administration to make arrangements so that copper scheduled for delivery to the national stockpile and the Defense Production Act inventory could be used by the civilian economy.

Prior to the issuance of each directive I received recommendations from the Secretary of Commerce and the members of the Defense Mobilization Board made up of most of the members of the Cabinet and the Administrator of the General Services Administration.

Clear statements of the necessity for taking such actions and the actions taken were set forth in the fifth report of the Joint Committee on Defense Production, dated January 25, 1956, and the sixth report of the same committee on January 22, 1957.

On page 30 of its fifth report the committee says:

The available supply of copper for domestic consumption has been short during the past year. In order to relieve the shortages that have prevailed and to assure that essential defense programs would not be interrupted due to an inadequate supply, most of the copper scheduled for delivery to the Government under the National Stockpiling Act and the Defense Production Act during the period has been diverted to industrial users.

For the 12 months ending September 30, 1955, the Office of Defense Mobilization, acting upon the recommendation of the Department of Commerce and the Defense Mobilization Board, has authorized the diversion of over 74,000 tons of Government owned or contracted copper for commercial use.

On page 43 of the sixth report the committee says:

The series of diversions of copper to industry from the Defense Production Act inventory and from scheduled deliveries to the stockpile and the DPA inventory which began in the last quarter of 1954 were made to assure that essential defense programs would not be interrupted due to an inadequate supply, for the rehabilitation of flood-stricken areas, and generally to alleviate industrial shortages. During the period beginning with the fourth quarter of 1954 and ending June 30, 1956, 86,700 tons of Government-owned copper and copper under contract were made available for industrial use * * *. Generally, the authorizations granted to contractors to divert to industry copper scheduled for shipment to Government did not release these contractors from shipping the contracted quantities but merely deferred delivery dates. On May 10, 1956, the Office of Defense Mobilization announced that it had authorized the General Services Administration to negotiate with these contractors for the phasing

out of deliveries to the Government of the deferred copper. GSA was advised that restoration should begin by mid-1956 at a rate which would minimize the impact of such deliveries on the industrial supply. The amount of copper to be so restored totals approximately 45,000 tons. ODM also announced that no further deferments of copper were contemplated.

I think that it is clear from the procedure I have outlined and from the quotations from the two reports of our "watchdog" committee that both the public and the Congress were fully informed of what actions were being taken.

The witnesses that you heard last week stated that they believed that I should have followed a course of action that would have enabled the Government to benefit financially from the then prevailing high market prices for copper.

Their suggestion must be looked at and evaluated in the light of actions which I took under the following three headings:

(1) Deferral of copper deliveries to the stockpile of strategic and critical materials.

(2) Cancellation of copper deliveries to the Defense Production Act inventory.

(3) Deferral of copper deliveries to the Defense Production Act inventory.

I will discuss first the deferral of copper deliveries to the stockpile of strategic and critical materials.

In a hearing before the Joint Committee on Defense Production held on April 11, 1956, I made the following statement:

The Strategic and Critical Materials Stockpiling Act provides that purchases for the stockpile shall be made, insofar as practicable, from supplies of materials in excess of the current industrial demand.

We interpret the words "insofar as practicable" to mean practicable from the standpoint of national security.

Therefore, when requests are made to defer deliveries to the stockpile because the demand for certain materials is greater than the supply, we must determine whether the deferments can be made without seriously impairing our defense position.

Beginning in the last quarter of 1954 and extending through the second quarter of 1956 I directed the General Services Administration to stop acquiring copper for the stockpile because the evidence before me made it clear that (1) any copper we acquired would not be in excess of the current industrial demand and (2) diversion of copper scheduled for the stockpile would strengthen rather than weaken our current defense mobilization program.

The executive branch would, therefore, have been violating the National Stockpiling Act if it had continued to acquire copper for the stockpile.

But even though the Government had acquired title in any way to the copper under stockpiling contracts it would have been a violation of the Stockpiling Act to have disposed of it immediately in order to obtain the benefits of the then existing high market price.

The Stockpiling Act in section 3(e) reads as follows:

Provided, That no material constituting a part of the stockpiles may be disposed of without the express approval of the Congress except where the revised determination is by reason of obsolescence of that material for use in time of war.

That is why I concur in the following exchange between Senator Case and Mr. George K. Casto, an official of the General Services

Administration, at the hearing conducted by this committee on April 16, 1962:

> Senator CASE. Mr. Chairman, I may be mistaken but I was under the impression that to sell out of the national stockpile it took an act of Congress. Is that correct?
>
> Mr. CASTO. That is correct, unless the material is declared obsolete, in which event you must publish it in the Federal Register and wait 6 months.
>
> The copper that was scheduled for delivery to the national stockpile could not have been resold in time to help industry.

A table inserted in the record of the hearing on April 16, and prepared by General Services Administration, makes it clear that 70 percent of the total amount of copper which was diverted for industrial use was copper which the Government had contracted to buy under the National Stockpiling Act.

It is clear, therefore, that it would have been a violation of law to have handled 70 percent of the copper diverted for industrial use in such a manner as to make it possible for the Government to profit financially from the then prevailing high prices for copper.

In all cases, however, the suppliers of copper were notified that the copper being deferred would have to be delivered to the stockpile at a later date in accordance with the terms of the contract.

At the hearing on April 16, 1962, some reference was made to an unwillingness on my part at the time deferral actions were taken to require the suppliers to agree that when the deferred shipments were delivered to the Government they would receive either the contract price or the then prevailing market price whichever might be lower.

I have no clear recollection of the conversation to which reference was made. I will assume, however, that it took place.

In this connection I note that Mr. Louis Brooks, the Deputy Assistant Comptroller of the General Services Administration, in his testimony on page 122 states:

> During this period, that is the restoration period, a price protection provision was incorporated into the contracts by an amendment which required the replacement of copper finally to be delivered at the lower of the contract price or the market.

Next, I would like to discuss the cancellation of copper deliveries to the Defense Production Act inventory. These deliveries, according to the General Services Administration table supplied this committee at the April 16, 1962, hearing, represent 7.6 percent of the total amount of copper that was made available during this period to the civilian economy.

During the course of the committee's hearing last week a letter was inserted in the record dated May 27, 1955, in which I stated that I believed that the authorization to cancel these contracts was a mistake. This position had been taken by the General Accounting Office, the staff of the Joint Committee on Defense Production, and Senator Williams of Delaware. I think they were all correct in taking this position.

On May 28, 1955, I issued a statement to the press which contained the full text of the letter which I had addressed to the General Services Administration stating that it was a mistake to cancel and that all future actions should be in the form of deferments and in which I also stated that I was in full agreement with the position taken by Senator Williams.

I had concluded that the authorization to cancel was a mistake because it did not require the producers to fulfill their commitment to make copper available to the Government at the contract price—copper which we needed for the Defense Production Act inventory so that we could then transfer it to the stockpile. At that time we were far short of our stockpile objective for copper. I am glad that the mistake was called to my attention in time so that I could take action which would hold the cancellations down to only 7.6 percent of the total amount of copper that was made available during this period to the civilian economy.

Finally, I would like to discuss the deferral of copper deliveries to the Defense Production Act inventory.

Witnesses before your committee suggested that these deliveries should have been accepted by the Government at the contract price and then resold to the civilian economy at the market price.

This possible course of action was called to my attention at the time. I agreed that it would be legally possible to proceed in this manner. I considered it from a policy point of view and decided against it. Here are my reasons for this decision.

First of all, I believe that such a course of action would be in conflict with the third guideline I discussed at the beginning of my testimony, namely, to keep at the lowest possible minimum governmental trading in strategic and critical materials.

If I had approved this course of action the Government would have established a precedent in the strategic and critical materials area under which it would have been saying that the prevailing market price would determine whether the Government was going to receive deliveries of a material and put it in the stockpile or whether it was going to receive it, then resell it, and use the profits received for some further ventures in the market.

This would have immediately established in the minds of both producers and consumers the Government's interest in higher market prices and, in the minds of many, would have made the Government suspect any time it took action that might result in an increase in the price of a particular material. The Government would have joined the company of those who buy and sell in order to obtain a profit and would have stepped out of its role of being interested in achieving just one objective; namely, the strengthening and expansion of our defense mobilization base. It would have joined this company with all of the power that is inherent in Government and with the specific powers inherent in a borrowing authority of over $2 billion and hundreds of millions of dollars in appropriations for stockpile purchases. I believed then and I still believe that this is something the Government should not do.

My second reason for deciding against this course of action was that I believed it would be in conflict with the first guideline which I stated at the beginning of my testimony; namely, to insure steady progress in the direction of achieving the Nation's expansion and stockpile goals.

Companies had been given Defense Production Act contracts in the belief that these contracts would help them expand their production and in this manner help us achieve our expansion goal in copper. If we had denied them the opportunity of helping to meet the needs

of consumers at a very critical period, we would have been depriving them of the opportunity to develop a market which might ultimately help them to become a self-sustaining part of the mobilization base. We would have been standing in our own light.

As far as our stockpile goals are concerned we would have been accepting copper which we had intended to place in the stockpile, reselling it and then taking our chances on being able to replace it. Under the policy which we did follow the companies were required in a comparatively short period of time to deliver the copper at the agreed upon price and this copper then went into the stockpile. We were doing what we were supposed to do; namely, move in the direction of achieving our stockpile objective.

Considerable testimony was taken at the hearing on April 16, 1962, relative to a decision I made to deny a request made by the International Nickel Co. for the cancellation of a copper contract under which they were required to supply copper to the stockpile at a fixed price. This request was made on April 16, 1956, prior to the time that the copper shortage had been completely alleviated. Under the International Nickel Co. proposal they would have been relieved of their obligations to deliver copper upon payments each month to the General Services Administration—the payments to be determined by the contract quantity multiplied by the excess of the market price over the contract price.

My letter of July 2, 1956, addressed to Mr. Floete, the Administrator of the General Services Administration, sets forth my reasons for recommending to him that the request of the International Nickel Co. be denied.

As this letter has already been incorporated in the record of this hearing I will not repeat my reasons at this time. I believe, however, that the statements I have made relative to the guidelines that I tried to keep in mind in connection with the discharge of my duties should help the committee to understand why I had no hesitancy in concluding that the request made by the International Nickel Co. should be denied.

In summary—

1. There are three guidelines that I tried to apply to the problems presented to me in the materials area—

To insure steady progress in the direction of achieving both the Nation's expansion and stockpile goals;

To administer the materials programs in such a manner as to avoid weakening the economy; and

To keep at the lowest possible minimum governmental trading in strategic and critical materials.

2. Seventy percent of the copper deferred during the period beginning with the last quarter of 1954 and extending to the second quarter of 1956 was being handled under the National Stockpiling Act and could not under that act be acquired at that time and even though it had been acquired could not, under the provisions of the act, have been sold immediately in order to reap a profit.

3. Acquisition of the copper to which the Government was entitled under Defense Production Act contracts and its immediate resale for profit would have constituted an unsound public policy because—

It would have opened the way for dangerous governmental activity in the trading of strategic and critical materials; and

It would have been an obstacle that would have stood in the way of the Government's achieving both its expansion and stockpile goals.

4. The policy which was followed of deferral of the receipt of copper to which the Government was entitled resulted in—according to the Joint Committee on Defense Production—an easing of the supply-demand situation and it did it without opening the way for dangerous governmental activity in the trading of strategic and critical materials and without erecting possible obstacles in the way of progress toward the achievement of the Nation's expansion and stockpile goals.

5. The policy which was followed was a policy of refusing to permit immediate financial gain for the Government to stand in the way of sound defense mobilization policies.

Thank you, Mr. Chairman.

Senator SYMINGTON. Thank you, Mr. Secretary.

Your statement is interesting and again I am sorry we had the "rhubarb" about not getting it, asking you before. It is the custom of the committee to have counsel proceed for 30 minutes, and then each Senator will ask questions for 10 minutes in the first round.

Mr. Counsel, would you proceed?

Mr. COBURN. Thank you, Mr. Chairman.

Dr. Flemming, during your tenure as Director of the Office of Defense Mobilization, would you tell us what you considered to be the responsibilities of that Office with reference to the procurement of materials for the stockpile?

Mr. FLEMMING. Mr. Counsel, I think it is clear that under the reorganization plan which brought the Office of Defense Mobilization into existence, that we, first of all, did have the responsibility for determining the stockpile objectives, and then, in the second place, that we had the responsibility for giving policy directives to General Services Administration under which policy directives they would actually acquire the materials for the stockpile.

Mr. COBURN. Specifically with reference to the acquisition of materials for the stockpile, what was the area of responsibility so far as ODM was concerned, leaving aside objectives now?

Mr. FLEMMING. As far as the purchase of materials was concerned, as I have already indicated in response to your earlier question, it was our responsibility to determine the policies that should be followed in the acquisition of these materials, and then it was our responsibility to transmit those policy findings to the General Services Administration, and then it was their responsibility to purchase the materials in accordance with our policy directives.

Mr. COBURN. I want to get a little more specific, if I may.

Suppose that you determined that you wanted to buy some additional copper for the stockpile.

What would ODM do with reference to that? What was its responsibility?

Mr. FLEMMING. If we had made a determination of that kind, it would be our responsibility to so indicate to the General Services Administration, and then it would be up to them to acquire it.

Mr. COBURN. Would your directive to them be in such form as to authorize or direct perhaps GSA to purchase, we will say, 50,000 tons of copper?

Would it be in that form?

Mr. FLEMMING. Well, it probably would have been in more detailed form.

There would have been some specifications included in it as to the—I am not enough of an expert in the materials area to suggest what specifications would have been in it, but it was up to us to do whatever was necessary to do in order to indicate clearly to the General Services Administration just what they should go out on the market and get, and there is not any question in my mind at all but that anything affecting policy as far as the stockpiling program was concerned was our responsibility.

We did not operate.

We delegated authority to act to the General Services Administration, and at other times we might have delegated authority to act to other departments and agencies. But I think our role is rather clearly set forth in the testimony which you took on April 16, and in the statement that I just made, sir.

I think I made it clear that we accept, that certainly I accept, full responsibility for any policy determinations that were made during this particular period.

Mr. COBURN. Yes, but I want to be more specific, Mr. Witness.

If you decided that you wanted to buy 50,000 tons of copper, you would so direct GSA, would you?

Mr. FLEMMING. Yes.

Mr. COBURN. And would you set the price range?

Mr. FLEMMING. No, not necessarily.

We might have, I don't know.

I mean the best way I can respond to your question is to go back to the files of ODM and take out a specific communication from my office to the General Services Administration. If I had known that you were interested in that, I would have asked for that.

Mr. COBURN. We have done that.

Mr. FLEMMING. All right.

Mr. COBURN. Excuse me.

We have done that.

Mr. FLEMMING. Well, if you have done it, then that shows——

Mr. COBURN. Excuse me.

Mr. FLEMMING (continuing). Then that shows what kind of instructions we sent to General Services Administration.

Mr. Chairman, I would like to make, if I might, at this point, I would like to make this perfectly clear, as far as my attitude toward this committee and this hearing is concerned. You are dealing with matters that I dealt with beginning in 1953 and ending in 1957.

The last matters that I dealt with, I dealt with over 5 years ago. The earliest matters that I dealt with, I dealt with over 9 years ago.

When I left the Office of Defense Mobilization, I left this area completely. I had no further responsibilities in the area at all.

I went back first to the field of education and then went to the Department of Health, Education, and Welfare, and my duties there did not bring me back into this area at all.

Consequently, when I begin talking about matters in this area, I have got to have the opportunity of refreshing my memory. I talked with Mr. Coburn, your counsel, about this, and he very graciously agreed to that particular point. He indicated to me the areas that you would like to cover at this time, and these areas I have tried to prepare myself on.

I will be happy to appear before the committee at any time in the future to discuss other areas for which I had responsibility.

Now, you take the type of question that has just been addressed to me. It is at least 5 years since I have even looked at a directive of that kind, and if I had known that counsel was interested in this, I would have looked at one before I came down here.

Senator SYMINGTON. Excuse me, Dr. Flemming.

Mr. FLEMMING. Then I could be responsive.

Senator SYMINGTON. If you had known that counsel was interested in what?

Mr. FLEMMING. If I had known that he was interested specifically in the kind of a directive that we sent to the General Services Administration when we were directing them, in effect, to purchase materials for the stockpile, I would have then asked to look at one of the directives that we had issued, and I would have it with me, and I could then indicate what was in it and why we had put it in there.

But I have not even looked at a directive of that kind for over 5 years, and, consequently, I think I must ask to have the opportunity of looking at such a directive.

I will be very happy to make a statement for the record on the directive, or I will be very glad to come back and respond to questions on the directive.

Mr. COBURN. Mr. Chairman, may I say this:

That there is no reason why the witness should have the slightest hesitation in saying that he does not remember with reference to any question that I ask him, and if he does not, we will pass on to something else.

Mr. FLEMMING. I appreciate that.

Mr. COBURN. There is an area here, however, which I would like to ask you some questions about, Dr. Flemming.

Senator SYMINGTON. Will you proceed, Mr. Counsel.

Mr. COBURN. Going back to what we were talking about, Dr. Flemming—and, again, I say do not hesitate in the slightest to say you do not remember, if you do not remember, as to any of the questions that I ask you—we have introduced in the record already a typical directive of ODM to GSA with reference to the purchase of material, and also a typical form of authorization that was used under the Defense Production Act for that purpose.

Mr. FLEMMING. When was that introduced? Not at the hearing a week ago Monday?

Mr. COBURN. No, no, before that.

Mr. FLEMMING. I see.

Well, as you know, I have not reviewed the previous hearings. It seems to me I should have asked you to give me that copy or the copies of those also so that I could have. But I am sorry, I have not read them.

Mr. COBURN. That is all right.

Mr. FLEMMING. That transcript.

Mr. COBURN. I am not going to ask you about the contents of any of those directives or authorizations. That really was not my purpose. What I have in mind is this: I would like to know what your course of conduct was in your relationship with GSA with reference to the acquisition of materials.

As I understand it, you first authorized GSA to buy a certain amount of copper, did you not?

Mr. FLEMMING. Mr. Counsel, I am going to reply to your question in general terms, and then state that I am not in a position to go beyond that.

There is no question in my mind at all but that any policy issue involved in connection with the acquisition of materials for the stockpile was our responsibility, and one of the rules that I adhered to strictly as Director of ODM was that we were not to duck that responsibility; that we were to give GSA all of the policy direction that they needed in order to discharge their duties.

That was the policy that I followed, the philosophy that I followed in connection with the administration of the office. How that particular policy was reflected in connection with specific directives is something that I will be glad to respond to, but not until I have had the opportunity of looking at some of those directives.

Mr. COBURN. Dr. Flemming, I fully accept your statement that the policy responsibility for the conduct of the stockpile was in OEP, but what I want to know is:

What was your relationship with GSA in the purchase of materials?

Let me put it this way, and if you do not know the answer, just say, "I don't remember offhand," but if you do, we would appreciate the benefit of your experience.

Mr. FLEMMING. Mr. Counsel, I have already indicated to you that I need to have the opportunity——

Senator SYMINGTON. Please let the counsel finish his question.

Mr. FLEMMING (continuing). Of refreshing my memory.

Senator SYMINGTON. Let the counsel finish his question.

Mr. FLEMMING. I will be very happy to.

Senator SYMINGTON. If you do not remember, as the counsel suggests, just say you do not remember.

We understand your position and we are fully sympathetic with it and we want to cooperate with you in getting as many facts as we can in the record.

Mr. FLEMMING. That is all I am interested in.

Senator SYMINGTON. If you do not remember facts, we appreciate your saying you will come back after you refresh your memory. If you do not remember, just tell the counsel you do not remember.

Mr. FLEMMING. OK.

Senator SYMINGTON. Proceed, Mr. Counsel, will you?

Mr. COBURN. Now, Dr. Flemming, let us say that you had authorized the General Services Administration to buy 50,000 tons of copper.

Was the General Services Administration, was it their responsibility to negotiate with the individual contractors for the purchase of that copper?

Mr. FLEMMING. It was.

Mr. COBURN. You did not tell them who to buy the copper from?

Mr. FLEMMING. As a general proposition, we certainly did not. Now, I cannot think back on all of the situations that developed here over a period of 4 years, but, as a general proposition, it was their job to go out on the market and acquire the material.

Mr. COBURN. Did you tell them what conditions should be inserted in the contract to purchase?

Mr. FLEMMING. Here, again, I would like to have the opportunity of looking at some of the directives before I respond, sir.

Mr. COBURN. If the negotiations lagged between the contractor and the GSA because of their inability to get together on certain features of the contract, did your office undertake the responsibility of interfering in a situation of that kind?

Mr. FLEMMING. If the GSA indicated that the kind of policy directive they had was getting in the way of achieving the objective that we had in mind, namely, to acquire materials, it was certainly appropriate for them to so indicate, and we might very well consider the possibility of a change in the directive.

Mr. COBURN. But you would change the directive, would you, under those circumstances?

Mr. FLEMMING. That certainly would be the normal procedure.

Mr. COBURN. At any time when you were the Director of ODM, did your office undertake to interfere with GSA's negotiations with a contractor for the purchase of material?

Mr. FLEMMING. Mr. Counsel, it would be absolutely impossible for me to answer such a question. I mean, in the first place, I cannot think back over and recall all of the transactions that took place in that period of time.

In the second place, I do not know what relationships in some instances there may have been between a member of my staff and GSA on a particular matter, but if you have a specific case in mind, I would be very glad to develop, get a complete file on that specific case and then indicate to you why I think that case was handled in the way in which it was handled.

Mr. COBURN. What I am trying to get at, Dr. Flemming, is the policy considerations that were involved.

As I understand it, you say that the OEP accepted full responsibility for policy. I am wondering, as a matter of policy, whether OEP was permitted to interfere with GSA in the negotiation of a contract with a contractor for the purchase of material.

Mr. FLEMMING. Again, if you have specific cases in mind, I will be glad to take a look at them.

But let me say this: It is a basic rule with me, as far as administration is concerned, that if I have final responsibility for something, I can delegate authority to act to others. But I cannot divest myself of the responsibility. And if they act in such a manner as to defeat the objective that I had in mind, I am responsible for that.

So that there was not any question in my mind at all but that what happened in connection with the stockpiling program was the responsibility of the Office of Defense Mobilization, and I kept that in mind in connection with relationships with people within my own office or with relationships with other agencies.

Mr. COBURN. Suppose that GSA was negotiating a contract with a contractor for the purchase of material, and they reached an im-

passe between them in the negotiations. Did your office ever undertake to tell GSA to go ahead and close the deal on the contractor's terms?

Mr. FLEMMING. I am not in a position to answer that question. I do not know.

Mr. COBURN. What would have been your policy with reference to that, Dr. Flemming?

Mr. FLEMMING. I do not know. This is a hypothetical question stated in a very generalized manner.

I again say that if you want me to explain what was done in a specific case, I will be glad to get the files out, review them, and tell you what I did and why I did it.

Mr. COBURN. You went into great length a moment ago to say that your office took policy responsibility, and that is all that I am asking you about at this time.

Mr. FLEMMING. It is a pretty fine line.

Mr. COBURN. Excuse me, Mr. Witness, until I finish.

Mr. FLEMMING. Pardon me.

Mr. COBURN. Was it your policy at OEP that you would not interfere with GSA in negotiations with contractors for the purchase of material, or was it not your policy?

Mr. FLEMMING. I do not think that question can be answered categorically. There is a pretty fine line of demarcation between policy and execution of policy, and I do not intend to put any generalized answer to that type of question on the record. Again, I will be glad to look at any number of specific cases that trouble you or bother you or that raise questions in your mind, and I will ask for the complete file, and if I get the complete file, I will then be very happy to discuss it in detail with you or with the members of the committee.

Mr. COBURN. Well, do you think that the Office of Emergency Procurement should have interfered with GSA in the negotiation of any contract for the procurement of material?

Mr. FLEMMING. Mr. Counsel, I——

Mr. COBURN. Based on your experience?

Mr. FLEMMING. Counsel, I feel that that is, again, a request to make a generalization to which there may have been justifiable exceptions.

I will again state that I felt that our basic responsibility was to set policy, and then let the General Services Administration execute that policy.

But after they started the execution of the policy, I certainly would not say that we would never get back into it, because there might have been developments that involved policy that we should have gotten back into.

But, in any event, as I indicated earlier, I felt that what went on in connection with the stockpile program was something for which we were going to be ultimately held responsible, and I governed my actions accordingly.

Mr. COBURN. All right.

Dr. Flemming, so that we will have what I am going to ask you in proper perspective, I would like to bring your mind to the situation in October of 1954.

At that time, as I understand it, as can be seen from this chart that is before us here, your office had just increased the copper objective to 3.5 million tons, is that correct, according to your recollection?

Mr. FLEMMING. Mr. Counsel, I am going to do my best now to respond to these questions, but I was not asked to be prepared to come here and discuss stockpile objectives in copper or any other material.

I was asked to come and discuss deferral and cancellation of copper delivery.

But now I will do my best, by referring to the reports of the Joint Committee on Defense Production, if I may have time in each instance to do so.

It is altogether possible that I can respond to most of your questions on that.

Senator SYMINGTON. Dr. Flemming, to be sure we understand the position the committee takes, we will correct the record, or set a subsequent hearing on anything you say is not according to the record.

You can correct the record yourself, in printing, and any change you want to make, in addition to that, or anything you want to release, we will be very glad to do.

Mr. FLEMMING. I appreciate that, although I must keep in mind——

Senator CASE. Mr. Chairman, pardon me just a minute.

Mr. Chairman, I think the rules of the subcommittee should follow the rules of the Committee on Armed Services. It has been the consistent ruling of Senator Russell, chairman of the Committee on Armed Services, that sworn testimony by witnesses not a member of the committee may not be changed.

I think we ought to have that precedent in mind when we seek to make rulings or establish practices in this subcommittee.

If the witness qualifies his answer and says that he makes his answer subject to consultation of a record, and the committee permits him to consult the record before completing the answer, that is one thing.

But I do not think any witness ought to be led into thinking that he may change his sworn testimony, once given.

Senator SYMINGTON. Let me assure the Senator I have great respect for his position in a matter of this character. I will discuss it with the chairman of the full committee. It is my judgment that Dr. Flemming, as he has emphasized several times, does not feel he is in a position to answer some of these questions. Inasmuch as the committee wants to get on with its work, and apparently counsel is trying to find out certain aspects of responsibility and authority, policy, I believe it would be well for Dr. Flemming to be allowed to go over his testimony.

Therefore, despite the fact he is sworn, the custom of the committee, if he sees a clear-cut error, then I for one, would vote in committee to see him change his testimony.

Senator CASE. Mr. Chairman, I simply want to put Dr. Flemming on notice that if he makes an answer to a question in which he is not certain of the facts, that he should qualify his answer by saying it in subject to consultation with the files or records in the matter.

Mr. FLEMMING. Thank you, Senator Case.

Mr. Chairman, I appreciate that.

Mr. COBURN. Mr. Chairman, I am sorry to have precipitated a discussion here that is taking longer than, really, I think the question deserves.

May I just say this: That I would like to have you, Dr. Flemming, consider this information in context with the questions that I am about to ask you.

Mr. FLEMMING. Yes.

Mr. COBURN. That on September 28, 1954, you, as Director of ODM, established the maximum copper objective at 3.5 million tons.

I wish that you would also bear in mind the fact, and let the record show, that at that time the total amount of copper in the national stockpile and in the Defense Production Act—I mean inventory—was 876,325 tons.

I wish you would also bear in mind that the record has previously shown from our hearings that at that time the price of copper was 30 cents a pound.

Now, Dr. Flemming, at that time, that is to say, on October 1, 1954, the Government had a number of contracts of purchase for copper that were then outstanding and being performed, did it not?

Mr. FLEMMING. You mean contracts for the acquisition of copper for the stockpile?

Mr. COBURN. Yes, yes.

Mr. FLEMMING. Yes.

Mr. COBURN. These have all been in evidence, but I want to have you have them in mind, too.

There were six such contracts that were executed under the Defense Production Act, and there were nine such contracts that had been executed under the Stockpile Act and were current at that time.

You have all of that in mind, do you not?

Mr. FLEMMING. That is correct.

Mr. COBURN. Now, Dr. Flemming, was it at that time that a suggestion was first made that the deliveries under these contracts would be postponed to a later date—that is, to the Government—so that the contractors could sell their copper directly to industry?

Mr. FLEMMING. It was approximately at that time, yes; in the last quarter of 1954.

Mr. COBURN. That is when the first deferrals occurred, but was that the first time that any suggestion was made within the administration that these deferrals should be had or made?

Mr. FLEMMING. I have no recollection on that, Mr. Counsel. All I know is that the program got underway in the fourth quarter of 1954.

Mr. Counsel, could I clear up the record at one point?

Mr. COBURN. Certainly.

Mr. FLEMMING. You started to ask me about the increase in the objective in September 28, 1954.

Mr. COBURN. Yes.

Mr. FLEMMING. And I did note in reading the record of the April 16 hearing that the question was also raised on that. If I might, at this point, I would like to put in the record the reason for that increase.

Mr. COBURN. You may, certainly.

Mr. FLEMMING. In order to do that, I would like to call to the attention of the committee the fourth annual report of the Joint Committee on Defense Production, page 67.

This is simply the full text of the report that the Office of Defense Mobilization submitted to the Joint Committee on Defense Production.

On page 67 I said——

Senator CASE. Mr. Chairman, let us identify that a little more closely.

What is the date of that report?

Mr. FLEMMING. January 5, 1955.

Senator CASE. And it was submitted by what committee?

Mr. FLEMMING. The congressional Joint Committee on Defense Production, which was our "watchdog" committee.

Senator CASE. Does the document give the names of the committee?

Mr. FLEMMING. It does.

Mr. Chairman, at this time the chairman of the committee was Senator Capehart of Indiana; the vice chairman was Congressman Gamble of New York.

The other members of the committee were Senator Bricker of Ohio, Senator Ives of New York, Senator Maybank of South Carolina, and Senator Fulbright of Arkansas. From the House, Congressman Wolcott of Michigan, Congressman Talle of Iowa, Congressman Paul Brown of Georgia, and Congressman Wright Patman of Texas.

Senator CASE. Thank you.

Mr. FLEMMING. On page 67 we reported in the following manner to the Joint Committee on Defense Production:

> As a result of the President's Cabinet Mineral Policy Committee's recommendations, the President on March 26, 1954, announced a new long-term stockpile policy for metals and minerals under which objectives for the stockpile program would be raised by discounting completely all foreign sources of supply in wartime, excepting only a limited group of countries to which wartime access can be had with the same degree of reliance as afforded by sources within our own country.
>
> In addition, appropriate stockpiling will make provision for the possibility of destruction of key materials producing facilities within the United States. Materials in the stockpile will also be upgraded and refined to the point at which they will be more usable in the event of an emergency.
>
> Procurement of materials toward minimum objectives will proceed as quickly as possible, but acquisition to meet the difference between the present minimum and the new long-term metal and mineral objectives will take place ordinarily at such times as the Government decides that purchases will help to reactivate productive capacity and in other ways to alleviate distress conditions in connection with domestic mineral industries that are an important element of the Nation's mobilization.
>
> As of the end of August 1954, eight long-term stockpile objectives have been established. After thorough review additional long-term objectives for other metals and minerals have been established on an interim basis.

The action indicated here on September 28, 1954, was the action taken in relation to copper under the directive of the President to establish the long-term stockpile objective. At that time the minimum objective to which reference is made here was still 1.6 million short tons.

Mr. COBURN. All right.

Now, who was it that first suggested that the delivery of copper should be postponed so far as the Government is concerned?

Mr. FLEMMING. I do not have any recollection on that as to where it first came from.

I outlined in my statement the procedure that I followed in determining whether or not there was to be a deferral, and that procedure

was always initiated by a communication from the Secretary of Commerce relating to the supply-demand situation. And when I received that communication, it was my practice to have that staffed by the members of my own staff and then to place it as an item on the agenda of a meeting of the Defense Mobilization Board, where it was considered and where a recommendation was made to me.

And, after I had the recommendation of the Secretary of Commerce and the recommendations of the Defense Mobilization Board, then I made a decision.

Mr. COBURN. Well, on the basis of your experience after deferral started, would you say then that the first person that suggested that deferrals be had was the Secretary of Commerce?

Mr. FLEMMING. Again, I do not know. All I know is that as far as the formal procedure was concerned in connection with each deferral, it followed the pattern that I have just outlined.

Who came up with the idea first, I would not have the slightest notion.

Mr. COBURN. Who was——

Mr. FLEMMING. We were having plenty of correspondence from Members of Congress at that particular time relative to the supplies of copper, a lot of correspondence saying that we ought to take the copper that we had acquired from Cuba and put in the stockpile and sell it so that the economy could profit from it. So maybe we got the idea first from Capitol Hill, I do not know.

I do not know where it came from.

Mr. COBURN. Who was Secretary of Commerce at that time, Dr. Flemming?

Mr. FLEMMING. Sinclair Weeks.

Mr. COBURN. Now, Dr. Flemming, as I understand it, this matter of the deferral of copper came up for discussion and a decision at a meeting of the Defense Mobilization Board on the 13th of October, 1954.

Are you so informed?

Mr. FLEMMING. Mr. Chairman, I think you inserted in the record of the April 16th hearing the relevant portion of the minutes of that meeting, did you not?

Mr. COBURN. Yes, we did.

Mr. FLEMMING. Could I have time to turn to that?

Mr. COBURN. Certainly.

Mr. FLEMMING. You may know approximately what page it is on?

Mr. COBURN. No, I do not.

Mr. FLEMMING. All right.

That was in connection with the testimony of Mr. Russell, was it not?

Mr. COBURN. I think it was, but I am not too sure of that.

Senator CASE. Mr. Chairman, while the witness is seeking to find this letter, I wonder if we could have an assurance from the chairman or counsel that copies of these transcripts will be supplied to members of the committee and supplied within the 7 days originally agreed upon.

My office has not been supplied with copies of this transcript.

Mr. COBURN. May I say something, Mr. Chairman?

Senator SYMINGTON. Yes.

Mr. COBURN. Senator Case, we have had this difficulty. We have a hearing on a given subject, and then it is not concluded on that day, and we frequently go over until 2 or 3 days later.

And if we do that, then if I turn all of my exhibits over to the shorthand reporter to write up the transcript, I do not have them at hand to proceed with the second hearing.

And then we have a good deal of editing of the transcript and fitting in of various exhibits, as a result of which we simply have not been able to get the transcript in final form back from the reporter within the 7 days that I know we agreed we would provide the committee copies of the transcript. That is our problem.

Senator CASE. Mr. Counsel, this is the first time in a committee that I have ever served in some period of time in Congress when a member of the committee could not get copies of the transcript of hearings within a reasonable time.

Senator SYMINGTON. Senator, I——

Senator CASE. I thought at the first meeting we agreed that copies would be supplied to members of the committee within 7 days.

Mr. COBURN. We did.

Senator SYMINGTON. Senator Case, we will certainly see that you get copies of transcripts as quickly as possible. You have not mentioned this to me before, to the best of my recollection. For several days you were not here. But we will be very glad to——

Senator CASE. During the period when I was not here, I have asked minority counsel about this, and he told me that he has not got transcripts, and it makes it difficult for members of the committee to function appropriately.

Senator SYMINGTON. I agree with the Senator. We will see that the transcripts are delivered immediately to the Senator's office, and there is certainly no reason we cannot fully subscribe to the 7-day stipulation.

I did not know the Senator was having any problem in getting transcripts, which he should receive quickly.

Mr. COBURN. May I proceed, Mr. Chairman, with the witness?

Mr. FLEMMING. This is meeting No. 56 of Wednesday, October 13, 1954, is that correct?

Mr. COBURN. Yes, that is right, Dr. Flemming.

Now, you were present at that meeting as chairman of the Defense Mobilization Board, were you not?

Mr. FLEMMING. Yes, sir.

Mr. COBURN. And Mr. James P. Mitchell, Secretary of Labor, was present, I notice.

Mr. FLEMMING. Right.

Mr. COBURN. The Department of Commerce had a representative there, Mr. H. B. McCoy, did it not?

Mr. FLEMMING. That is correct.

Mr. COBURN. Now, Dr. Flemming, I notice from the minutes of that meeting that the subject of the deferral of copper, so far as delivery to the Government was concerned, was discussed, was it not?

Mr. FLEMMING. That is correct.

Mr. COBURN. Do you recall who it was that introduced the subject?

Mr. FLEMMING. No.

It was undoubtedly put on the agenda for discussion.

Mr. COBURN. By whom?

Mr. FLEMMING. Well, I was responsible for the agenda for the meetings.

Mr. COBURN. Was this your idea, then?

Mr. FLEMMING. I don't know.

Mr. COBURN. This deferral?

Mr. FLEMMING. I have no recollection on that.

Mr. COBURN. At the meeting that day, can you tell us who it was that advocated the deferral?

Mr. FLEMMING. Well, it is clear in the minutes here that the Secretary of Commerce in the face of current strikes in the copper industry, he says:

had recommended that deliveries be deferred so as to prevent interference with defense production and to alleviate dislocation of industry. The Board agreed, however, that it would reexamine the situation at the October 13 meeting.

That is the prior reference. Reference was to the prior meeting of the Board on September 29.

Mr. COBURN. Yes.

Mr. FLEMMING. It was at that meeting that the Secretary of Commerce had raised the question, apparently, and then the Board decided not to make a recommendation to me at that meeting, but decided to reexamine the situation at the October 13 meeting.

Mr. COBURN. You recall that the Secretary of Commerce himself attended this meeting on September 29 when the subject seems to have been first discussed?

Mr. FLEMMING. No, I do not recall that, Mr. Counsel.

Mr. COBURN. You do not remember whether it was the Secretary of Commerce or somebody representing his Department?

Mr. FLEMMING. That is right.

Mr. COBURN. That advocated deferral?

Mr. FLEMMING. The minutes of that meeting would so indicate, I mean would indicate who was there representing the Secretary of Commerce.

Mr. COBURN. Was this matter fully discussed on October the 13th?

Mr. FLEMMING. Yes, to the best of my recollection, we did have a——

Mr. COBURN. Do you recall what was said there with reference to the desirability of deferring delivery to the Government?

Mr. FLEMMING. I do not recall anything other than what is in the extract of the minutes that you inserted in the record. Now, if you have the complete minutes of that meeting, and if I could look at the complete minutes of the meeting, why, I can probably recall some additional points.

Mr. COBURN. I am just trying to find out what your own independent recollection is with reference to this problem. You have no recollection, then, of what was said at that meeting with reference to the deferral of copper deliveries?

Mr. FLEMMING. I had many meetings of the Defense Mobilization Board, and I just cannot recollect what went on at those meetings without going over the minutes and normally the supporting papers for a particular meeting. This I have done on a couple of meetings, but I just did not happen to on this one. But if you have the complete minutes, Mr. Chairman, maybe I can be more helpful.

Mr. COBURN. Do you recall whether there were any discussions as to how this copper would be diverted to industry, whether there would be deferrals of deliveries or cancellations entirely of delivery?

Mr. FLEMMING. I do not recall. I assume that there was discussion of the procedure to be followed. And, of course, the results of that discussion would be reflected in the communication that I sent to the General Services Administration.

Mr. COBURN. Do you recall whether at this meeting it was decided that any diversion of copper deliveries would apply only to stockpile contracts or whether they would apply only to the Defense Production Act contracts or whether they would apply to both?

Mr. FLEMMING. Mr. Counsel, I think probably the best thing that I could do is to read from my communication of October 29 to the Secretary of Commerce and my communications of the same date to the Administrator of the General Services Administration. One would probably take care of it.

Mr. COBURN. I intend to get to that, but if you want to read from it now, that is all right.

Mr. FLEMMING. Undoubtedly both communications are somewhat similar. This says, this letter of October 29 says:

> This is in reference to your letter of October 26, 1954, requesting authorization for diversion of copper to U.S. industry destined for delivery to the Government in November and December in order to prevent curtailments in copper consuming industries. The copper to be diverted would be in addition to the amounts made available to industry under my authorization of October 15 to you.

Maybe it is the October 15 communication that you are really—let's see, your line of questioning now deals with the meeting of October 13?

Mr. COBURN. Yes.

Mr. FLEMMING. And the thing you would be interested in is what followed as a result of that meeting of October 13th?

Mr. COBURN. Yes.

Mr. FLEMMING. Of the Defense Mobilization——

Mr. COBURN. That is all right, if you do not remember.

Mr. FLEMMING. I will go to the October 15th letter. I have been reading from the October 29th letter, but that was the second communication that I sent on this. The first communication was October 15th.

Mr. COBURN. Is this the letter, if you will permit me to interrupt you?

Mr. FLEMMING. Yes.

Mr. COBURN. Is this the letter that you wrote to Mr. Edmund F. Mansure, the Administrator of the General Services Administration? Is that the one you refer to?

Mr. FLEMMING. I have that one here.

Mr. COBURN. Perhaps you might refer to that.

Mr. FLEMMING. Suppose I refer to that and then there is also a letter to Mr. Weeks.

It was my practice to address a letter both to Mr. Mansure and to Mr. Weeks after I took action. I said to the Administrator of General Services Administration on October 15th:

> In order to help prevent enforced idleness in copper consuming plants as a result of recent work stoppages in copper mining, smelting and refining indus-

tries, I am requesting you to arrange for the sale of the copper accumulated in the Defense Production Act inventory.

Although the workers involved in the strike are now returning to work, certain copper consumers report that they face shut-downs or drastically reduced operations until a more adequate flow of copper can be restored.

I believe, therefore, that it is in the best interest of production and employment to sell the copper which the Government has accumulated under the expansion programs authorized by the Defense Production Act for use or resale.

You are hereby authorized to sell at U.S. market prices plus handling charges the approximately 17,500 tons of copper which have been accumulated under the Defense Production Act. It is intended that the copper be used by consuming industries in the United States. The Department of Commerce will certify to you the concerns to which the copper is to be sold and the amounts to be made available in each case.

Attached is a copy of my letter to the Secretary of Commerce asking that his agency provide this assistance in the distribution of the copper. In addition, you are also authorized to arrange for the deferral of the approximately 9,000 tons which were scheduled for delivery to the stockpile during the month of October, if suppliers desire to make such arrangements and agree to make the amounts deferred available to you as domestic consumers. Arrangements should be worked out so that the amounts deferred wil be delivered to the stockpile not later than June 30, 1955. The situation will be evaluated further at a later date to determine whether any arrangements should be worked out for the deferral of November deliveries.

Senator SYMINGTON. Mr. Counsel, your time is up. Senator Case, have you any questions?

Senator CASE. Mr. Chairman. Following up on this matter to which reference has just been made with regard to these deferrals, I want to return to page 5 of the statement presented by Dr. Flemming this morning in which he says:

I desire to call to the attention of this committee a judgment by the Joint Committee on Defense Production relative to the course of action that I did follow.

Now, again, Dr. Flemming, the reference here is to the Joint Congressional Committee on Defense Production?

Mr. FLEMMING. That is correct.

Senator CASE. And in the report you earlier alluded to, that was the committee in 1954?

Mr. FLEMMING. Yes.

Senator CASE. But here at this point in your initial statement this morning you said:

This judgment is set forth on page 42 of the committee's sixth annual report, dated January 22, 1957, and reads, as follows—

and I repeat it for emphasis—

the tight copper supply situation which began in mid-1954—

and I interpolate here mid-1954 was immediately precedent to this change of objective recorded in the directives of September 28, 1954, and continuing, then—

the tight copper supply situation which began in mid-1954 continued into the first quarter of 1956, then eased as supply and demand came into near balance. One of the principal factors for this easing was the deferring of deliveries to Government of copper under contract during the first and second quarters of 1956, and the postponement of previously deferred deliveries.

In other words, this suggests to me that the congressional Joint Committee on Defense Production in its sixth report of January 22,

1957, was supporting the policy that was indicated in these deferrals in 1954. Is that your judgment?

Mr. FLEMMING. This is the conclusion that I arrived at, Senator Case.

Senator Case, I might say I supplied the membership of the committee when the fourth report was issued, and I might supply for the record the membership of the committee at the time the sixth report was issued.

Senator CASE. Would you do so?

Mr. FLEMMING. The chairman at that time was the late Congressman Paul Brown of Georgia; Senator Robertson of Virginia was the vice chairman.

Senator CASE. Mr. Chairman, I was interested in knowing what the membership of these committees was, and I asked minority counsel a few minutes ago to get me the names, and I believe a list has been handed to members of the committee which has been supplied by Mr. Ed McCue, who, I understand, is on loan to this committee from the Joint Committee; is that correct, Mr. Counsel?

Mr. COBURN. He is on loan, yes.

Senator CASE. May this list be entered at this point? I will read it into the record.

Senator SYMINGTON. Without objection.

Senator CASE. For the year 1953–54, the 83d Congress, Senator Homer Capehart, chairman; Representative Ralph Gamble, vice chairman.

1955–56, 84th Congress, Representative Paul Brown, chairman; Senator A. Willis Robertson, vice chairman.

1957–58, 85th Congress, Senator A. Willis Robertson, chairman; Representative Paul Brown, vice chairman.

1959–60, 86th Congress, Representative Paul Brown, chairman; Senator Homer Capehart, vice chairman.

1961–62, 87th Congress, Senator A. Willis Robertson, chairman; Representative Wright Patman, vice chairman.

Dr. Flemming, was this Joint Committee on Defense Production exercising appropriate functions as a watchdog committee during the period of time that you were the Director of Defense Mobilization?

Mr. FLEMMING. Yes.

Senator CASE. Going now to the matter of policy in that acquisition of material for the stockpile, what were the powers of the Government in getting strategic and critical materials? Could you exercise the right of eminent domain, as the Justice Department might do for the Corps of Engineers in condemning land?

Mr. FLEMMING. No.

Senator CASE. What powers did you have if the Committee on National Security or the Department of Commerce indicated to you that certain materials should be acquired for the stockpile or for any one of them?

What powers did you have to acquire, or what powers did the General Services Administration have if you directed them to acquire?

Mr. FLEMMING. The Government went out on the open market and entered into contracts with suppliers for supplying certain quantities of material.

Senator CASE. In case the General Services Administration was not able to make procurement under the terms of the directive issues, what could then be done?

Mr. FLEMMING. Well, under those circumstances, of course, they could come back to the Office of Defense Mobilization with suggestions on their part as to changes that might be made in the policy, which would facilitate or expedite the acquisition.

Senator CASE. Either as to price or as to the terms or as to the quality of the item?

Mr. FLEMMING. That is correct.

Senator CASE. General Services had no power of seizure for strategic and critical materials?

Mr. FLEMMING. That is correct.

Senator CASE. So that if changes in policy were indicated because of the requests made to you by the National Security Council or relayed through the Department of Defense, or if the Secretary of Commerce were to say that industry needed a certain item, would those requests enter into policy that you might determine for the directives or for modifying directives to the General Services Administration?

Mr. FLEMMING. That is right.

I mean if it had been determined that we needed certain quantities within the stockpile, then we would do everything that we could to achieve that particular goal.

For example, there were times when, as far as certain materials are concerned, we were far short of our stockpile goals.

We were, likewise, in a difficult position as far as supply-demand within the civilian economy was concerned, and at those times, for example, the Joint Committee on Defense Production would ofttimes hold a special hearing, very often in executive session, in which they would say to us:

Look, what are you doing to develop additional sources of supply in order to step up acquisition for the stockpile and also to give the civilian economy better backing?

Senator CASE. Do you recall the basic reason for the increase in the objective indicated for September 28, 1954?

Mr. FLEMMING. Yes, Senator Case.

The reason is the one that we incorporated in our fourth annual report, and which I read into the record earlier.

Senator CASE. I recall your reading it.

Mr. FLEMMING. I could just summarize it very quickly. I mean the basic reason was that the President, after considering a report of his Cabinet Mineral Policy Committee, announced a new long-term stockpile policy for metals and minerals under which objectives for the stockpile program would be raised by discounting completely all foreign sources of supply in wartime excepting only a limited group of countries to which wartime access can be had with the same degree of reliance as afforded by sources within our own country.

Senator CASE. That was the part of the report there that I wanted to get back to and I am glad that you read it.

Mr. FLEMMING. Right.

Senator CASE. I wish that you would read again this part of the sentence there which refers to the President's indicating that we

should discount foreign sources of supply except those to which we might have ready access during wartime.

Mr. FLEMMING. All right.

It reads this way:

As a result of the President's Cabinet Mineral Policy Committee's recommendations, the President, on March 26, 1954, announced a new long-term stockpile policy for metals and minerals under which objectives for the stockpile program would be raised by discounting completely all foreign sources of supply in wartime excepting only a limited group of countries to which wartime access can be had with the same degree of reliance as afforded by sources within our own country.

Senator CASE. Now, then, the date of that was?

Mr. FLEMMING. March 26, 1954.

Senator CASE. March 26, 1954?

Mr. FLEMMING. That is when he issued the policy.

Senator CASE. Do you recall, or would it be your opinion that that March 1954, conclusion of the President on the recommendation of the Minerals and Metals Committee had a major part in increasing the copper objectives as indicated on the chart here in August 31, 1954, and September 28, 1954?

Mr. FLEMMING. It did. There is no doubt about that, Senator.

Senator CASE. Thank you.

That is all, Mr. Chairman.

Senator SYMINGTON. Senator Thurmond?

Senator THURMOND. Doctor, are you familiar with the items in the stockpile today?

Mr. FLEMMING. I am not, Senator Thurmond.

I have been away from this for a considerable period of time, and all I have done in preparation for this particular hearing is to try to bring myself up to date on the copper situation, particularly during the period that we have under discussion.

Senator THURMOND. I just wondered if you were familiar with those and had the power of decision, what recommendation you would make for disposal, if any should be disposed of?

Mr. FLEMMING. Senator Thurmond, my basic policy or basic conviction—I will put it that way—relative to disposal, I think, was reflected in my opening statement, particularly in my references to the report of the House Military Affairs Committee to the House of Representatives at the time the Stockpiling Act of 1946 was passed.

Let me say this:

Procedurally, I believe that the procedures set forth in the present Stockpiling Act constitute sound public policy, and I would not recommend any change in the Stockpiling Act at that point.

Senator THURMOND. Counsel, I believe, has prepared a chart here and information showing the different items and amounts in the stockpile today. You have not had a chance to see that, have you?

Mr. FLEMMING. No, I have not, Senator Thurmond.

Senator THURMOND. I was just wondering what opinion you would have with regard to the quantities that have accumulated now.

For instance, the matter of rubber—rubber deteriorates, does it not?

Mr. FLEMMING. That is correct.

Senator THURMOND. Would you feel that it would be wise to dispose of some of this rubber, maybe, and any other items which are not needed in the quantities in which they exist today?

Mr. FLEMMING. Senator Thurmond, as far as rubber is concerned, I always recognized that it is kind of a special case because of this factor of deterioration to which you have referred.

I have noticed, of course, that the executive branch back in 1960 did recommend to the Congress a disposal program for rubber. This recommendation was made in strict compliance with the provisions of the Stockpiling Act.

The Congress did have the opportunity of getting everything on top of the table, examining the situation very carefully, and making up its own mind as to whether or not it desired to approve such a program.

I would be the last to substitute my judgment for the judgment of the Congress on that particular point.

In response to your earlier question, the thing that I feel is very important is that there be no disposal of materials in the stockpile unless and until the Congress of the United States has the opportunity of passing on a specific program for their disposal.

Now, having said that, and having made the comment on rubber, which I recognize is in a somewhat different category than the other materials, I would refer to what I said back in 1956 in response to a question addressed to me by Congressman Vanik of the State of Ohio at a hearing of the House Banking and Currency Committee.

As I recall it, at that time the House committee had under consideration an extension of the Defense Production Act. Congressman Vanik was talking with me about the very matter that is under discussion here, the deferral of copper, and he asked me whether or not I thought there should be a change in the Stockpiling Act so as to permit sales from the stockpile.

I indicated just as emphatically as I could that I did not feel that there should be a change in the law; that I felt that the executive branch should never be given the power to, in effect, play with the market.

And I pointed out to him that there was a procedure set forth in the law under which the executive branch could come to the Congress under special circumstances and ask the Congress to authorize a program.

And I said then that I felt that the Congress in inserting that provision in 1946 followed sound public policy. I said in 1956 that I felt that it was still sound public policy. And I still feel today that it is sound public policy, and I would not advocate or recommend any change in that provision of the law.

Senator THURMOND. During the time that you were Director of Defense Mobilization, do you know of any instance in which there was Government trading in strategic and critical materials to manipulate the materials and metal markets of the country and of the world?

Mr. FLEMMING. This was the thing that I tried to avoid at all times. Now, of course, the Government has an impact on the market when it goes in to purchase, either for the stockpile or in connection with the Defense Production Act authority. But, as I indicated in my opening statement, I always resisted any suggestion that the Government should get into the business of selling in order to reap a profit because of the market condition at a particular time.

This, it seems to me, Government should not do, because when it does, it immediately becomes a trader in the market along with others, and with the power that is inherent in Government, it seems to me that that is a very dangerous procedure.

Senator THURMOND. Your thinking was that the Government should not participate in the trading in the market except to purchase, because it could influence the prices?

Mr. FLEMMING. That is correct.

Senator THURMOND. And it would be detrimental to the economy?

Mr. FLEMMING. That is correct.

Senator THURMOND. Is that not your thinking?

Mr. FLEMMING. That is definitely it, Senator Thurmond. I felt that then and I still feel it, and I feel that we should try to draw just as sharp a line as we possibly can, and not cross over it.

Senator THURMOND. Of course, in items such as rubber, Doctor, that does deteriorate——

Mr. FLEMMING. Yes.

Senator THURMOND (continuing). It would be well not to retain that too long, would it not? Would it not be well to keep it a reasonable time and dispose of it, and then, if necessary, purchase more rubber?

Mr. FLEMMING. That is right.

Senator THURMOND. Otherwise, you would have a great loss to the Government in such item.

Mr. FLEMMING. That is correct.

And, of course, from the very beginning of the stockpiling program in the area of rubber, provision was made for rotation in order to guard against this development which you have identified.

I noted after I was out of the office that, I think in 1959, the Congress, through language in an appropriation bill, both authorized and directed that when the rubber was sold for rotating purposes, that it from that point on should not be replaced. That, of course, constituted the beginning of the Government's disposal program in the rubber area.

Senator THURMOND. Dr. Flemming, during the time that you were Director of Defense Mobilization, do you know of any policies that were pursued that would be calculated to permit individuals to profit at the expense of the Government?

Mr. FLEMMING. I do not.

I appreciate that that question can be related to the policy that I followed of deferring instead of permitting General Services Administration to receive and then sell at a higher price.

But I do not think that that constituted profiting at the expense of the Government, because, in my judgment, the Government got what it had gone into the market to get, and that was materials for the stockpile.

The time of delivery was deferred, but it did get what it went into the market to get, and I do not think that the Government ought to go into the materials market in order to get a profit, because it then becomes a trader.

Senator THURMOND. Doctor, during your service, do you know of any instance or any case where individuals did take advantage of the situation and profit at the expense of the Government?

Mr. FLEMMING. I do not recall any. Your question was general, and my reply is a general reply. I certainly did everything to prevent that.

Senator THURMOND. What changes would you now recommend, if any, in the law?

Did you say you think the present law is sound or that you would recommend some changes?

Mr. FLEMMING. I concur in the provisions of the law as it stands at the present time. I am talking now about the Stockpiling Act.

Senator THURMOND. That is all, Mr. Chairman.

Senator SYMINGTON. Senator Beall?

Senator BEALL. I have no questions at this time, Mr. Chairman.

Mr. Chairman, I would like to make a suggestion, though, if I may, that when the counsel—and I have no objection to counsel asking any questions—when he refers to any specific minutes conducted in the periods 1954 to 1957, that copies of the minutes be given to the witness so that he can refresh his memory before he testifies.

It just seems that none of us can remember what went on 5, 6, 7 or 8 years ago.

Senator SYMINGTON. That is a good request. I might add, so the Senator understands, we endeavored, as I am sure Dr. Flemming would agree, to accommodate ourselves to him.

He lives a long way away from here. He was very busy, and did not have a chance himself to come here and go over the records. We postponed these hearings in order to accommodate his coming today.

In getting started we want to be sure he has access to anything and everything that comes up for discussion before the committee.

Senator BEALL. Good.

Senator SYMINGTON. That was one of the reasons I felt——

Senator BEALL. I was just referring to the minutes. If he is going to ask questions from the minutes, none of us could ever remember that.

Senator SYMINGTON. Now that Dr. Flemming is here, he can see anything in the way of the minutes of the past he wants to look at. I believe you came to town last night or yesterday, sir, is that correct?

Mr. FLEMMING. No, I was here Monday, yesterday.

Senator SYMINGTON. Oh, were you?

Mr. FLEMMING. Yes.

I had opportunity to look at some of the files, and I may say, I would like to say that the counsel and the Director of the Office of Emergency Planning have both been very cooperative in working with me on this.

Senator SYMINGTON. Thank you.

Mr. FLEMMING. As the chairman and members of the committee appreciate, apparently it is not the easiest thing in the world to assemble all of the files immediately.

We all understand that, the problems the Government has along that line.

Senator SYMINGTON. We understand.

We will do the best we can to cooperate with you in every way.

Senator Cannon?

Senator CANNON. Thank you, Mr. Chairman.

Doctor, just prior to counsel's time expiring you were reading from a letter, I believe, dated October 13, and you referred to 17,000 tons, if I recall.

Would you restate that particular provision?

Mr. FLEMMING. Yes.

That was the letter of October 15, which I addressed to Mr. Mansure, who was at that time the Administrator of the General Services Administration.

The paragraph to which you refer reads, as follows:

> You are hereby authorized to sell at U.S. market prices, plus handling charges, the approximately 17,500 tons of copper which have been accumulated under the Defense Production Act. It is intended that the copper be used by consuming industries in the United States.

That was copper that had accumulated in the Defense Production Act inventory, and had not been transferred to the stockpile, and, consequently, we authorized him to take what had been accumulated and sell it.

Senator CANNON. But, of course, that was at a time that it could have properly been transferred to the stockpile, was it not?

Mr. FLEMMING. We could have transferred it to the stockpile, but that represented a decision that, as of that particular time, the interests of national defense would be served best by making it available to the economy.

We had in mind, of course, not only the normal needs of the economy, but the very heavy demands of the defense production industries at that time.

Senator CANNON. And this was approximately 2 weeks after the new objective for the inventory had been established at 3.5 million tons, which was the highest it was ever established, is that correct?

Mr. FLEMMING. That is correct, Senator Cannon.

I think I should say, in that connection, that that was what was referred to as the long-term stockpile objective. The minimum objective was still approximately 1.6 million.

Senator CANNON. But at that time we did not have even the minimum objectives met, did we?

Mr. FLEMMING. At that time, no.

We had approximately 860,000.

The counsel put in a slightly different figure. Mine is as of December 31, 1954, we had 860,691.

Senator CANNON. Which was still less than our minimum objective?

Mr. FLEMMING. That is right.

It was only a little better than half of our minimum objective.

Senator CANNON. I do not quite reconcile that action, Doctor, with your policy as stated commencing on page 13, where you indicate that you are very strongly opposed to permitting acquiring of copper at a price and then selling it at the market price, indicating that the market price might be higher.

Now, is not your letter exactly in conflict with the policy that you state commencing on page 13?

Mr. FLEMMING. I do not think so, Senator Cannon, because the supply to which I was referring in my first letter to the Administrator of the General Services Administration had already come into the Defense Production Act inventory.

I do not know how long it had been there. This is something, of course, that we could find out.

But it was already there, and we simply decided that under the Stockpiling Act, really, that it was not in excess of the needs of the industry, and, therefore, should be made available rather than put into the stockpile.

Now, as far as the other proposition that was put before me, the proposition was:

Look, we are deciding now that the Government should not acquire copper at this particular time with the idea of putting it in the stockpile. We are deciding that in the interests of national defense the copper should be made available to the industrial economy or to the economy generally.

And the suggestion was made to me, as I said in my testimony, that in order to accomplish this as far as the Defense Production Act material was concerned, that we should take it into the inventory, sell it back at the market.

I felt that it was much better to let it go right into the economy without the Government intervening at all, but with the understanding that at a later date the supply contracted for would be made available.

Senator CANNON. This actually did have the effect of placing the Government in a position of trading in strategic and critical materials, did it not?

Mr. FLEMMING. Which? The action taken in October 1954?

Senator CANNON. Yes, set forth in your letter of October 15, permitting the sale of 17,000 tons.

Mr. FLEMMING. It seemed to me that we were certainly making available to the market some copper that we had, which we had acquired over a period of time in the Defense Production Act inventory.

But we were making it available because of a serious shortage. We were making it available not for the purpose of getting a profit, but we were making it available because of a serious shortage which we felt impinged on the national defense operation.

The other kind of an operation that was suggested to me was an operation that it was suggested that we go through solely for the purpose of making a profit, and this is what I rejected.

The decision that I made on this 17,500 was the decision that we had this copper, national defense required it, make it available.

I had no thought at all as to what that might or might not represent in the way of a profit. I had just one objective in mind, and that was to strengthen our defense program.

Senator CANNON. You indicate in your policy that you did not want to get involved in allowing the prevailing market price to have any determination insofar as the Government was concerned.

In this particular instance you were very specific that it was to be sold at the prevailing market price, and not necessarily related to the cost to the Government?

Mr. FLEMMING. This was a basic policy that was followed. Whenever supplies of any material were made available from the inventory, materials that were already in the inventory, those materials were made available at market price, which it seemed to me to be perfectly valid. I did not see any justification for making it available at less than market price.

It seemed to me that it made good sense just to make them available at the market price, that is all, whatever that market price might be, at the time that a need was established for it.

Senator CANNON. Was there a profit to the Government, do you know, in the sale of the 17,000 tons at the market price?

Mr. FLEMMING. This, I do not know.

Senator CANNON. And if there were, would you say that this would place the Government in the company of those whom you criticized who were buying and selling in order to obtain a profit?

Mr. FLEMMING. I would not, because we did not sell in order to obtain a profit. We sold in order to strengthen the defense mobilization program.

If somebody had come to me and said: "Look, we have got 17,500 tons of copper here; if we sell it today, we will make a profit"—and stop right there, I would have said:

"Nothing doing. That puts the Government in the business of trading in these materials and I am opposed to it."

But because there was a factual case made to the effect that our supply-demand situation was serious, and it was having a serious impact on defense production, as well as other types of production, I authorized its sale.

And I was not concerned about whether there was a profit there or there was not a profit. I would not have cared whether we sold it at a loss at that particular time.

As I see it, as one who was responsible for the defense mobilization program, I was not charged with the responsibility of, in effect, playing the market in order to get a profit for the Government.

I was charged with doing the things that needed to be done in order to strengthen our defense mobilization base.

Senator CANNON. Were there other sales of copper had to meet these critical defense requirements that you referred to, or was the need met by the deferral program which you undertook, other than these 17,000 tons?

Mr. FLEMMING. Over the period from the second quarter of 1954, I mean the fourth quarter of 1954 to the second quarter of 1956, as I indicated in my testimony, there were three types of actions: One was deferral of copper that had been headed for the stockpile.

The second was cancellation of three contracts that had been headed for the Defense Production Act inventory.

And then, third, the deferral of copper that was headed for the Defense Production Act inventory.

As I indicated, back in May 28, 1955, I think, the action taken in respect to the second category; namely, cancellation, was a mistake, and I so stated publicly at that time and issued instructions to the General Services Administration to make sure that that mistake would not be repeated.

Senator CANNON. Yes. But in your testimony you did not refer to whether or not there were sales actually made. Now, so far as I know, this is the only sale.

My question to you is: Were there other sales at this particular time?

Mr. FLEMMING. Oh, you mean from the Defense Production Act inventory?

Senator CANNON. Yes, from the inventory.

Mr. FLEMMING. This I would have to check on.

Senator CANNON. Will you check that and supply that for the record?

Mr. FLEMMING. I will be very happy to.

Senator CANNON. Thank you very much, Mr. Chairman.

Senator SYMINGTON. Dr. Flemming, I am interested in your statements about the present law.

Do you think that the administration made a mistake in declassifying the stockpile?

Mr. FLEMMING. You mean in declassifying—as I understand it, two things have been declassified:

(1) The stockpile objective, and

(2) The status of the stockpile.

Senator SYMINGTON. The national stockpile has been declassified. The objectives have been declassified. The DPA and the supplemental stockpile were already declassified.

Do you think the national stockpile should not have been declassified?

Mr. FLEMMING. I agree with the action taken by Mr. McDermott.

Senator SYMINGTON. Thank you.

Now, the next question is: You say you do not think any disposal should be made without congressional approval.

As you know, in many cases we have large quantities in the DPA stockpile of the same materials we have in the national stockpile.

Following the logic of your thought, do you believe we should pass a law now that nothing from the DPA inventory should be disposed of without congressional approval?

Mr. FLEMMING. Mr. Chairman, I do not know as a matter of fact that we have large quantities in the Defense Production Act inventory, but if it has been permitted to build up to that point——

Senator SYMINGTON. Assuming we do have, do you think those should not be disposed of without congressional approval?

Mr. FLEMMING. Mr. Chairman, the 1953 amendments to the Defense Production Act made it very easy to transfer materials from the Defense Production Act inventory to the stockpile.

Senator SYMINGTON. I understand.

Mr. FLEMMING. And I feel that that is what should be done with the materials in the Defense Production Act inventory.

Senator SYMINGTON. Well, assuming it could not be done, would you like to see the DPA stockpile sold, if at all, only with the approval, and 6-month wait, of the Congress?

Mr. FLEMMING. If the facts are as you have stated, that large quantities have been permitted to accumulate in the Defense Production Act inventory, then I do not think that the Government should start dumping that material without getting the approval of the Congress.

Senator SYMINGTON. Thank you.

Now, I notice you stated in your prepared statement—I want to read it more carefully, as it is an interesting and constructive statement—you say you want to keep away from any trading in materials, and are not interested in profit; and you also say the national stockpile could not be disposed of, actually would violate the law, as I

remember your testimony, to dispose of the national stockpile without first presenting it to the Congress for approval. That was not true of the defense production stockpile, and there were six deferrals in the defense production stockpile. The companies, Appalachian Sulphide Co., Banner Mining Co., Copper Range Co., Howe Sound Co., International Nickel, Miami Copper, all were allowed to defer; and there were many thousands of tons of deferrals out of DPA contracts.

These copper contracts were not in the national stockpile.

When they deferred, the new price obtained by some of these companies gave them a 50-percent additional profit on their Government contracts.

Here is a company. The contract price was 27.5 cents. That is the company which wanted to buy out. The average price they received from the diverted copper was a great deal higher, 14.5 cents higher, so they made some 52 percent more profit through that diversion.

Now, if you are not interested in profit, and do not want to get into market manipulation, if it was necessary, as you mentioned, to get this copper out in the economy, why could you not just move the copper out of the stockpile at the contract figure it came in the stockpile, and then require the company in question to live up to its contract and not obtain a windfall profit by selling on the open market to private industry?

Mr. FLEMMING. Mr. Chairman, I want to make perfectly clear you were first talking about the Defense Production Act contracts, and then the latter part of your question relates to the stockpile.

Senator SYMINGTON. The contracts I am talking about here are all in the Defense Production Act.

Mr. FLEMMING. Your question relates to the Defense Production Act contracts?

Senator SYMINGTON. That is right.

Mr. FLEMMING. Not the stockpile contracts?

Senator SYMINGTON. That is right.

Mr. FLEMMING. Well, as you know——

Senator SYMINGTON. Both stockpiles are owned by the taxpayer. As you pointed out, you can put one into the other. Actually you could put the other into the one. It is a bit like three shells and which one is the pea under.

One of these stockpiles was classified, the other two were not, so the activities have been hard to follow. I agree with you. It is difficult to follow these transactions.

But it does occur to me that, inasmuch as you deferred six of the contracts under the defense production stockpile, which gave heavy additional profits to the companies in question, if you were not interested in profit, you could have simply released copper out of the stockpile and forced those companies to deliver to the stockpile at the prices they had previously contracted to deliver.

Now, I am only talking about the defense production stockpile, not the national stockpile.

Mr. FLEMMING. All right.

I think probably it helps me, Mr. Chairman, to refer to the Defense Production Act side of it as an inventory and then the National

Stockpiling Act as the stockpile. This always helped me to keep the two separate. But now let me address myself to your question.

Senator SYMINGTON. That is true. At the same time, both stockpiles are owned by the taxpayer?

Mr. FLEMMING. Yes.

Senator SYMINGTON. What would apply to one would apply to the other, if the premise was the Government owned the stockpile and wanted to do what was right, regardless of which particular stockpile, by paper or physical movement, a particular metal had been placed in.

Mr. FLEMMING. We all understand one another that, as far as the strategic and critical materials stockpile is concerned, that that could not be touched except under the procedure that is outlined in the stockpiling Act.

Senator SYMINGTON. But if I may respectfully say so, if, because of a shortage in the economy, you had come to the Congress and asked a waiver of the 6-month clause, I am sure you would have obtained that waiver if you had presented why it was important to move it.

As I read your philosophy, as you have expressed it, you do not believe it would be proper, even today, for anything to be sold out of the stockpile, regardless of the situation incident to the economy, unless you first applied to the Congress and then had a 6-month delay in decision?

Mr. FLEMMING. This is my firm belief.

Senator SYMINGTON. Thank you.

Mr. FLEMMING. That this is the policy to which we should adhere.

Senator SYMINGTON. I understand.

Mr. FLEMMING. Now, on the deferrals, as far as the Defense Production Act side of it is concerned, with the exception of the three situations where there were cancellations, as you indicate, all of the rest were deferrals.

My philosophy simply was this:

That the sole reason for the Government being in this operation was that it wanted this copper so that it could ultimately put it into the stockpile.

Now, as of the time that we made these decisions, we decided that we should not put any more material in the stockpile because of the supply-demand situation in the economy. And so, therefore, we said to these companies:

> Sell your total production for the time being to the economy, but with the understanding that at a later date you will supply us with what you contracted to supply us at the contract price specified in the arrangement that we made.

Senator SYMINGTON. Yes, I understand that.

Mr. FLEMMING. It seemed to me, Mr. Chairman, that if we had taken the other action, that we would simply have been telegraphing to the markets of this country and the world that we were pulling it into an inventory, and then pushing it back out again solely for the purpose of making a profit.

Senator SYMINGTON. You did not have to sell at the market price. If it was needed in the economy, actually you could have sold it at a loss.

Mr. FLEMMING. Yes, I know, but——

Senator SYMINGTON. Any transaction for the Government actually is not profit or loss——

Mr. FLEMMING. That is right.

Senator SYMINGTON (continuing). If you move it out of your stockpile and only charge a handling cost. There is no profit and loss involved in Government.

I can understand why you felt, based on your philosophy——

Mr. FLEMMING. Right.

Senator SYMINGTON (continuing). That the Government should not participate in any windfall profits these people were allowed through obtained deferral.

I do not happen to agree with you, but that is an honest disagreement.

Mr. FLEMMING. Right.

Senator SYMINGTON. On the other hand, the industry would have known just as much about your moving it out as they did when you deferred. If you had simply said, "We are going to make a deflationary, or an anti-inflationary move; the economy needs the copper; we are going to let the copper go out of our stockpile at the price we paid for it," thereby you would not permit some of these corporations—some small, some large—making a windfall profit.

I do not see the difference to the economy in doing it that way. I am not discussing at this time whether or not the Government should have participated in any of the heavy additional profits these companies made as a result of these deferrals.

Mr. FLEMMING. Senator Symington, your question really ties right back with the question that Senator Cannon asked earlier.

My feeling was that when we did sell from the inventory, we should always sell at market price.

Now, we would sell, not to make a profit, but because the needs of national defense required us to sell.

If we started to sell under the market, then certainly we would be influencing the market.

By doing that we would be helping to depress the market, and I do not think the Government should get in that business.

So I may have been wrong on this, but I always had the feeling that when we did decide to sell for national defense purposes, that we should sell always at the market.

Senator SYMINGTON. Under the DPA Act, you could not have sold under the market, but at least you could tend to drive the market down by selling instead of driving it up, by having copper supplied, in what was obviously a seller's market, on the outside.

I am sorry, Doctor, we have a live quorum.

Mr. FLEMMING. May I just say in response to that——

Senator SYMINGTON. Yes?

Mr. FLEMMING. I just do not feel that the Government should get into the business of driving the market down.

Senator SYMINGTON. I do not feel, either, that the Government should heavily support a few industrials to drive the market up.

Mr. FLEMMING. We did not do it for that purpose. We were supporting national defense.

Senator SYMINGTON. The fellow who really has to pay in the long run is the taxpayer. He puts up the money for the cost of these products, and it is a pretty heavy cost.

Current defense accounts for about 63 cents of the tax dollar.

So my only point is there were several different ways you could have handled this, as I see it, without giving a windfall profit to corporations.

Mr. FLEMMING. I have tried to outline here in my statement my reasons for following the policy which I did, and I appreciate that reasonable people can differ on this.

Senator SYMINGTON. That is right.

Mr. FLEMMING. But I did have a very firm conviction that this was the best way to handle it.

Senator SYMINGTON. I am sure you handled it exactly in accordance with your convictions.

I am sorry, we have a live quorum. We work against the bells here and now have to go over to the floor.

If convenient to you, we will recess until 2:30.

(Whereupon, at 12:15 p.m., the hearing was adjourned, to reconvene at 2:30 p.m., of the same day.)

AFTERNOON SESSION

Senator SYMINGTON. The hearing will come to order.

Mr. McCue, will you see that all Senators' offices are notified that we are going to have this hearing, because an hour ago on the floor all hearings were objected to. Apparently this has been changed. Let the Members' offices know that the objection was withdrawn, please.

Mr. Counsel, will you proceed?

Mr. COBURN. Thank you, Mr. Chairman.

TESTIMONY OF ARTHUR S. FLEMMING—Resumed

Mr. COBURN. Dr. Flemming, I want to start off this afternoon by asking you about this diversion letter that you wrote to GSA dated October 15, 1954, and you might refer to that if you have a copy.

Mr. FLEMMING. All right, sir.

Mr. COBURN. Now, before I ask you anything with reference to that letter, may I say that at this time the price of copper was 30 cents a pound and that of the six Defense Production Act contracts for the purchase of copper, the purchase prices ranged from a low of 27 cents to a high of 32 cents, subject to some minor adjustments, I think. And in the case of the stockpile contracts, seven of those nine contracts were for fixed prices ranging from 30 cents to 32 cents a pound. Two of them were for market price—were market price contracts.

All right, now, Dr. Flemming, this letter of yours of October 15, 1954, to Dr. Mansure, the Administrator of GSA, authorized the sale of the 17,500 tons of copper that had accumulated in the Defense Production Act inventory, did it not?

Mr. FLEMMING. That is correct.

Mr. COBURN. Then in addition to that, it authorized the General Services Administration to arrange with the contractors for the deferral of the 9,000 tons of copper to be delivered during the month of

October, so that the amounts would be delivered to the stockpile on June 30, 1955; is that right?

Mr. FLEMMING. That is correct.

Mr. COBURN. The purpose, of course, being to allow the suppliers or the contractors to sell that amount of copper directly to industry, is that right?

Mr. FLEMMING. That is right.

Mr. COBURN. Now, I am not clear from the way this letter of yours reads, whether it was intended that this diversion would apply to both stockpile deliveries and DPA contract deliveries or whether it was to apply only to stockpile, or perhaps only to Defense Production Act contracts.

Mr. FLEMMING. Mr. Coburn, the last part reads:

> In addition, you are also authorized to arrange for the deferral of the approximately 9,000 tons which were scheduled for delivery to the stockpile during the month of October.

This would be the strategic and critical materials stockpile.

Mr. COBURN. It would not include any Defense Production Act inventories?

Mr. FLEMMING. No, sir; that paragraph does not constitute any authority to defer anything scheduled for delivery under Defense Production Act contracts. The only thing the letter does on Defense Production Act is to, as you indicate, authorize the sale of material that was already in the inventory.

Mr. COBURN. Well, if you were trying to get as much copper to the consumers as possible, why did you not provide for the sale of the copper in the Defense Production Act inventory that the Government already had and not provide for the deferral of the deliveries under the Defense Production Act contract?

Mr. FLEMMING. I do not know what the answer to that is. There is nothing that I have read in the files up to the present time that would give me any basis for answering the question. Just looking here, I see the next communication, which was just a couple of weeks after that——

Mr. COBURN. I will get to that in a moment, yes; although you can read it now if you would like.

Mr. FLEMMING. Well, I do not need to read it. I was just looking at it. This covers the entire—I mean that it does cover both, apparently, the stockpile and the Defense Production Act inventory.

Mr. COBURN. Well, it seemed to me logical that as long as you were selling copper from the Defense Production Act inventory that you would go ahead and defer copper that was scheduled for delivery to the inventory during October.

Mr. FLEMMING. Well, I think your deduction is a logical one. I just do not know what the answer to that is. It may have been some special circumstances surrounding it, I don't know.

Mr. COBURN. All right. I see.

Mr. FLEMMING. But as you know, from there on out, apparently we did move over into both what was scheduled for the DPA inventory and what we scheduled for the stockpile.

Mr. COBURN. At any rate, this particular directive covering the month of October 1954 seems to be directed to deliveries to the stockpile, does it not?

Mr. FLEMMING. I concur in your interpretation, because it says definitely 9,000 tons which were scheduled for delivery to the stockpile.

Now, this morning, that word was used interchangeably as between the strategic materials stockpile and the materials brought in under the Defense Production Act contracts.

As I indicated, I think it was customary within the executive branch, when you referred to the stockpile, to understand that that meant materials that had been delivered under the Strategic and Critical Materials Stockpile Act.

Then when we were referring to materials that had come to the Government under Defense Production Act contracts, we referred to material that was in the DPA inventory.

So just reading this and interpreting it without the benefit of any backup papers at the moment, I would agree with your interpretation that it was restricted to the material scheduled for delivery to the strategic and critical materials stockpile.

Mr. COBURN. All right. Now, will you take your second diversion letter, if you will, please, of October 29, 1954.

Mr. FLEMMING. This is the one addressed to Mr. Mansure?

Mr. COBURN. Yes, sir.

There as I read the letter, you authorize GSA to permit the suppliers of copper, under contract to the Government, who were obliged to deliver copper to the Government during the months of November and December of 1954, to make the copper available to consumers in the United States.

Is that right?

Mr. FLEMMING. That is right.

Mr. COBURN. And arrangements should be made for the suppliers to defer the delivery of this copper until not later than December 31, 1955.

Mr. FLEMMING. Correct.

Mr. COBURN. Now, I notice here that this contract says, refers to the delivery of copper to the Government. It does not refer to either the stockpile or the Defense Production Act inventory. What was the meaning of this letter?

Mr. FLEMMING. I would definitely interpret that to mean delivery of copper to the Government under either stockpiling contracts or Defense Production Act contracts.

Mr. COBURN. Or both?

Mr. FLEMMING. Well, yes; that is right.

Mr. COBURN. All right.

Now, Dr. Flemming, did you have a man who acted as—was—your assistant director, ODM at this time, by the name of W. S. Floyd?

Mr. FLEMMING. Yes.

Mr. COBURN. How long was he the Assistant Director of ODM?

Mr. FLEMMING. I do not recall.

Mr. COBURN. Some years while you were director?

Mr. FLEMMING. He was there while I was Director, but I don't recall when he started or when he finished. I would have to refer to the records on that.

Mr. COBURN. You had deferred these copper deliveries during the last quarter of 1954. What was your own feeling about the success

of the operation? At the conclusion, we will say, of the first quarter of deferrals.

Mr. FLEMMING. Well, it was clear that we were still faced with a shortage of copper in the economy generally. But certainly I felt that whatever we had been able to make available during the fourth quarter of 1954 had contributed to, let's say, an improvement of the situation over what it would have been if we had not made it available. But we were still involved in a very tight supply-demand situation.

Mr. COBURN. At the end of 1954?

Mr. FLEMMING. Yes, sir.

Mr. COBURN. Did you talk with Mr. Floyd about this problem on a good many occasions at this time?

Mr. FLEMMING. Well, he was my Assistant Director in this area, so that I certainly did, I mean as I would anybody that was in that position in this area.

Mr. COBURN. Was there any disagreement between him and you, we will say, by the end of 1954 on the subject of deferrals?

Mr. FLEMMING. I do not know whether there was or not.

Mr. COBURN. Well, would not you have read it if there was?

Mr. FLEMMING. No, I have no recollection one way or the other. I would not be surprised, Mr. Coburn, if at times we disagreed. As an administrator, I am accustomed to having people around the staff disagree from time to time. I listen to them, I listen to others who have another opinion, and then I make the decision and assume complete responsibility for the decision.

Mr. COBURN. I am sure we realize there were disagreements, but I wonder if you remember about one.

Mr. FLEMMING. Not that one. I might look at the files and refresh my memory on that point, but I have no particular recollection.

Mr. COBURN. I have a letter here from Mr. W. S. Floyd, Assistant Director of ODM, to Dr. Arthur S. Flemming, dated January 31, 1955, on the subject of the deferrals of copper which I would like to introduce into the record.

Senator SYMINGTON. Without objection.

(The letter referred to is as follows:)

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
Washington, D.C., January 31, 1955.

Memorandum to Dr. Arthur S. Flemming, Director.
Subject: BDSA request for release of copper.

A letter I have received from Mr. Honeywell, Director of the Business and Defense Services Administration, Commerce Department, requests that the ODM release to industry the stocks of copper in the DPA inventory and authorize deferment of deliveries by suppliers to Government account during the first quarter of 1955. This proposal would parallel, in part at least, the action taken in the fourth quarter of 1954. Although it is not mentioned in Mr. Honeywell's letter, it is our understanding that in the event further diversion is authorized, the Commerce Department will be willing to again police the distribution. Our review of this request has developed certain important reasons why we do not favor release of copper at this time. A brief rundown of these points is as follows:

1. The minimum stockpile is one-half complete and is presently insufficient to cover the estimated 5-year mobilization deficit. Copper deliveries to the stockpile are far behind schedule.

2. The potential availability of copper for distribution in the remainder of the current quarter is small, amounting to only 26,000 tons including (*a*) DPA inventories, (*b*) copper for which shipping instructions have been issued, and

(c) estimated deliveries in February and March. Of this amount, Canada is responsible for 6,750 tons in February and March. It is probable that if deferment is authorized, Canadian suppliers will insist, as in the fourth quarter, that part of the Canadian copper be diverted to Canadian consumers. Of the part originating in the United States, one of the principal suppliers for February delivery did not cooperate in the fourth quarter. Consequently, BDSA required him to ship to the stockpile. His schedule for delivery is over 5,500 tons for February when his contract ends. It therefore appears that the available supply through March might be only about 20,000 tons instead of the 26,000 tons indicated above or the 30,000 tons mentioned in Mr. Honeywell's letter.

3. Mr. Honeywell's letter was written before the domestic price of copper was increased from 30 to 33 cents per pound. Pressure from this source might therefore be relieved, especially since it appears that part of the demand for Government copper was based on the apprehension starting with the African strike, that the U.S. price of copper would rise.

4. The current problem, like that of the fourth quarter, derives basically from the failure of the copper industry to maintain adequate inventories. Release of copper again would encourage a continuation of this practice.

5. The fourth quarter releases were accompanied by inventory accumulation. During November, fabricators' stocks rose by 4,528 tons and in December by 25,211 tons. During the same 2 months, producers' stocks increased by 3,804 and 10,014 tons, respectively. Thus U.S. producer and consumer stocks increased a total of 43,557 tons, a greater amount than the 39,000 tons released to U.S. fabricators.

6. Export licensing increased substantially during the period of diversions of the fourth quarter.

7. European export of bare copper wire to the Soviet bloc is substantial and is siphoning off supplies from the free world countries, thus widening the gap between supply and demand of copper, especially in the London market.

8. Much of the current pressure derives from the price of copper on the London Metal Exchange, which is now about 40 cents per pound. The British market is a thin one and therefore highly subject to wide price movements.

9. The Government is already providing substantial assistance to the copper industry through the expansion program. All the copper being produced under Government floor-price contracts is already going to industry. In 1954 this amounted to about 75,000 tons and is expected to rise to 190,000 tons in 1955.

10. Deferments would be more difficult than in the fourth quarter because the obligation to restore copper would be superimposed on the obligations for restoration incurred in the fourth quarter. An authorization probably would therefore require either outright cancellation or extended deferment.

W. S. FLOYD,
Assistant Director of ODM for Materials.

Mr. COBURN. I would like to read parts of this memorandum. It is fairly long and I am only going to read parts that are pertinent. I am sorry I do not have a copy to provide you with, Dr. Flemming.

Senator SYMINGTON. Doctor, would you rather look at it before he reads it?

Mr. COBURN. You may, if you want.

Mr. FLEMMING. I would like to have the opportunity of looking at it, certainly.

Mr. COBURN. I have no other copies, so you may look at it if you want.

Mr. FLEMMING. Thank you very much.

Mr. COBURN. You are welcome, indeed.

Mr. Chairman, I would like to, now that the witness has had a chance to look at this memorandum, I would like to read from this memorandum as follows:

Subject: BDSA request for release of copper.

A letter I have received from Mr. Honeywell, Director of the Business and Defense Services Administration, Commerce Department, requests that the

ODM release to industry the stocks of copper in the DPA inventory and authorize deferment of deliveries by suppliers to Government account during the first quarter of 1955. This proposal would parallel, in part at least, the action taken in the fourth quarter of 1954. Although it is not mentioned in Mr. Honeywell's letter, it is our understanding that in the event further diversion is authorized, the Commerce Department will be willing to again release the distribution. Our review of this request has developed certain important reasons why we do not favor release of copper at this time. A brief rundown of these points is as follows:

And there then follow, Mr. Chairman, 10 points. I will read from all but two or three.

1. The minimum stockpile is one-half complete and is presently insufficient to cover the estimated 5-year mobilization deficit. Copper deliveries to the stockpile are far behind schedule.

4. The current problem like that of the fourth quarter derives basically from the failure of the copper industry to maintain adequate inventories. Release of copper again would encourage a continuation of this practice.

5. The fourth quarter releases were accompanied by inventory accumulation. During November, fabricators' stocks rose by 4,528 tons and in December by 25,211 tons. During the same 2 months, producers' stocks increased by 3,804 and 10,014 tons, respectively. Thus U.S. producer and consumer stocks increased a total of 43,557 tons, a greater amount than the 39,000 tons released to the U.S. fabricators.

6. Export licensing increased substantially during the period of diversions in the fourth quarter.

7. European export of bare copper wire to the Soviet bloc is substantial and is siphoning off supplies to the free world countries, thus widening the gap between supply and demand of copper, especially in the London market.

9. The Government is already providing substantial assistance to the copper industry through the expansion program. All the copper being produced under the Government floor price contracts is already going into industry. In 1954 this amounted to about 75,000 tons and is expected to rise to 190,000 tons in 1955.

10. Deferments would be more difficult than in the fourth quarter, because the obligation to restore copper would be superimposed on the obligations for restoration incurred in the fourth quarter, and authorization would therefore probably require either outright cancellation or extended deferment.

W. S. FLOYD,
Assistant Director, ODM, for Materials.

Mr. COBURN. Do you remember reading this letter at any time, Dr. Flemming?

Mr. FLEMMING. I assume that I did read it.

I certainly operated in such a way that a communication of that kind would have been called to my attention. I probably did read it and consider it.

Mr. COBURN. Do you recall whether you agreed with it at that time?

Mr. FLEMMING. It is clear that I didn't.

Mr. COBURN. This was in the latter part of January 1955.

Mr. FLEMMING. That is right.

Mr. Coburn, I would like to say this, that it is clear that on a matter of this kind, you are going to have conflicting points of view presented to you. This is why I developed a procedure that would be designed to provide me with points of view on both sides of an issue of this kind. This is why I always required, first of all, a formal finding relative to the supply-demand situation from the Department of Commerce. This is why I always put this issue on the agenda of a Defense Mobilization Board meeting. This is something I was not

required to do, but I regarded it as protection so that I could have the benefit of listening to various points of view.

It is clear that at this particular time, there were various points of view and it is clear where I came out. I decided that additional deferrals were called for.

Senator SYMINGTON. Excuse me; additional deferrals were what?

Mr. FLEMMING. Were called for. That we should make additional deferrals.

Now, Mr. Coburn, if I may, the Joint Committee on Defense Production, after 1955, had the opportunity of looking at what happened in 1955 and in their report covering the year 1955 they had this to say:

> The available supply of copper for domestic consumption has been short during the past year. In order to relieve the shortages that have prevailed and to assure that essential defense programs would not be interrupted due to an inadequate supply, most of the copper scheduled for delivery to the Government under the National Stockpiling Act and the Defense Production Act during the period has been diverted to industrial users.

They then go on in detail into the amounts that were diverted during that period of time. They concluded that this was done in order to relieve the shortages that prevailed during 1955 and in order to assure during 1955 that essential defense programs would not be interrupted.

When I made the decisions I made, I made them in the belief that by making them, I would be contributing to a relief or to relieving the shortages and that I would be contributing to a result that would assure that essential defense programs would not be interrupted. Apparently, my judgment at that particular point was borne out by the facts, because what I am reading here now is history, not a projection into the future.

Mr. COBURN. Doctor, you did not have that committee report before you when you decided to make your deferrals in 1955, did you?

Mr. FLEMMING. Well, of course not. This committee report was a review of what happened in 1955.

Mr. COBURN. I am only asking you if you had it before you at the time. You did not, did you?

Mr. FLEMMING. Obviously I could not have.

Mr. COBURN. But you did have this report from your Assistant Director, did you not?

Mr. FLEMMING. Of course I did.

Mr. COBURN. Did you have reports from anybody else in your organization or any other department of the Government that supported deferrals? I am merely trying to find out what was the cause of the deferral, the thinking.

Mr. FLEMMING. It is clear that the Defense Mobilization Board did recommend deferrals, so that I had the recommendation of the Defense Mobilization Board in front of me and I decided to accept that recommendation and authorize the deferrals. My point is that the facts bore out the soundness of that decision. I mean developments bore out the soundness of that decision.

Mr. COBURN. Well, Dr. Flemming, if it is a fact as your deputy reported here that during the fourth quarter of 1954 there was a surplus of copper in industries, deferrals may not have been as required as you thought they were when you ordered them; is that right?

Mr. FLEMMING. I am not sure I would draw that conclusion. I think you have to get down underneath that statement and find out who was accumulating the inventory and why.

Mr. COBURN. It certainly is a very pertinent point, is it not?

Mr. FLEMMING. It is relevant and certainly should have been weighed, but it is certainly not controlling.

Mr. COBURN. And also the fact that export licensing of copper increased during the last quarter of 1954 was an arresting factor, was it not?

Mr. FLEMMING. It was a relevant factor.

Mr. COBURN. I am especially interested here in this last point made by Mr. Floyd in his memorandum.

> Deferments would be more difficult than in the fourth quarter, because the obligations to deliver copper would be superimposed upon the obligations for restoration incurred in the fourth quarter. Authorization would therefore require either outright cancellation or deferments.

That is exactly what happened, is it not?

Mr. FLEMMING. Mr. Coburn, as you know from the record, we deferred for short periods of time and then deferred further when we felt that the facts justified that and it was not until 1956, the latter part of 1956, that we were able to work out a schedule for delivery of the quantities that had been deferred.

Mr. COBURN. Well, what Mr. Floyd predicted here is exactly what happened; that is to say, that as you went along with this deferral program, you found the contractors under a double obligation, to perform their current deliveries and their deferred deliveries at the same time and they weren't able to do it, were they?

Mr. FLEMMING. No; not until the latter part of 1956. In other words, in order not to throw the supply-demand situation completely out of kilter, it was necessary for us to continue to defer, or I think you have used the expression, redefer, until the latter part of 1956. At that time, the supply-demand situation came into balance; that is, during the second quarter, we were able to work out schedules for the delivery of the items that had been deferred and as a result the material did find its way back to the Government.

Mr. COBURN. Not all the material, did it? You lost some by cancellation simply because they could not perform.

Mr. FLEMMING. That is correct; because they had a contract that entitled them to cancel contracts entered into in 1951, 1952, and so on, and those were binding contracts.

Mr. COBURN. In some instances, you allowed them to get off their obligation because they could not perform, did you not, whether they had a right to or not?

Mr. FLEMMING. I think here we had better discuss specific contracts, because this situation varied from one contract to another.

Mr. COBURN. Well, I do not—excuse me.

Mr. FLEMMING. I would like to sum up the issue which you have raised by putting Mr. Floyd's memorandum into the file. He stated a point of view which I considered along with other points of view. I decided on the basis of facts before me that the best contribution we could make to the economy and to the defense production program was to authorize deferrals. It was my contention that when it was possible for a joint congressional committee to look back on what hap-

pened in 1955, that they stated facts which justify the decision which was arrived at as far as I am concerned.

Mr. COBURN. Now, Dr. Flemming, we have the benefit of Mr. Floyd's point of view which was against deferrals. Who was it that you consulted with on this subject that expressed an opinion in favor of deferrals?

Mr. FLEMMING. I told you that I consulted with the Defense Mobilization Board and the Defense Mobilization Board recommended that the deferrals take place.

Mr. COBURN. Did you simply rely entirely on their recommendation?

Mr. FLEMMING. I do not know whether I did or not. I mean I can't remember this particular instance. I may have had conversations with other people, I may have had other memoranda in the file. Apparently I assumed that if a memorandum had been discovered in the file which took the opposite point of view, that would have been called to your attention also. I don't know whether such a memorandum exists or not.

Mr. COBURN. I ask you this: You have had an opportunity now to go through all the papers that we have had in the last few days. Did you find anything in the file to the contrary—that is, favoring deferrals?

Mr. FLEMMING. I didn't find anything in the file on this particular matter that we are talking about. I did not—I may have overlooked it, because I didn't get these files until yesterday afternoon and I may have overlooked it. But I didn't see Mr. Floyd's memorandum. But maybe it is here. I am not denying that a copy of it is here. It may very well be.

But I happened to be in a position where the files were finally made available yesterday afternoon, that is, on the copper situation. I was trying to complete a statement at the same time, so that I have only made a hurried examination of the file.

But I am not concerned about that. I stand on the fact that the Defense Mobilization Board made a recommendation. I considered their recommendation along with the kind of point of view that was expressed by Mr. Floyd, and I made a decision. I felt on the basis of the evidence that was before me at that time that it was a sound decision.

And I submit, Mr. Counsel, that later events demonstrated that it was a sound decision, because we accomplished the objective we wanted to accomplish, and that was to relieve shortages in the civilian economy and to assure that essential defense programs would not be interrupted. That was our objective. The record of the Joint Committee would indicate that we accomplished what we wanted to accomplish.

Senator CANNON. Mr. Chairman, will counsel yield?

Mr. COBURN. Yes.

Senator CANNON. In order that we might have the full picture before us, I wonder if it would be proper to ask the doctor if he would review the files and if there were written memorandums of a point of view supporting the position that he took, if we could have that submitted for the record, so that we might have the entire picture, because it would be unfair to have only half of the picture before us, if that is what we have.

Could you do that, Doctor, review the files, and if there are some written memorandums supporting the position that you took, submit that, copies for the record?

Mr. FLEMMING. I certainly would, Senator Cannon. In all probability, if I take a look at the complete folder of that particular meeting of the Defense Mobilization Board, I will find there a staff paper which probably summarizes both sides of this case and their lists who was giving expression to the conflicting points of view.

Then there will be a brief summary, anyhow, of the action taken or the recommendation made to me at the Defense Mobilization meeting.

Maybe, Mr. Counsel, did you introduce into the record the record of this particular Defense Mobilization Board meeting?

Mr. COBURN. Which one are you referring to, the 15 October 1954?

Mr. FLEMMING. No; the one where we would have passed on the issue to which Mr. Floyd was addressing himself. That would be in December, I think.

Mr. COBURN. There is one of March 30 that I am going to introduce, but I do not recall that every item you wrote a deferral letter, the Defense Mobilization Board authorized it. They did it on a quarterly basis.

Mr. FLEMMING. Yes; well, whenever I made a decision that would control for a quarter or a period of that kind, it is my recollection that in each instance, the Defense Mobilization Board did have an opportunity of discussing it and did make a recommendation.

But in any event, I will be glad to follow Senator Cannon's suggestion and the first opportunity I have I will ask for the folder dealing with this particular action and put it in.

Mr. COBURN. Very good.

Senator CASE. Mr. Chairman, what files are you talking about, the files of the Defense Mobilization Board?

Mr. FLEMMING. Yes.

Senator CASE. Who has custody of those at the present time?

Mr. COBURN. The Office of Emergency Procurement, Mr. Senator.

Senator CASE. Have they been reviewed by counsel or staff members?

Mr. COBURN. They were examined by us and turned over to Dr. Flemming for his testimony.

Senator CASE. When?

Mr. COBURN. I thought they were made available to you Monday. I did not know they were made available to you only yesterday afternoon. I thought you had an opportunity on Monday.

Mr. FLEMMING. Some of the information I called for was made available on Monday. That dealt with your letter request.

Senator SYMINGTON. I want to make one thing clear now as far as this hearing is concerned. There has been no effort on our part with respect to you or any other witness to deny you full access to all files. I thought we had gone out of our way to set these hearings up at your convenience instead of our convenience. We will have you back. In the meantime, we shall be sure to see that you have access to any file of any kind pertinent to this investigation.

I felt, and counsel felt you were having access to these files. The files are in the OEP, the agency you ran, and you shall have all right of access to them at your convenience.

Mr. FLEMMING. Mr. Chairman, I am sure that the record will show that I made no accusation to the contrary. I was about to indicate the procedure that I followed on this.

Senator SYMINGTON. I am not saying anybody made any accusations. I am distressed if you did not get what you wanted when you wanted it. Naturally, you have had some difficulty getting details because of where you live. I listened to Senator Case's request of the counsel, which is also my request to the committee, and I want to assure you and him that anything and everything that has to do with this problem is going to be made a matter of record. You should be able, as we have done our best to do so far today, to see everything and anything that comes into the testimony.

Senator CASE. I think the chairman has made an excellent statement. I think it will be helpful to us in the hearings.

Senator SYMINGTON. Thank you, Senator. I want to say to my friend from South Dakota that any time he feels this is not being done, I would feel it a privilege if he let us know.

Mr. FLEMMING. Mr. Chairman, I would like to make the record perfectly clear on that. I have no complaint to make. Life is a little bit complicated by the fact that I do have a job and that the job happens to be about 3,000 miles away from the city of Washington. But I came in and I talked with Mr. Coburn. Mr. Coburn indicates the area that the committee would like to review at this particular time. Then, on the basis of that, I framed a telegram to Mr. McDermott, the Administrator of OEP, with a copy to Mr. Coburn, requesting that I be provided with certain types of information. I followed that up with a second and third request, the second one growing out of the fact that I had had the opportunity of reading the transcript of the April 16 hearing, and the third one growing out of a request from Mr. Coburn. To my knowledge, the staff of the Office of Emergency Planning has gone way out of its way in an effort to comply with those requests.

Senator SYMINGTON. I appreciate your saying that, Doctor.

Mr. FLEMMING. I have absolutely no complaint to make.

Now, it is true, as a matter of fact, that the material relative to copper was not available until early yesterday afternoon, and because I was working on the statement I could not get at it until yesterday evening.

But that is not their fault. I mean they did their best to pull it together. I have had every indication from Mr. McDermott that anything I request along this line, he will be very happy to comply with.

So I appreciate the statement you have made, Mr. Chairman, but I just want to say that you have no problem insofar as the Administrator of OEP is concerned, because he is doing just exactly what you have indicated the committee would like to have him do.

Senator SYMINGTON. Thank you very much.

Now, as I get it, your assistant, Mr. Floyd, recommended against these continuing deferrals, but the Defense Mobilization Board recommended for them, and you made the decision against Mr. Floyd's position.

Mr. FLEMMING. That is correct.

Senator SYMINGTON. Could I ask—did you keep minutes of the Defense Mobilization Board?

Mr. FLEMMING. Yes, sir.

Senator SYMINGTON. Were those stenotype minutes or were they summary minutes?

Mr. FLEMMING. They were action minutes, Mr. Chairman, so in most instances all they contain is a statement of the recommendation made to me by the Director.

Sometimes they include some preliminary comments relative to the item, but then wind up with the recommendation that was made to me.

Senator SYMINGTON. When you say action minutes, would you show who were for deferrals?

Mr. FLEMMING. No; they did not. That was not a kind of record you keep of a hearing.

Senator SYMINGTON. If it was considered important that Mr. Floyd be overruled and somebody expressed why he should be overruled, the chances are the minutes might show that?

Mr. FLEMMING. It might show that.

Senator SYMINGTON. If, say, the Secretary of Commerce gave an indication of his position, it might be in the minutes. Would that be a fair surmise?

Mr. FLEMMING. It might show it. A particular agency might have taken a particular position on it, say the Department of State. I think it operated in somewhat the same way that a comparable board operated, Mr. Chairman, under your chairmanship.

Senator SYMINGTON. I wanted to know.

Mr. FLEMMING. Some of the same staff people were working on it.

Senator SYMINGTON. Who would be the one to summarize the minutes? In other words, who would be the one who said, "this is what happened today"?

Mr. FLEMMING. The head of my secretariat at that time was a gentleman by the name of Joseph Bond. He was secretary of the Defense Mobilization Board and he prepared the minutes of the Board. Of course, those minutes were circulated so at the next meeting of the Board, if anybody had any issue to take with the minutes, they could.

He did a very careful job. I looked at two or three of the folders this morning of certain meetings and in addition to the formal minutes, he kept a folder on each meeting and in that folder you will find normally the staff papers that were submitted to the Board in order to back up certain items on the agenda.

Senator SYMINGTON. You saw some of the minutes of some of the meetings, but did not see the particular minutes we are talking about?

Mr. FLEMMING. That is correct. I looked at some in 1956.

Senator CASE. Mr. Chairman, has any of the questioning developed the composition of the Defense Mobilization Board at the time that we are talking about here?

Mr. COBURN. May I answer that?

Senator SYMINGTON. Please do.

Mr. COBURN. These Defense Mobilization Board minutes on the first page of the minutes of each meeting show in full who were present at the meetings. That will largely answer your inquiry, I think.

Senator CASE. Well, generally speaking, Dr. Flemming, could you tell us who comprised the Defense Mobilization Board at that time?

Mr. FLEMMING. Yes, Senator Case. It was on the basis of, really, agency membership. But I may miss some when I run down the list

here, but the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, the Secretary of Labor, the Administrator of the General Services Administration, the Secretary of Agriculture.

Most of the members of Cabinet had membership on the Board, and then, as the minutes will indicate, sometimes they were there, sometimes they were represented by an undersecretary or an assistant secretary, or even one of their division chiefs.

Senator CASE. Were there any persons, members of the Defense Mobilization Board, who were representatives of industry as such and not Government officials?

Mr. FLEMMING. No; this membership was made up entirely of Government officials.

Senator CASE. And largely of Cabinet departments?

Mr. FLEMMING. That is correct. The General Services Administration, I think, was the only exception.

Mr. COBURN. And yourself as Director of the ODM.

Mr. FLEMMING. That is right. Under the order, I was Chairman of the Board.

Senator CASE. Did the Defense Mobilization Board at any of its meetings at which you were present, if you recall, admit to its sessions representatives of industry to make representations at that time?

Mr. FLEMMING. I do not recall a single meeting where that was done. This was regarded as a meeting of a governmental agency. We did not attempt to take testimony, in effect, from persons who were outside of the Government.

In addition to the Board members, as the minutes indicate, there were always a fairly large number of staff people present to back up their principles on the Board.

Senator CASE. Was it common for Secretaries of Departments—that is, the actual members of the Cabinet—to participate in these meetings?

Mr. FLEMMING. They did from time to time. I think at various times, in all probability, all of the members of the Cabinet participated, with the possible exception of the Secretary of State and the Secretary of Defense. I do not recall any instance where either Mr. Dulles or Mr. Wilson actually participated in one of those meetings. Normally, Mr. Wilson was represented by his Deputy Secretary of Defense, Roger Kyes, when he was there and later, Robert Anderson when he was the Deputy Secretary of Defense.

At times he would be represented by the Assistant Secretary for Procurement. Oftentimes, for example, the name of Mr. Pike will appear, who was the Assistant Secretary in that area.

Senator CASE. Is that the Mr. Pike who has been connected with General Services Administration?

Mr. FLEMMING. No; he is a resident of the State of California and is back in business in the State of California. He served as Assistant Secretary for a portion of the Eisenhower administration.

From the Department of State, representation often would come from the Assistant Secretary of State for Economic Affairs or his deputy. For example, I recall Mr. Kalijarvi would often participate in the meetings. Mr. Murphy, however, who was a Deputy Under

Secretary of State, as you will recall, Robert Murphy, for a period of time——

Senator CASE. The former Ambassador?

Mr. FLEMMING. Yes; the former Ambassador. He would participate in the meetings from time to time.

It would depend upon the items on the agenda. For example, for a time we had an active part in the Suez situation, in connection with the organization of the oil lift. During that time, the representation was at a very high level.

Senator CASE. Mr. Chairman, I did not recall and I have been trying to establish for the record and for our general information here the type of people who constituted the Defense Mobilization Board, and I would get the impression, from what Dr. Flemming has testified, that in many instances it was a Cabinet member, a Secretary himself, who participated, or, in the case of the State Department and the Defense Department, it was frequently the Deputy Secretary of Defense, Mr. Kyes, or a man of the caliber of Ambassador Murphy when he was Deputy in the State Department.

Mr. FLEMMING. That is correct.

Senator CASE. And that these meetings were deliberations of Government officials at this high level, you might say, that the members took it seriously enough that it was not a matter of deputizing some subdivision of a subdivision, and that representatives of industry were not present and did not participate in the meetings of the Defense Mobilization Board.

Mr. FLEMMING. That is a very accurate summary, Senator Case.

Senator SYMINGTON. Senator Cannon, have you any questions?

Senator CANNON. Yes, Mr. Chairman.

Doctor, over what period of time did these deferrals extend? Was that from October of 1954 up into 1956?

Mr. FLEMMING. Yes, the fourth quarter of 1954 through the second quarter of 1956.

Senator CANNON. And were these just blanket deferrals at the time in the case of each company, or were they deferrals, for example, for one quarter initially?

Mr. FLEMMING. They were never for a period longer than one quarter. Now, I had representations made to me from time to time to make the deferrals for a longer period of time. But I felt that that would be unwise to do that. I felt that we should not try to project our thinking further than a quarter, and that is why I required the matter to be reviewed and looked at each quarter.

Senator CANNON. So that the Defense Mobilization Board then did review at the end of each quarter the deferral, the present situation, and make a decision at that time?

Mr. FLEMMING. That is correct.

Senator CANNON. Did the Board, then, each quarter make a recommendation for an additional deferral in each case where it was granted?

Mr. FLEMMING. That is correct. It is my recollection, although I have not actually checked this, action by action, but it is my recollection that in every instance, there was a recommendation from the Defense Mobilization Board that the action be taken.

Senator CANNON. Now, when they reviewed, had their quarterly review to determine whether deferrals should be continued, did they consider the price factor at which the market was at that time?

Mr. FLEMMING. I assume that some of the backup papers certainly did include information relative to price.

Senator CANNON. For example, here, just reading from one of the exhibits now, referring to International Nickel Co., when they were permitted to exercise a deferral when the average price per pound was a little over 14 cents higher than the contract price of the Government, would that have been a factor that the Board considered at the time that they determined on a deferral?

Mr. FLEMMING. Senator Cannon, it is my best recollection that the Board did take a look at this question of whether or not we should defer or buy, and then resell, and that the policy that I followed was a policy that they were in harmony with.

Now, unquestionably, in taking a look at that particular policy, the question of price would come in, probably did come into the discussion. It certainly must have been in backup papers that were provided us as members of the Board.

Senator SYMINGTON. Was there any talk about a bit of extra profit being obtained by the companies?

Mr. FLEMMING. I do not recall it, but there may very well have been. The reason I say that, Mr. Chairman, is this: This shows the difficulty of reconstructing. I have read very carefully the testimony of the career civil servants within the General Services Administration relative to their views on this matter. I would assume that those views were probably expressed at meetings of the Defense Mobilization Board, although I do not have a clear recollection of that.

Senator SYMINGTON. Who would express them?

Mr. FLEMMING. They would be expressed by the Administrator or his deputy.

Senator SYMINGTON. In the General Services Administration?

Mr. FLEMMING. Yes. As you know, during this period, this would have been either Mr. Mansure or Mr. Floete. Those were the two Administrators during the period. I forget the Deputy Administrator's name, but he was a person who played quite an active part in this, who came from the State of New Jersey, as I recall him, a very able person.

Now, I do not find so far in the files, and again, counsel may have found it, communications indicating whether or not the point of view expressed by some of the staff of GSA was a point of view that was accepted by the Administrator and passed on to us. That does not mean he did not do it. He may not have passed it on by letter, he may have passed it on in connection with discussions in the Defense Mobilization Board. That is why I had those discussions. I tried to make them the kind of discussions where people felt perfectly free to express themselves. I would not have been surprised if somebody had said, "Look, if we take this in and resell it, the Government will get a profit."

Senator SYMINGTON. You would not feel you would have to get all the profit. Suppose you had just said, "Look, we just have to get half."

Mr. FLEMMING. As I said in my original statement, this possibility was called to my attention; I have a clear recollection of it being called to my attention, of facing it and making the decisions I set forth in my statement this morning.

Senator CANNON. Doctor, as you went along and got toward the end of the deferral period, let us say toward the end of the first quarter of 1956, do you recall then any concern on your part, or any discussion with the Board about that time as to the profit that some of these companies were making? For example, Banner Mining Co., it would appear, according to this exhibit, at the end of the second quarter of 1956, at any rate, they had received about a quarter of a million dollars over and above the price they got from the Government. Do you remember having any discussions concerning that on an individual, case by case basis?

Mr. FLEMMING. I do not, because I believe by that time, we were pretty firm in our conviction that the Government should not get into the materials market for the sole purpose of making a profit.

But, Senator Cannon, I would like to say this, because of the question that you have raised: The assumption all along the line here is that these companies that got just what the market price was at that particular time, they were told to sell to the market and then they got what the market price was at that time, the assumption has been that because of that, they reaped some very large profits. Now, I have here a copy of a letter that was addressed by Mr. James Boyd, who is president of the Copper Range Co., which is one of the companies involved, to the Honorable John B. Bennett, Congressman from Michigan. Certainly, on the basis of this letter, they did not have that kind of experience. And it does seem to me that before we assume that, as a result of this operation, companies earned huge profits, possibly some effort should be made to find out whether, in fact, that was the case.

I shall be glad to put the whole letter in the record.

Senator SYMINGTON. Is this Mr. Boyd who used to be head of the Bureau of Mines? He ended up as president of the Copper Range Co.?

Mr. FLEMMING. That is right. He is now president of the Copper Range Co. He addressed this letter to Congressman Bennett.

Mr. Chairman, I would be very glad to have the letter inserted into the record.

Senator SYMINGTON. We would be glad for you to do it if you would like to have it in.

Mr. FLEMMING. I do not need to read the whole letter. I would simply like to read this whole paragraph, which bears on the point we are discussing:

> Due to the low grade of ore the Champion Mine was a high-cost unprofitable area of the Copper Range business and was continued in operation to provide jobs for the men and to supplement the domestic supply of copper. During each of the years that the DMP–89 contract was in effect, 1953, 1954, 1955, 1956, and 1957, the Copper Range Co. Champion Mine incurred operating losses for a total 5-year net loss from copper operations of $1,200,000.

That is just a statement of it.

Senator SYMINGTON. Could we infer that perhaps some of the reasons for the deferral was to keep these companies from losing money?

Mr. FLEMMING. No, sir. As far as I am concerned, as I indicated in the very beginning, I just was not interested in that aspect of the matter. I made a decision that from the standpoint of national defense, copper, instead of coming to the Government, should go to the economy, and it was necessary for it to go to the economy in order to handle the defense situation at that time. And I made the statement that, of course, they could get what the market was at that time, but that they were told that these were deferrals, and that at a later date they would have to supply it to the Government at the contract price.

I was not interested whether this meant profit or lack of profit for the Government or for the companies. I was just interested in one thing; taking care of defense production at that particular time and making sure that we got the copper at a later point to put into the stockpile.

Senator SYMINGTON. But if you had accepted the proposition of the International Nickel Co., they would have had to pay a quarter of a million dollars to the Government in order to get out of the contract, and the copper they obtained thereby would go into the economy, would it not?

Mr. FLEMMING. As far as the answer to your question is concerned, it would have gone into the Canadian and the United States economy. They were unwilling, as I understand it and recall it, to make the copper available for consumption in this country solely. This was one of the issues that was involved in that. But remember, certainly, at the same time—I mean at the time they made that offer—they were in a position where they could have deferred, as other companies deferred, and they did not take advantage of that opportunity. They put it to the Government anyhow, with the exception of a certain amount near the end of this particular period.

Here I would have to refresh my memory by going to the record. But there were two companies—maybe more than two, but I mean two that were called to my attention by reviewing the file—that did not take advantage, or let us say did not respond to the Government's invitation to put the material to the economy rather than to the Government. One was Sherritt Gordon, which likewise is a Canadian company, and the other is International Nickel.

I do not want to get into it now, Mr. Chairman, but if you would like, I would be glad to discuss this in greater detail, discuss my reasons for turning down the offer from International Nickel, because in the light of the guidelines under which I was operating, I had no difficulty at all in arriving at the conclusion that that proposition should have been turned down. I felt that way, and I felt it very keenly at that time, and I still feel that way.

Senator CANNON. Both of these companies got deferrals, did they not?

Mr. FLEMMING. They had the opportunity of participating in the deferral program. I do not think either company participated in it to the extent that they could have participated in it.

Senator CANNON. The exhibit I have before me here indicates that International Nickel, for example, got approximately a quarter of a million dollars more by reason of deferral than they would have gotten had they been required to sell to the Government, is that correct?

Mr. FLEMMING. Right.

Senator CASE. Senator Cannon, I wonder if Mr. Flemming could be given a copy of this exhibit?

Senator CANNON. It is the one entitled "Analysis of Copper Diversions as Authorized by OEP, October 1954 to June 1956."

Senator SYMINGTON. He already has it.

Mr. FLEMMING. That was incorporated into the record of the hearing.

Senator CANNON. Yes, under the column "Received in Excess of Value Under GSA Contract," where it shows International Nickel getting $230,161.

Mr. FLEMMING. As I indicated, Senator Cannon, I know that they participated in it toward the latter part of this period. They did not participate to the extent they could have. Did Sherritt Gordon—yes, they are down here for a very small amount.

Senator CASE. Would the Senator yield for one question?

Senator CANNON. Yes.

Senator CASE. Mr. Flemming, was there a difference in the Defense Production Administration contracts and the contracts for the strategic and critical materials in the national stockpile?

Mr. FLEMMING. Clearly. Under the Stockpiling Act, we could not legally have done what it has been suggested might be done; namely, sell at a profit.

Senator CASE. That is, out of the strategic and critical materials contracts for the national stockpile, the companies, if they got deferral, either had to replace to the Government at the contract price or at the price they got in the market for their diversions?

Mr. FLEMMING. No, Senator Case. As far as all of these companies that are listed under "Strategic and Critical Materials Contracts" are concerned, we authorized GSA to arrange for the deferral of the copper that they had contracted to supply the Government.

Senator CASE. The reason I asked that question is because of this exhibit. The Sherritt Gordon Co., the deliveries to GSA, the average price per pound, would have been $0.333. Their diversions to industry were sold, apparently, at $0.4561 per pound, and the value under the contract is $0.4561, which would suggest that where they diverted to industry, they had to give the Government the benefit of the great price they got in the amount that they diverted to industry.

Is that correct?

Mr. FLEMMING. No, Senator. Let me see if I can put it this way: This is the situation as I understand it: Having decided that the copper that was scheduled for delivery to the strategic and critical materials stockpile should be deferred, the Government legally had no right to acquire title to it and then resell it. The only thing that we could do was to permit them to sell to industry.

Now, actually with the facts that stared us in the face at this time, under the Stockpiling Act, it would have been a violation of law for us to have acquired the copper at this time for the stockpile because the Stockpiling Act is very clear that when we acquire for the stockpile, wherever practicable, we should acquire material that is in excess of the demand—I mean of the requirements of the civilian economy. It is clear that as of this given time, copper was needed by the civilian economy.

Now, you will recall that in the Stockpiling Act, there are those words, "insofar as practicable," we should acquire materials that are in excess of the needs of the economy. We interpreted that to mean that whenever we could refrain from obtaining materials that were in excess of the needs of the economy without impairing our national defense program, we were legally required to refrain from doing so. And that is what we did in this instance.

Senator CASE. Referring to this exhibit and coming back to International Nickel, International Nickel is listed under the Defense Production Administration contracts, the fifth one down.

Mr. FLEMMING. That is right.

Senator CASE. It also appears under the S. & C.M. contracts—that is—the strategic and critical materials contracts. What, essentially, were the differences in the conditions of the contracts and the powers of your office with respect to the DPA contracts and the strategic and critical materials contracts?

Mr. FLEMMING. Well, as I explained in my statement this morning, as far as the strategic and critical materials contracts were concerned, we had no option to exercise. Having decided that the material should be deferred, it must go directly to the economy, and the companies concerned, of course, were entitled to the market price.

As far as the Defense Production Act contracts were concerned, we could have received delivery and then we could have resold at the market—that is, we could have received delivery at the market price and resold at—I am sorry. We could have received delivery at the contract price and then resold at the market price.

This proposal was made to us, I turned it down for the reasons that I outlined in my statement this morning.

Senator CASE. Thank you.

Senator CANNON. You did, however, sell the approximately 17,000 tons in that category that you mentioned this morning, is that right?

Mr. FLEMMING. That material was already in the DPA inventory before we made our decision to defer.

Senator CANNON. But it got into the DPA inventory through the same fashion, through a contract for a fixed price, and you sold it then, 17,000 tons of the DPA inventory, at the current market price?

Mr. FLEMMING. But not, Senator Cannon, as I indicated this morning, in order to reap a profit for the Government, but in order to take care of material for defense needs.

Senator CANNON. Had you adopted that same policy with reference to the companies who furnished copper shown on the exhibit to which we are referring, under the DPA contracts, you still might have been selling to meet the industrial needs, but you would have incidentally recouped a little over $2 million to the Government, is that right?

Mr. FLEMMING. Approximately that. What we would have been doing would have been receiving copper into the stockpile solely for the purpose of selling it at the market, solely for the purpose of making a profit, because there would have been no national defense contribution that would have been made by that kind of a transaction at all. And it is my contention, Senator Cannon, that the Government should never enter the market solely for the purpose of making a profit. If it goes into the market, it should go into it for national defense reasons and not to make a profit. Because the minute people

get the idea that the Government is going into the market to make a profit, then the Government becomes another trader, with all the power that the Government has in back of it.

Senator CANNON. I do not quite follow your limitation of "solely." As a matter of fact, at that time were we not still interested in meeting both our basic and our maximum objectives in stockpiles?

Mr. FLEMMING. We made a deliberate decision that although we were interested and although it was imperative for us to move in the direction of meeting our stockpile objectives, with the supply-demand situation that confronted the country, the only thing and the best thing to do in the interest of national defense was to make the copper available to the economy until such time as supply-demand came into balance, when we would resume our efforts to meet the stockpile objective. That is why we said, "Defer," so that we would keep our hands on that quantity of copper and ultimately get it into the stockpile.

Senator CANNON. So that your position then, if I understand it correctly, is that this would have been entirely a price matter, because you had determined that you did not want to take that copper into the stockpile at that moment in view of the market.

Mr. FLEMMING. That is correct, Senator Cannon.

Senator CANNON. And you were not interested in the price question at all?

Mr. FLEMMING. That is correct.

Senator CANNON. In other words, if the price had been up to 36 cents a pound instead of 34.8 average, on the average, that would not have given you any concern at all?

Mr. FLEMMING. That is correct. My position was that all of the copper should go into the economy; therefore, it should go in at the market price, with the understanding that at a later date, that copper would come back to the Government at the contract price.

Senator CANNON. Had the price been 60 cents or 61 cents a pound, then that factor would still not have affected your decision or your thinking at that time?

Mr. FLEMMING. That is correct, sir.

Senator CANNON. And these companies, under those circumstances, would have made about $4.25 million profit on the Government if the price had been at 60 cents a pound. You are saying now that would not have affected your decision, no matter what amount the companies would have profited over and above the price at which they are obligated to the Government?

Mr. FLEMMING. That is exactly what I am saying, on the ground that the Government has no business going into the metal markets of the world solely for the purpose of reaping a profit. That is not a function of the Government?

Senator CANNON. Thank you very much.

Senator SYMINGTON. Senator Beall?

Senator BEALL. I have no questions.

Senator SYMINGTON. One question, before turning to counsel.

As I understand it, you said something about you could not take copper into the stockpile unless it was proved it was not needed in the economy, is that correct?

Mr. FLEMMING. Yes, substantially, that was my statement.

Senator SYMINGTON. Then the economy was more important than the defense effort, was it not?

Mr. FLEMMING. It so happened that the defense effort was part of the economy, because this involved defense production.

Senator SYMINGTON. I am talking about priority. Which is more important, the profits of corporations or getting enough copper from the standpoint of national security?

Mr. FLEMMING. Wait, Mr. Chairman. I do not think that that is a fair question.

Senator SYMINGTON. Well, any question would seem a fair question. I may not think you have given a fair answer.

Mr. FLEMMING. But I meant I do not think that this describes the situation that existed at that time.

Senator SYMINGTON. I only asked the question. You have said that the overriding matter of importance was to get into the stockpile what was necessary for defense. At the same time, you have said——

Mr. FLEMMING. No, sir.

Senator SYMINGTON. Well, I thought you said you gave no consideration to the profit aspect, what you wanted to do was get what was necessary for national defense, regardless of profit, and presumably regardless of loss.

Mr. FLEMMING. OK.

Senator SYMINGTON. Therefore, if at the same time you have said that, you say you could not put it in for national defense, if it was needed for the economy, which would mean for television sets and so forth, I am wondering why you have such a strong feeling against the Government getting any profit out of the increased prices if, at the same time you put it in for defense, it interferred with the profits of private corporations, based on your own statement?

Mr. FLEMMING. Mr. Chairman, I decided to defer it because of a conclusion on my part that it was essential to defer it in the interest of the economy and the defense program. As the Joint Committee on Defense Production put it, "in order to relieve the shortages that have prevailed and to insure that essential defense programs would not be interrupted," we did these things. This was a defense consideration.

Now, the Stockpiling Act says that we may make purchases of strategic and critical materials, that they shall be made "so far as is practical" from supplies of materials in excess of the current industrial demand. This is the directive to us from the Congress. The Congress very consciously put this in, because as you will recall it was not in the 1949 act, but the Congress did put in the 1946 act. As indicated in my direct testimony they explained why they did it.

Now, they put in these words, "so far as is practical." We had this research. We could find the exact reason for putting those words in. But we said that those words should be read in the light of the stated objectives of the Stockpiling Act, namely, the strengthening of national defense. So we concluded that we should only purchase materials in excess of the current industrial demand, except where we made a finding that we would have to purchase some materials in excess of the current industrial demand in order to further national security objectives.

Now, I do not want to get over into another material here and open up another line of questioning at this time, but I know you were very close to the nickel situation, and you know that we were faced with just that kind of a decision to make. We were very short in terms of the stockpile objective. There was a feeling on the part of all connected with the Government that that left us in a weakened position——

Senator SYMINGTON. I knew nothing about nickel contracts made in 1952 or later. I left this stockpile policy field in 1950. I understand counsel is going to look into them.

Perhaps both of us are using the wrong phrases. You talk about the Government taking a profit. Actually, the Government never takes a profit. If there had been a feeling on the part of you, or the people on this Board, that we could get some of this money, it would simply have reduced the cost of government, the taxpayers' problem. It actually had nothing to do with profit, because as I understand it, the Government never operates on the basis of profit. It operates on the basis of cost, taxpayers' cost. Senator Cannon pointed out excess profits to these private firms ran into millions of dollars. If the Government had obtained any of that, it would not have been profit, rather would have helped pay your and my salaries; and therefore would have reduced the cost the taxpayer is forced to pay from his income.

Mr. FLEMMING. Let me put it this way, Mr. Chairman. I shall drop the word "profit," and I think you are correct in the way in which you use it. But if I had followed the way you are suggesting at that time, the Government would have been going into the market solely for the purpose of making money.

Senator SYMINGTON. So your idea of profit has nothing to do with making money?

Mr. FLEMMING. We are having trouble here with semantics, all right.

Senator SYMINGTON. At this point I think we had better turn back to counsel.

I will turn it over to counsel, after you make your next statement.

Mr. FLEMMING. All right.

Let me say this. The argument that was used was this: You can buy this copper under your contract at a given price. You can sell it in the market at the market price, which is a higher price, and the difference between the contract price and the market price will accrue to the Government.

My contention is that the Government should never go into the market solely for that purpose, and that the Government should go into the market only when, by so doing, it is achieving a national defense objective.

Senator SYMINGTON. Mr. Counsel?

Mr. COBURN. Dr. Flemming, as I understand it, after you started these deferrals in 1954, for a while at least, better than 6 months, the Department of Commerce policed the distribution or sale of the copper by the contractors to industry. That is correct, is it not?

Mr. FLEMMING. You have used the term "6 months." I do not have in mind the exact period of time.

Mr. COBURN. Well, that was my information from studying the files. At least there was a period of time when the deferrals started?

Mr. FLEMMING. Right.

Mr. COBURN. When the Department of Commerce policed the sale of the copper by the contractors to industry, is that not right?

Mr. FLEMMING. Right.

Mr. COBURN. And by "policed," I mean by that that the Department of Commerce designated the industries to whom the contractors could sell this diverted copper; is that not right?

Mr. FLEMMING. Yes.

I was trying to find in one of the letters to the General Services Administration the expression that was used. For example, in this letter—well, I do not see the date on the letter; it is apparently sometime in the middle of 1955—it says:

> The Department of Commerce, with the advice of the Department of Defense, will certify to you the fabricating mills to which the copper is to be sold and the amounts and types to be made available to each.

In the first letter that we looked at earlier, it says:

> The Department of Commerce will certify to you the concerns to which the copper is to be sold and the amounts to be made available in each case.

Mr. COBURN. Yes.

Now, if this copper was being diverted by these contractors at the invitation of your Office for defense purposes only, were the sales restricted to defense contractors?

Mr. FLEMMING. The deferral did not say for defense purposes solely. It said—

> in order to relieve the shortages in the economy generally and to assist in the defense production program.

Mr. COBURN. I know the directive did not say that.

Mr. FLEMMING. That is right.

Mr. COBURN. But you testified several times here, as I understood you——

Mr. FLEMMING. This was one of the objectives——

Mr. COBURN. Excuse me, I am not quite through.

Mr. FLEMMING. Pardon me.

Mr. COBURN. You have testified a number of times here that your purpose in diverting this copper was the defense effort, the defense program?

Mr. FLEMMING. That is correct.

Mr. COBURN. If that is the case, was the sale or were the sales restricted to defense contractors?

Mr. FLEMMING. My recollection is that they were not, and now you bring me over into what was the status of our control programs at that particular time, and I am going to have to say to you very frankly that I cannot testify on that without going into the files and finding out just what control programs we had in effect and how they were being operated.

That gets over into an entirely new area, and, as you know, it is a rather complicated area. If you want me to testify on that, I will be very happy to do so, but I will have to ask for time to prepare.

Mr. COBURN. I appreciate that, and I do not intend to pursue that subject any further at the moment.

Now, Dr. Flemming, I want to ask you about the third letter, diversion letter, that you directed to Mr. Mansure, dated February 25, 1955.

Do you have that at hand?

Mr. FLEMMING. Yes, sir; I am sure I do. This is February?

Mr. COBURN. The 25th, 1955.

Mr. FLEMMING. Yes, sir; I have it here.

Mr. COBURN. May I state, Mr. Chairman, that by the time this letter was written, the price of copper has risen, the market price, to 33 cents a pound. That, of course, would put it higher than any of these contracts, would it not, Dr. Flemming?

Mr. FLEMMING. Yes, that is my recollection.

Mr. COBURN. Did you answer?

Mr. FLEMMING. I said "Yes, that is my recollection."

Mr. COBURN. Now, Dr. Flemming, I am going to ask you something here with reference to this letter of February 25, 1955.

As I understand it, this letter authorized the Administrator of GSA to cancel the copper deliveries that were scheduled for the month of March, is that true?

Mr. FLEMMING. That is right.

Mr. COBURN. These were deliveries, however, that were restricted to the Defense Production inventory?

Mr. FLEMMING. That is correct.

Mr. COBURN. And did not include the copper that was to be delivered during the month of March to the national stockpile?

Mr. FLEMMING. That is correct.

Mr. COBURN. Now, this is the first time that you have in any of your directives to GSA used the word "cancel" rather than "divert."

How did it come that you changed your method of handling this when you wrote this letter of February 25, 1955?

Mr. FLEMMING. Frankly, I do not recall, and, as I indicated in my direct statement, it was a mistake, and as soon as I became aware of it, I took corrective action.

Mr. COBURN. Yes, but I would like to find out from you, if I can, why it was that you started out with deferrals and then changed over to cancellation. That certainly did not happen just accidentally, did it?

Mr. FLEMMING. I have no recollection as to why I made the change, and I think, if I did have a recollection, I probably would not have made the mistake, because it is clear that by authorizing the canceling, I did not achieve the objective that I discussed with Senator Cannon.

As I indicated in my prepared statement, that is why, as soon as this issue was called to my attention, I told General Services Administration that from here on out they were to defer and not to cancel.

The reason I regarded it as a mistake was that we lost our right to require them to put certain quantities in the stockpile. I mean not in the stockpile, but we lost our right to get certain quantities of copper which we would have put in the stockpile. Consequently, I just do not think that the authorization to cancel is defensible.

Mr. COBURN. Well, I agree with you, but I am wondering how it happened that you finally got over to cancellation when you started out with deferrals.

Mr. FLEMMING. If I could help you on that, I would be very, very glad to do it. I have tried to reconstruct it in my own mind. I have not run into anything as yet in the files which has helped me to reconstruct it.

Mr. COBURN. Did you customarily prepare these letters that were directives to the GSA yourself?

Mr. FLEMMING. These letters were prepared in the Materials Division and came up through channels and finally to my office. For example, they would come up through some of the people on my own immediate staff, and then to my office for signature.

But if you have examined the Defense Mobilization Board minutes dealing with this, as I have—well, I guess I examined them because you put them in the record, and that is how I had a chance to look at it—you will note that their recomemndation to me is a recommendation to cancel, and I do not recall a discussion of a shift from deferral to cancellation.

Mr. COBURN. From anyone?

Mr. FLEMMING. I am sure there must have been some discussion, but I have no recollection of that. But the fact of the matter is I did it.

I authorized cancellation, and, as I say, the minute the situation, the implications of it were called to my attention, I said the people who are criticizing us are right and we were wrong, and we will get out a statement to the effect that we were wrong, and we will so indicate to GSA.

For example, the General Accounting Office report to GSA tried to say to GSA: "You really should not have canceled under Flemming's directive."

Well, I looked at my directive, and I do not know what else GSA would have done. I could not agree with GAO on that at all.

It was clearly—well, as you indicated here—it is clearly a directive to cancel, and issuing that directive was a mistake on my part.

I was the Director of the Office. I assume responsibility for it. And as soon as I was aware of it, I corrected it, and, as I said in my direct statement this morning, I am thankful that it only involves 7.6 percent of the total amount of deferrals.

Mr. COBURN. Were you aware of the fact, when this directive was sent out authorizing GSA to cancel the March deliveries, that the market price was then higher on all of these contracts than the contract prices?

Mr. FLEMMING. I am sure I must have been, yes.

Mr. COBURN. Mr. Chairman, I desire to incorporate in the record a memorandum prepared by Mr. William A. Meissner, Jr., Deputy Director, Copper Division, BDSA, in the Department of Commerce.

Senator SYMINGTON. Before that, may I ask a question in context on this past subject.

Clear me up, Dr. Flemming, on this point:

Do you feel that you originally made this decision and that later you found out it was a mistake, or do you feel that the decision was made without your knowledge, and when you found out about it, you reversed it?

Mr. FLEMMING. No, I made the decision, Mr. Chairman. I mean I did not authorize anybody to sign my name to a letter to General Services Administration, and any communication that went over my

signature to the Administrator of General Services Administration was signed by me.

So I made the mistake. There is not any doubt about that.

Senator SYMINGTON. But could you help us a little as to why you changed your opinion?

Mr. FLEMMING. Well, I changed my opinion in terms of shifting from cancellation to deferral because it was clear to me that by having authorized cancellation, we had given up the right to get copper which I believed we should have gotten and which we should have put in the stockpile.

Senator SYMINGTON. You knew that when you made the decision to cancel, did you not?

Mr. FLEMMING. Well, I certainly could have known it, but I just did not either think it through to that particular point—I do not know. It is awfully hard——

Senator SYMINGTON. Right.

Mr. FLEMMING (continuing). After this period of time to reconstruct the thing and know just what processes I did go through.

Mr. Chairman, this is an excellent illustration of the role of the Joint Committee on Defense Production. The staff sat down and talked to me about this, and when they did, I recognized immediately that this was a mistake, and they so stated in their annual report of that time.

Senator SYMINGTON. You really made the decision. For example, you went with them against Mr. Floyd on that particular point of deferral; then you went against somebody, including your staff, with respect to cancellation?

Mr. FLEMMING. Well, I do not know—well, I mean the minutes of the Defense Mobilization Board make it clear that they recommend cancellation, which I went along with. But I cannot reconstruct in my own mind how that got into the recommendation, whether there was a discussion of it at that particular time or not.

And I have not run into any files to help me.

Senator SYMINGTON. But you felt that you had the right to cancel contracts without referring it to the Defense Production Board?

Mr. FLEMMING. No.

Well, let me say this, Mr. Chairman. I had the right because, as you know, that was an Advisory Board to me, and there was no legal requirement for me to consult them on a matter of this kind.

But it was my policy to always consult before I took an action of this kind.

Senator SYMINGTON. You cannot remember whether you recommended it to them and then changed it, or whether they recommended it to you?

Mr. FLEMMING. No.

Now, if I take a look at the folder on this particular Defense Mobilization Board meeting, I may find in that folder a paper that would help me. I do not know whether the counsel has looked at that folder or not.

Mr. COBURN. I have some memoranda here that I am going to refer to now, Mr. Chairman, that may throw some light, and I think it does throw some light, on this cancellation and how it originated, the objection to it, and so on.

I have here, Mr. Chairman, an office memorandum written by Mr. William A. Meissner, Jr., Deputy Director, Copper Division, BDSA of the Department of Commerce, to Mr. Charles F. Honeywell, Administrator, BDSA.

Senator SYMINGTON. Doctor, have you seen that memorandum?

Mr. FLEMMING. No, I have not.

Senator SYMINGTON. Will you show it to him?

Mr. COBURN. I will.

This is only being incorporated in the record. I am not going to ask him any questions with reference to it.

Senator SYMINGTON. I would like him to see it.

Mr. COBURN. Mr. Chairman, I now ask leave to read this memorandum into the record.

To: Mr. Charles F. Honeywell, Administrator, BDSA.
From: William A. Meissner, Jr., Deputy Director, Copper Division, BDSA.
Subject: Distribution of DPA refined copper.

In Dr. Flemming's letter to Mr. Mansure, General Services Administration, it was stated as follows: "In addition, deliveries scheduled for the month of March under the Defense Production Act contracts may be canceled with the consent of the supplier and approval of the Department of Commerce."

The contracts referred to by Dr. Flemming were negotiated at prices which resulted in cost to General Services Administration of from 28.2873 cents to 32.31 cents per pound for refined copper. This enabled General Services Administration to sell the refined copper at the prevailing market price of 30 cents during the fourth quarter, 1954, without any substantial loss to the Government. At the present prevailing market price of 33 cents, the Government will realize a profit in this first quarter distribution.

Were the producers given authority for cancellation of March deliveries to General Services Administration under the terms of their individual contracts, this action would permit the producers to realize the apparent profit instead of the Government. For example, Miami Copper has a DPA contract calling for delivery in March of approximately 550 tons of copper at 28.287 cents per pound. Cancellation of March delivery would enable Miami Copper to sell at 33 cents per pound.

As a matter of judgment, and considering the best interest of the Government, we have decided not to permit cancellation, but to insist on March deliveries to General Services Administration under contract terms. This determination will apply to all of the contracts calling for March delivery at the contract prices. While this may incur some delay due to the time involved in shipping to the Government installations and reshipping to consumers, the physical inventory of DPA copper now on hand should be sufficient to carry over until the additional copper is needed.

Mr. Chairman, I have another memorandum, written by Mr. Honeywell, Charles F. Honeywell, Administrator of BDSA, to Mr. Richard L. Hall, special assistant to the Secretary of Commerce. This is dated June 2, 1955, and reviews the history of this problem as far as the Commerce Department is concerned. I just came across this myself, and we will give Dr. Flemming an opportunity to look at it.

Mr. FLEMMING. Thank you, sir.

Mr. COBURN. Mr. Chairman, I now want to read this memorandum into the record, Dr. Flemming having seen it.

JUNE 2, 1955.

To: Mr. Richard L. Hall, special assistant to the Secretary of Commerce.
From: Charles F. Honeywell, Administrator, BDSA.
Subject: Distribution of DPA copper.

In accordance with your request, the following facts are set forth concerning the distribution of DPA copper accumulated in GSA inventory under the Defense Production Act.

In Dr. Flemming's letter to Mr. Mansure, Administrator of General Services Administration, dated February 25, 1955, it was stated, as follows: "In addition, deliveries scheduled for the month of March under the Defense Production Act contracts may be canceled with the consent of the supplier and approval of the Department of Commerce."

Passing over something of no consequence, it then says:

This Division recommended that, as a matter of judgment and considering the best interests of the Government, deliveries should be made to DPA inventory and then resold to industry. (See memorandum to Mr. Honeywell dated March 1, 1955.) As a result of this recommendation, on March 10, 1955, Mr. Weeks wrote to Mr. Mansure recommending that such action be taken.

Now, Mr. Chairman, I desire to incorporate into the record a letter dated March 10, 1955, from Sinclair Weeks, Secretary of Commerce, to Mr. Edmund Mansure, Director of the General Services Administration, Washington, D.C., which letter reads as follows:

Dear MR. MANSURE: After reviewing pertinent information concerning the expected deliveries of refined copper to DPA account in March, we believe that it will be to the best interest of the Government to have such copper delivered to Government warehouses and then resold to needy copper fabricators.

It is recommended, therefore, in accordance with Dr. Flemming's letter of February 25, 1955, to GSA, that appropriate delivery instructions be issued by your office to those companies scheduled to make delivery of refined copper to DPA account in the month of March.

Sincerely yours, /s/ Sinclair Weeks, Secretary of Commerce.

I notice that it is indicated on this letter that a copy of this letter was sent to you, Dr. Flemming.

Mr. FLEMMING. I have no recollection of it, but if it says that it was, why, I assume that it was.

Mr. COBURN. Well, now, if it was sent to you, then, of course, you saw it, did you not?

Mr. FLEMMING. If it was sent to me, I undoubtedly had it called to my attention and undoubtedly read it, but I have no recollection of that.

Mr. COBURN. Well, now, if that is so, then it was called to your attention within a day or two after March 10, 1955, that the DPA copper should not be canceled, but should be brought in to the Government and resold by GSA, in order to have the benefit of the increased price, is that not right?

Mr. FLEMMING. If, in fact, I saw that letter, that would be correct.

Mr. COBURN. All right.

Now, Mr. Chairman, I have here a copy of the minutes of a Defense Mobilization Board meeting No. 66, dated March 30, 1955. This has been incorporated in the record before.

Dr. you have a copy of that, Dr. Flemming?

Mr. FLEMMING. If it is in the record, I do.

Mr. COBURN. It was incorporated in the record. It refers to the copper disposal problem.

Do you have that before you?

Mr. FLEMMING. Yes.

Mr. COBURN. I notice by the minutes of this meeting that, of course, you were present that day as Chairman?

I say you were present at this meeting, according to the minutes, as Chairman?

Mr. FLEMMING. Yes, sir.

Mr. COBURN. And present also was the Honorable George M. Humphrey, Secretary of the Treasury, is that right?

Mr. FLEMMING. That is correct.

Mr. COBURN. The Honorable Sinclair Weeks, Secretary of Commerce, was present?

Mr. FLEMMING. That is right.

Mr. COBURN. I did not hear you.

Mr. FLEMMING. Yes, sir.

Well, Mr. Counsel, I will assume that this is an accurate record as to the minutes of this meeting.

Mr. COBURN. All right. I will not go into the names of the others, but I did want to identify you and I wanted to identify Secretary Weeks as being present because of this correspondence that we have just read.

Mr. FLEMMING. Right.

Mr. COBURN. Now, at this meeting there was a discussion again of the diversion of copper, was there not?

Mr. FLEMMING. That is correct.

Mr. COBURN. And at this meeting, according to the minutes, the following action was finally taken:

1. Copper deliveries to the Defense Production Act Inventory scheduled for April, May, and June, 1955, should be canceled the metal to be released to the general economy. Deliveries to the stockpile scheduled for this same 3-month period should be postponed until the first quarter of 1956. This copper will also become available for current industrial use.

Now, in view of this letter that you had received a copy of from Mr. Weeks saying that cancellation of copper was not in the best interests of the Government, was that matter discussed at that Mobilization Board meeting?

Mr. FLEMMING. I have no recollection of it being discussed. As I indicated to you earlier, I cannot enlarge on that statement, because I just do not have any recollection of a discussion of this issue.

If the issue had been discussed and presented to me in the way in which I saw it when I acted in May on this particular matter, I would have acted, whenever this was—in March—in the same way that I acted in May.

But if it was discussed, it obviously was not presented in the way in which I saw it in May.

Now, I just cannot go beyond that.

As you know, when I acted, I asked General Services Administration to try to recoup the situation, if they possibly could; that is, what had happened during the months of April and May. They reported back to me that they could not do anything about April and May, but that they were able to do something about June.

And from that point on out, it was all deferral, so that there was no mystery connected with it, other than I just did not see this particular aspect of it when I went along with a recommendation for cancellation. As soon as I did see it, I said no more cancellation—deferral.

As you know, on the basis of the exhibit that was prepared for you by the General Services Administration of the total amount involved in this diversion to the civilian economy, this represents 7.6 percent of the total.

Mr. COBURN. Then you apparently did not have this letter that Mr. Weeks had written to you at all at the time of that meeting?

Mr. FLEMMING. I don't know. I just don't know.

Mr. COBURN. Do you recall what position he took with reference to this matter? He had written this letter to you about 3 weeks after that, and then the meeting that he participated in took the exact opposite position.

Mr. FLEMMING. I cannot reconstruct in my own mind that meeting at all. We held these meetings every other week. As you notice here from the number, we were up to the 66th meeting right then that I had chaired, and unless something rather unusual happens in a meeting of that kind, it is pretty hard to reconstruct.

I can reconstruct in my own memory some Cabinet meetings, but a lot of them I could never reconstruct, for one reason or another. The same thing on the National Security Council in which I participated.

But it is perfectly clear to me, as I said in May 1955, and said it publicly, that that was an error, and I moved to correct the error.

Now, I think probably people in administrative positions do make mistakes once in a while, and I made one in this case, and I realize that I was dealing with the public's business, and that I had an obligation to say that I had made a mistake, and what my reasons were for it, and then to correct it, which I did.

Mr. COBURN. Believe me, Mr. Flemming, I am not trying to nag you about this thing that was done, so far as you are concerned, but I am curious as to how Secretary Weeks wrote this letter of March 10, 1955, and then 3 weeks later was present at this meeting where they took exactly the opposite position.

Do you recall whether he said anything in that meeting on the subject of cancellation?

Mr. FLEMMING. I do not have a recollection of that.

Mr. COBURN. You do not recall the subject being mentioned by anybody?

Mr. FLEMMING. I have no recollection of a discussion on this particular point.

Now, I do not know whether you have looked at the folder for this particular meeting or not.

Mr. COBURN. I have searched it carefully. I am trying to find out the explanation for that.

Mr. FLEMMING. Was there a staff memorandum in that folder?

Mr. COBURN. There may have been——

Mr. FLEMMING. Dealing with copper——

Mr. COBURN. I did not mean to interrupt.

Mr. FLEMMING. Was there a staff memorandum in the folder dealing with the copper situation and leading up to this kind of a recommendation?

Mr. COBURN. Well, I think, as I remember it, offhand, there was a staff memorandum in the folder with reference to this meeting, but I do not recall any explanation whatever for this contrary position taken with reference to cancellation.

Mr. FLEMMING. These staff memorandums usually, when you had an issue of this kind, let us say, as cancellation or deferral, would say, "Here are the reasons for cancellation; here are the reasons for de-

ferral," so that you would have a chance to make up your mind on it one way or another.

I will take a look, Mr. Counsel, again—I mean I will take a look at that folder to see if there is anything there that would help me to reconstruct this situation.

Mr. COBURN. I would be glad if you would.

Senator SYMINGTON. May I ask a question?

Dr. Flemming, you mentioned, sir, that when you decided that this had been a mistake, you did your best to correct it.

Could you withdraw the cancellation?

What did you mean by that, no additional cancellations?

Mr. FLEMMING. There is in the files someplace—I don't know whether you put it in the record or whether I have seen it—there is a letter from me to Mr. Mansure.

Yes, I think you inserted that in the record of the April 16 hearing, and in that letter I said to him:

> This authority to you to cancel was a mistake. In the future they should be put on a deferment basis, and will you go back to these companies and see whether or not they will enter into, in effect what would have been a new agreement to supply the quantities of copper involved in this at the contract price?

And he reported that he was unable to get their consent to do that.

However, my letter went to him in May, so he was able to recoup the situation as far as the month of June was concerned.

Senator SYMINGTON. Were these high-cost or low-cost companies that were granted cancellation?

Mr. FLEMMING. Let me look. They were all defense production, of course.

Senator SYMINGTON. I am just trying to help refresh your recollection.

Were the cancellations made at the request of somebody who felt that these companies could not equal costs at the Government prices; and that after they were canceled, then those particular cases were taken care of; after they had been taken care of, that cancellations were withdrawn again?

Mr. FLEMMING. This I do not recall. I do not have an exhibit.

As you know, there were three types of Defense Production Act contracts that were entered into, and just what types were involved here, I do not know, although, generally, of course, our Defense Production Act contracts were entered into with companies where we were trying to bring them into the mobilization base and where, without some Government assistance in terms of giving them a guaranteed market, it would be difficult for them to come into the mobilization base.

Now, one of the companies, of course, is the Copper Range Co., to which I referred earlier. I can tell you the type of contract that was, because it is stated in——

Senator SYMINGTON. Could I ask this hypothetical question?

You are opposed to the Government participating in the market, especially if it involves a profit.

Would you modify that thinking if the company made an excess profit as a result of deferral and then requested and received a cancellation because they could not meet cost on the business when they came back to the Government?

Mr. FLEMMING. Mr. Chairman, I appreciate the reason for that question, because later on—I mean it has been brought out that some of these companies exercised rights which they had in their original contract to cancel if it could be demonstrated that their operations had been unprofitable for the preceding 6 months.

Now, I notice the question that you addressed to one of the witnesses as to whether or not, in determining whether it had been an unprofitable operation, consideration should be given to the fact that for a period of time they were able to sell at a market price which was rather high.

That kind of an issue was not presented to me.

I would say that that was something that GSA, in passing on the matter, might take a look at.

You will recall that when we worked out the rescheduling of the material that had been deferred, we did include in the directive to GSA a statement to the effect that in working out the rescheduling, they should do whatever they could to prevent windfalls, and, of course, they did take some action.

Senator SYMINGTON. I noticed that Mr. Boyd, able, intelligent, and attractive, one who knows the metal markets about as well as anybody, who worked for years as head of the Bureau of Mines, I believe, I notice the Under Secretary of the Interior was at this meeting. It occurred to me that there might have been a specific case or two where, due to a pleading, on a proper basis, companies were allowed to get out from the contract that was costing them money, perhaps on the basis of the more they produced, the more they lost, or the more they put in the Government stockpile, the more they lost, and that, therefore, they were given a cancellation. But, from an overall policy decision, for all companies, it was decided to be unsound.

Those are some of the thoughts running through my mind as I listened to the counsel question you, and your replies.

Mr. FLEMMING. Right.

As I say, I do not recall a discussion along that line. It might have taken place, but I do not recall.

Mr. COBURN. Mr. Chairman, I call attention to the fact that at the time this Defense Mobilization Board meeting was held on the 30th of March 1955, the price of copper had advanced still further to 34.5 cents.

I guess, then, you would say that there was no discussion of the price of copper at this Defense Mobilization Board meeting that you recall, at least?

Mr. FLEMMING. Not that I recall. I can say that. You might very well be able to produce somebody who was at the meeting who remembers it, but I do not remember such a discussion.

Mr. COBURN. I do not have that kind of information at this time.

Mr. FLEMMING. OK.

Mr. COBURN. I am just wondering.

There were men there in that Defense Mobilization Board meeting that day who were businessmen. They are usually attentive to the price of things.

You do not recall that any of them mentioned the fact that the price by now had risen substantially over the contract prices?

Mr. FLEMMING. I do not doubt at all that there was a discussion of the price. I mean I am sure this took place every time we took a look at it, because, as you well know, it kept going up, and this certainly was the subject of discussion.

But by that time, I think that we had probably crossed—well, not necessarily at that time, but certainly around that time we had probably crossed—the bridge and it was pretty clear in people's minds that we were not going to get involved in taking it into the stockpile and then immediately reselling it to the economy.

Mr. COBURN. Now, Dr. Flemming, following that Defense Mobilization Board meeting that we have just referred to, you wrote another letter to the General Services Administration with reference to deliveries of copper for the second quarter, this time, of 1955, did you not?

Mr. FLEMMING. That was dated——

Mr. COBURN. April 1, 1955, was the date of that letter.

Mr. FLEMMING. No, I do not see it.

Mr. COBURN. You do not have a copy of that letter before you?

Mr. FLEMMING. Just a minute. I should have it here. All right, Mr. Chairman.

Mr. COBURN. In that letter of April 1, 1955, you simply authorized the General Services Administration to cancel the second quarter, 1955, deliveries under the Defense Production Act, did you not?

Mr. FLEMMING. That is right.

Mr. COBURN. And authorized the deferral of deliveries during the same period of time under the Stockpile Act?

Mr. FLEMMING. That is correct.

Mr. COBURN. To the later date of March 31, 1956? That is correct, is it not?

Mr. FLEMMING. Yes, sir.

Mr. COBURN. Now, Dr. Flemming, on May 3, 1955, did you receive a letter from Mr. Al E. Snyder, Assistant Administrator, General Services Administration, in which he called your attention to the criticisms of the General Accounting Office to this cancellation of DPA inventory deliveries during the second quarter of 1955?

Mr. FLEMMING. Mr. Coburn, I noticed in the record of the hearing of April 16, 1962, the inclusion of that letter from Mr. Snyder to me.

Mr. COBURN. You recall getting that letter?

Mr. FLEMMING. I recall a letter coming from GSA calling attention to the General Accounting Office criticism.

I could not say that I actually saw the letter on the day it was written or a day or two after it was written. It might very well have been referred, for example, to the Materials Division for preparation of a memorandum to me commenting on it, so that the best recollection I have is that all of these criticisms were called to my attention at approximately the same time, which was toward the latter part of that month.

Mr. COBURN. Mr. Chairman, I have before me a copy of the minutes of the meeting of the Defense Mobilization Board held on May 5, 1955.

Do you have a copy of those minutes before you, Dr. Flemming?

Mr. FLEMMING. No; I do not.

Mr. COBURN. They have previously been introduced in the record.

Mr. FLEMMING. Are they in your record?

Mr. COBURN. Yes, they are.

Mr. FLEMMING. I can find it, then. This is the one of what, March?

Mr. COBURN. May 5, 1955.

Mr. FLEMMING. Is that meeting 69?

Mr. COBURN. That is meeting 69, yes.

Mr. FLEMMING. Yes, sir; OK.

Mr. COBURN. I see that you were the Chairman of the meeting?

Mr. FLEMMING. That is right.

Mr. COBURN. And I notice that this action was taken at that meeting. First, with reference to copper diversions:

1. ODM should follow during the third quarter the policy which it has previously adopted for the second quarter with respect to rescheduling deliveries to the stockpile and cancellation of deliveries to the DPA inventory.

It says that, does it not?

Mr. FLEMMING. What was the date of this meeting again? The date does not show.

Mr. COBURN. May 5, 1955.

Mr. FLEMMING. OK, that is right.

Mr. COBURN. Now, how do you account for that? Was that meeting held before you saw Mr. Snyder's letter, do you think, or do you recall?

Mr. FLEMMING. It was definitely held before this issue was called to my attention, because, as you know from the record, that recommendation ultimately was not followed.

Mr. COBURN. Of course, it had been called to your attention back shortly after March 10, had it not, by a copy of a letter from Sinclair Weeks, Secretary Weeks?

Mr. FLEMMING. That letter came over, but, as I say, I do not reconstruct that in my mind, looking at it, or getting into a discussion of the issue involved as a result of it.

It is clear that the issue was not a live issue in my mind at the May 5 meeting of the Defense Mobilization Board, because I took the action that I took on May 27.

Mr. COBURN. I see.

Now, there was a fifth diversion letter that was written by you on May 12, 1955, to Mr. Edmund F. Mansure, Administrator of GSA.

Do you have that before you?

Mr. FLEMMING. May the 12th?

Mr. COBURN. Yes.

Mr. FLEMMING. OK.

Mr. COBURN. I notice by this letter that you authorized the General Services Administration to permit third quarter, 1955, copper deliveries to the Government under the Defense Production Act and Stockpiling Act to be deferred until June 30, 1956.

That, of course, is contrary to the action that was taken by the last Defense Mobilization Board meeting, was it not?

Mr. FLEMMING. That is right.

Mr. COBURN. Undoubtedly this letter of March 12 of yours was provoked by the fact that you had now had called to your attention the criticism of the General Accounting Office to the cancellation of the deliveries during the second quarter?

Mr. FLEMMING. I must have been getting into the issue at this point, because, otherwise, I normally would have just followed the Defense Mobilization Board recommendation.

But it is clear that I did not here. I restricted this to deferral, and said nothing about cancellation.

Mr. COBURN. All right.

Now, Dr. Flemming, I call your attention to the letter of May 27, 1955, that you wrote to Mr. Al E. Snyder, Assistant Administrator of the General Services Administration, in answer to his letter.

Mr. FLEMMING. That is correct.

Mr. COBURN. Calling your attention to the criticism of the General Accounting Office to the cancellation problem. Do you have that before you?

Mr. FLEMMING. If you have a copy, why, it would be helpful. I probably can put my hands on it some place.

Mr. COBURN. You cannot find it, you say?

Mr. FLEMMING. You put that into the record?

Mr. COBURN. Yes, I did.

Here is a copy right here, however, that you can look at and can have before you.

This letter, Mr. Chairman, if I may read it, reads as follows; although it has been read once before, I would like to have it before everyone:

MAY 27, 1955.

Mr. AL E. SNYDER,
Assistant Administrator,
General Services Administration,
Washington, D.C.

DEAR MR. SNYDER: This is in response to your letter of May 3 regarding the questions raised by the General Accounting Office on the cancellation of second quarter 1955 copper deliveries under Defense Production Act contracts.

It seems clear that the Office of Defense Mobilization authorization of April 1 to the General Services Administration did authorize the cancellation of those deliveries, and that the present price level of copper will enable the suppliers involved to sell their copper in the open market at a higher price than the Government would have been obligated to pay.

The purpose of the authorization, of course, was to increase the supply of copper to industry and the effect of the release upon the suppliers' profits was not adequately considered. In the light of the possible windfalls to the suppliers I feel that the authorization to cancel was a mistake and that the deferment of the deliveries would have been preferable.

Further authorizations for similar releases are being put in terms of deferment. If there is any way to correct this particular situation by administration action I urge that such action be taken. Perhaps the suppliers would be prepared to undertake the delivery of equivalent quantities of copper at a future date at the contract price.

Sincerely yours,

(S) ARTHUR S. FLEMMING, *Director.*

You remember sending that letter, do you not?

Mr. FLEMMING. I certainly do. That is one I can recall without any difficulty.

Mr. COBURN. Did you write this letter?

Mr. FLEMMING. Well, I do not know. I notice here on the copy that you got that it apparently started down in the Materials Division. It has got the dictating initials of Mr. Wilbur G. Fritz, who was in the Materials area, and it has got a notation on it that it was rewritten by

Mr. Charles H. Kendall, who was the General Counsel of the Office of Defense Mobilization, and then it finally got to me.

Now, I suspect that it was rewritten as a result of discussion with me in my office, and I indicated what I wanted to have said.

Mr. COBURN. So you say, then, that you did not write this letter, apparently, from what you just said?

Mr. FLEMMING. I am certainly not going to allege that I was not the author of the letter. I assume full responsibility for it.

I very clearly asked to have it rewritten in accordance with my instructions, and then when it was, I signed it. So it is my letter—period.

Mr. COBURN. Mr. Chairman, I would like to offer for the record this two-page letter, and if I may read it.

Senator SYMINGTON. May I ask a question against this previous letter?

Mr. COBURN. Yes.

Senator SYMINGTON. You used the phrase in the letter "in the light of the possible windfalls to the suppliers." The record is clear, is it not, that they got those windfalls as a result of the development, or would you say——

Mr. FLEMMING. They got, Mr. Chairman, what I would call a very definite windfall in that they were relieved of the responsibility of delivering copper at the contract price. This was the windfall.

Senator SYMINGTON. And thereby delivered the same copper at a much higher price into the economy?

Mr. FLEMMING. That is right.

This was the thing that I realized was wrong, and that is why I took the corrective action that I did.

But it was not only wrong from the standpoint of what it relieved them of, but it was wrong from the standpoint of the Defense Mobilization program, because we needed copper, and we should not have released anyone of the requirement to supply us with copper.

Senator SYMINGTON. And because you saw that they had made this windfall profit as a result of the previous cancellation, you suggested, as I read the letter, to the General Services Administration that, if possible, they try to get them to deliver the copper that had been canceled at some future date at the contract price?

Mr. FLEMMING. That is right.

Senator SYMINGTON. Is that correct?

Mr. FLEMMING. That is what I referred to earlier this afternoon.

Senator SYMINGTON. Is that correct?

Mr. FLEMMING. That is right.

Senator SYMINGTON. Thank you.

Mr. COBURN. Now, Mr. Chairman, I have here another letter of two pages which I would like to incorporate in the record and read in full, if I may.

This letter, by the way, has a notation written on it in the upper right-hand corner: "Not sent. Revised and rewritten by Kendall."

Who is Mr. Kendall, or who was Mr. Kendall?

Mr. FLEMMING. I have already identified him, Mr. Coburn, as the General Counsel of the Office of Defense Mobilization.

Mr. COBURN. This letter reads, as follows:

Mr. AL E. SNYDER,
Assistant Administrator, General Services Administration,
Washington, D.C.

DEAR MR. SNYDER: This is in response to your letter of May 3 regarding the questions raised by the General Accounting Office on the cancellation of second quarter 1955 copper deliveries under Defense Production Act contracts. The pertinent paragraph of ODM's authorization of April 1 to the General Services Administration reads as follows.

And then you set forth the authorization, which I will not read in full.

Mr. FLEMMING. Mr. Coburn, I did not set forth anything.

Mr. COBURN. Well, it is set forth here.

Mr. FLEMMING. I mean this is not a document for which I assume any responsibility whatever. I want to make that perfectly clear.

Mr. COBURN. I will ask you about that in just a moment, but I want to have the opportunity of reading it.

This authorization for the release of copper in the second quarter was issued only after top level consideration by the Defense Mobilization Board and the Office of Defense Mobilization of the problem of preventing curtailment of operations in copper-consuming industries and consequent unemployment, so far as that purpose could be accomplished equitably and effectively by a readjustment in the Government's copper procurement program.

I shall not attempt to relate the various considerations that entered into the decision of the Defense Mobilization Board members on the problems. I wish to point out from the standpoint of ODM, however, that the action took cognizance of such matters as differences in the provisions of the Defense Production Act and the Stockpiling Act with respect to meeting the needs of industry as well as the needs of the stockpile, parallel treatment of copper suppliers having contracts under the two acts, the longer term outlook of the stockpile program, the total liability of the Government to acquire copper under existing fixed-price and floor-price contracts, and the rights of the Government to call for copper deliveries in the future under existing DPA contracts.

Since conditions affecting the program are continually changing, actions in each month or each quarter are adjusted to cope with the problems existing at the time. The ODM authorization to the General Services Administration for the second quarter clearly was intended to permit copper deliveries under Defense Production Act contracts to be canceled under the circumstances prevailing in the quarter.

Sincerely yours,

and there is typed on here—

Arthur S. Flemming, Director.

Now, you say you take no responsibility for this letter?

Mr. FLEMMING. I certainly do not. That was a letter that was drafted for my signature and was never signed, and, as we have already indicated, this is probably the beginning of the letter that we have discussed and which I did sign.

I directed that it be rewritten, and it was rewritten.

Mr. COBURN. I was wondering if you had written this letter yourself, and then Mr. Kendall had thought it was wise not to send this, but that the other letter should be sent.

Mr. FLEMMING. Mr. Counsel, if you will refer to the second page of the letter, you will find the name of the person who dictated the draft.

Mr. COBURN. And who is that?

Mr. FLEMMING. That is Mr. Fritz, who was in the Materials Division.

Mr. COBURN. I see.

Mr. FLEMMING. And he sent it along for consideration by me, and the record is perfectly clear that I rejected it, and required to have substituted in its place the letter that we have already discussed.

Mr. COBURN. Why did you reject this letter?

Mr. FLEMMING. Simply because I did not agree with it.

Mr. COBURN. I know, but in what respects, Dr. Flemming?

Mr. FLEMMING. Well, this was a letter that was in response to the letter of Mr. Snyder, who had transmitted the General Acounting Office report for our consideration. It was an effort to defend the action that was taken.

I decided that the action that was taken and which the General Accounting Office criticized was wrong, and I directed that a letter be sent to Mr. Snyder stating that it was wrong, and providing for correction.

I, frankly, Mr. Counsel, cannot see what is accomplished by dragging out of a file a draft of a letter that never received any kind of official status within the Office of Defense Mobilization.

Senator SYMINGTON. Will counsel yield?

Mr. Fritz apparently wrote a letter which was rewritten by Mr. Kendall. From just listening to that letter, if it were not satisfactory from a legal standpoint, it, nevertheless, might have been accurate, at least in the mind of Mr. Fritz, as to the reasons why this situation had developed.

Therefore, inasmuch as it would be fair to call it a working paper, even though it was not the final paper sent out, I think it fair for counsel to bring it up and ask whether or not the facts, as presented in the letter, were correct.

The fact you did not agree with what apparently Mr. Fritz thought was true, else he would be writing you a false letter, and the fact that perhaps you did not on the advice of counsel seems somewhat pertinent to the inquiry.

Mr. FLEMMING. Mr. Chairman, the only reason I made that statement is this. I happen to be the responsible head of the agency, and, as I have tried to indicate to this committee, I accept full responsibility for the actions taken by the agency. In this particular instance, the counsel is discussing an action that I did take on May 27, 1955, when I transmitted the letter to Mr. Snyder.

Now, it does not seem to me that the fact that someone down in the staff prepared another draft of a letter has much bearing on the action taken by the Office of Defense Mobilization.

The action that I took is very clear. It is out on top of the table, and I tried to be perfectly frank with the committee in explaining the reasons for the action.

Senator SYMINGTON. Dr. Flemming, let me point out to you that Mr. Fritz represented the Office of Defense Mobilization at the meeting you chaired on Wednesday, March 30th, and, therefore, perhaps he was——

Mr. FLEMMING. No.

Mr. Chairman, I represented the Office of Defense Mobilization.

Senator SYMINGTON. Yes, but he was there by invitation, according to the minutes.

Mr. FLEMMING. He was one of the staff members present.

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Senator SYMINGTON. That is right.

Mr. FLEMMING. That is correct.

Senator SYMINGTON. Therefore, perhaps he felt that he was reporting what he thought were the facts in the case, even though you did not agree with him, and, of course, it was your decision.

Mr. FLEMMING. Look, Mr. Chairman, I happen to know Mr. Fritz. I have the highest regard for him. I think he is one of our very fine career civil servants, and I do not question at all his motive in drafting this kind of a letter.

As you say, he may well have thought that he was drafting a letter that was consistent with the agency's policy, because he may not have had reported to him any of the discussions in which I had participated, and in which I indicated that I was going to make a change.

But I kind of feel that, as a career civil servant, he was undoubtedly doing what he thought was the right thing to do, and I have got the highest regard for him.

Mr. COBURN. Dr. Flemming, here is the reason that I have asked you about this draft of the letter. You wondered why I did.

Now here is why I am referring to this. I thought it might help you refresh your recollection. This first draft says this, that is not contained in the letter that was sent out by you:

> This authorization for the release of copper in the second quarter was issued only after top level consideration.

Now, does that recall to your mind anything about who it was in this Mobilization Board meeting that recommended that the cancellation be had?

Mr. FLEMMING. Mr. Counsel, his reference is clearly to a meeting of the Defense Mobilization Board. We have covered that ground, and I have told you that I do not recollect who discussed what and what position he took and what point of view he took and so on at that particular meeting.

Now, whenever I can recall on this occasion or any other occasion I am before the committee, I will share what I recall with you. But when I state that I cannot recall, that is my honest statement of the situation.

Mr. COBURN. I do not question that, Dr. Flemming. But it has been my experience that frequently witnesses' memories can be refreshed by going back over things.

Mr. FLEMMING. This is correct.

Mr. COBURN. And so I defer to you, but I am not willing in all instances to simply take your statement that you do not recall, and then go on without ever asking anything more about it. You understand my position in the matter?

Mr. FLEMMING. I certainly do, and I thoroughly agree with your position on that. I think that oftentimes retracing steps does prove to be helpful to a witness.

In this particular instance this does not help me at all on the point in which you are interested.

Mr. COBURN. The thing that I have in mind is this: In going through the records of this copper deferral problem, I find that the Commerce Department was constantly urging these diversions to industry, and so I was hoping that you could throw some light just on

the action here of this Defense Mobilization Board by saying that it was the Commerce Department that was taking the lead in this thing and urging the diversions.

Mr. FLEMMING. Mr. Coburn, I think it would be unfair for me to do that, that is, to assign the responsibility to them as over against anyone else.

Now, because of the responsibilities that have been assigned to the Department of Commerce—remember, they were a delegate agency under the operations of the Defense Mobilization Board; that BDSA, the Business and Defense Services Administration, had inherited some of the responsibilities that the former Defense Production Board had. They were the agency that was following the supply-demand situation. They were the agency that we would normally and naturally look to for the basic data regarding a situation of this kind.

So I had it as pretty firmly established procedure that we would not even put an item of this nature on the agenda of the Defense Mobilization Board until we had a communication from Commerce setting forth the facts and setting forth their own recommendation.

Then, normally, their letter went to the staff of the Office of Defense Mobilization, and they prepared normally a document which would be considered by the Defense Mobilization Board.

Now, the Department of Commerce appeared rather regularly, of course, in these deliberations, but if they did not, they would not have been discharging their duty that had been assigned to them, both by law and by ODM directive.

Senator SYMINGTON. Dr. Flemming, in your letter of April 1, you authorized cancellation and deferment to Hon. Edmund Mansure?

Mr. FLEMMING. Yes.

Senator SYMINGTON. And then you have this phrase:

provided that the suppliers divert the copper involved in accordance with the instructions of the Department of Commerce.

Does not that verify the fact that the Department of Commerce was a leading, if not the leading, influence in some of this operation?

Mr. Fritz wrote this letter after being a member, by invitation, at the meeting of Wednesday, March 30, where the primary problem discussed apparently was copper deferment, cancellation, etc. Perhaps he felt he was giving, in the letter he prepared for your signature, the position as it had been discussed at that meeting; but counsel, Mr. Kendall, felt that letter should not be sent out.

As I understand it, all that the counsel was trying to do was to find out from you if you could refresh your memory to the point where you remembered that the Department of Commerce was the principal proponent of the policy which later you found out was a mistake.

You did not remember it in the beginning, but a lot of the detail has now been gone over and perhaps you would remember it now.

If you do not, you do not.

Mr. FLEMMING. Mr. Chairman, of course, quite the contrary. Some of the information that the counsel has been able to get from the files shows that the Secretary of Commerce was apparently the first person to go on record as indicating that he felt that the cancellation was a mistake.

Senator SYMINGTON. Do you remember when that came up at the Office of Defense Mobilization that he went on record that it was a mistake?

Mr. FLEMMING. The counsel has put into the record here a letter that was addressed to me by Mr. Weeks. I think you said that was March 10.

Mr. COBURN. It was addressed by Mr. Weeks to the Administrator of GSA.

Mr. FLEMMING. That is right, and a copy to me.

Mr. COBURN. And a copy sent to you.

Mr. FLEMMING. That is right.

So that, actually, the record shows that he was out in front of me as far as taking this position was concerned.

Senator SYMINGTON. Our position is a little difficult because you admit that your policy of cancellation was a mistake.

Mr. FLEMMING. Right.

Senator SYMINGTON. You say, to the best of your recollection, you do not know why you did it?

Mr. FLEMMING. That is right.

Senator SYMINGTON. You cannot remember any discussion about it, a major situation which involved a loss to the Government of a great deal of money.

All we would like to do—and I am sure you agree it is a logical effort—is to find out who was responsible for making the mistake in the beginning by urging you and/or those people to whom you delegated authority to do it, and urging them successfully to do it; then when it was found to be wrong, it was corrected.

Mr. FLEMMING. Mr. Chairman, I have to go back to the fact that I made the mistake as the head of the agency, and that I moved to correct it when I realized it was a mistake.

Senator SYMINGTON. On that basis, the President made it, but what we want is more detail. I think it very fine of you to accept the responsibility. The only thing is you cannot remember anything about the details. You say a mistake was made:

"I don't remember making it; I don't know why I did it; and I am sorry."

We wonder why it was done, that is all. That is one of the purposes of these hearings: to find out the facts.

Mr. FLEMMING. Mr. Chairman, it is not quite fair to say that I do not remember making it, because I not only remembered making the mistake, but in May 1955, May 27 or 28, I issued a statement to the public saying that the mistake had been made.

Senator SYMINGTON. I want to correct my statement, if I was wrong.

But I thought you said you realized later that you had made a mistake; that you do not know the details of why you made the mistake when you made it?

Mr. FLEMMING. This is correct.

Senator SYMINGTON. Thank you, sir.

Mr. FLEMMING. This is correct. That is a very fair summary. I would like to say this, Mr. Chairman.

You talk about the fact that the mistake resulted in a loss of a rather large sum of money to the Government. I think the record

should show again that of the total amount of copper that was made available to the economy from the fourth quarter of 1954 through the second quarter of 1956, these cancellations represented 7.6 percent of the total, and that figure is compiled from the statement that the General Services Administration furnished the committee and which was included in the record of the April 12 hearing.

Senator SYMINGTON. Doctor, it is 5 o'clock and if it is all right with you, we will recess until tomorrow morning. Counsel tells me he figures that tomorrow we can be through with your questioning.

We want to thank you very much for your courtesy in coming, and your frank testimony.

Mr. FLEMMING. Thank you, sir. I appreciate it.

Senator SYMINGTON. Without objection, the hearing will now recess until 10 o'clock tomorrow morning.

(Whereupon, at 5 p.m., the hearing was adjourned, to reconvene at 10 a.m., Thursday, April 26, 1962.)

STOCKPILE INVESTIGATION

THURSDAY, APRIL 26, 1962

U.S. SENATE,
SUBCOMMITTEE ON THE NATIONAL STOCKPILE,
AND NAVAL PETROLEUM RESERVES OF THE
COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The subcommittee (composed of Senators Symington, chairman, Thurmond, Engle, Cannon, Case of South Dakota, and Beall) met, pursuant to notice, in room 235, Old Senate Office Building, at 10:05 a.m.

Present: Senators Symington (presiding), Thurmond, Engle, Cannon, Case, and Beall.

Also present: Richmond C. Coburn, chief counsel to the subcommittee; T. J. May, assistant counsel; J. H. Zimmer, assistant counsel; Edward O. McCue III, assistant counsel, and James J. Gehrig, special assistant to Senator Symington.

Senator SYMINGTON. The hearing will now come to order.

Senator Cannon, have you any questions you would like to ask Mr. Flemming?

Senator CANNON. No, Mr. Chairman, I have nothing.

Senator SYMINGTON. Mr. Counsel, will you proceed?

Mr. COBURN. Yes, Mr. Chairman.

Dr. Flemming, if you are ready to start.

TESTIMONY OF ARTHUR S. FLEMMING—Resumed

Mr. FLEMMING. Yes, sir.

Mr. COBURN. Dr. Flemming, referring now to the statement you made at the opening of the session yesterday morning——

Mr. FLEMMING. Yes, sir.

Mr. COBURN. As I understand your statement, you say that there were three guidelines that you followed in the operation of the Office of Defense Mobilization: (1) That the Office should do everything possible to insure steady progress in the direction of achieving both the Nation's expansion and stockpile goals; (2) to administer the materials program in such a manner as to avoid weakening the economy; and (3) to keep at the lowest possible minimum governmental trading in strategic and critical materials so as to make it clear that the Government was not attempting to use a defense program to manipulate the materials and metal markets of this country and the world.

Those are the three guidelines that are set out in your statement, are they not?

Mr. FLEMMING. Yes, sir.

Mr. COBURN. I wonder if you—I notice that you make no mention of the operation of the stockpile as economically as possible. Did you consider that to be a primary matter in the operation of the stockpile?

Mr. FLEMMING. I certainly felt that it was a matter that should be kept in mind, but not necessarily controlling as far as decisions are concerned. The Congress, in passing the Stockpile Act, as we noted yesterday, provided, if I may have a minute to refresh my recollection——

Mr. COBURN. Yes, sir; certainly.

Mr. FLEMMING. Section 3–A of the act as approved in 1946 says:

> The Secretary of War and the Secretary of the Navy shall direct the Secretary of the Treasury, through the medium of the Procurement Division of his Department to (*a*) make purchases of strategic and critical materials with due regard to the objectives set forth in section 1 of this act, and pursuant to the provisions set forth in section 2 hereof, which purchases, (1) shall be made so far as is practicable from supplies of materials in excess of the current industrial demand.

As I indicated in my statement in reporting the bill to the House of Representatives, the Committee on Military Affairs made the following statement:

> Section 3–A provides for the purchase of material. Such purchases are to be made so far as it practicable from supplies in excess of the current industrial demand. This provision, which was not contained in the 1939 act establishes the policy of an orderly purchase program, designed to acquire materials at reasonable cost and with minimum interference to the normal operations of producers and consumers.

In other words, Mr. Chairman, in administering the Stockpile Act, I certainly had the obligation of keeping in mind this section 3–A, and I had the obligation of keeping in mind the stated objective of 3–A, which is, as the committee put it, designed to acquire materials at reasonable cost. So certainly, this was a factor.

Senator SYMINGTON. What committee are you referring to?

Mr. FLEMMING. This was the Committee on Military Affairs of the House of Representatives.

Senator SYMINGTON. Not a statute?

Mr. FLEMMING. No. This is a part of the legislative history, though, I think, Mr. Chairman, I think those of us who administer the law——

Senator SYMINGTON. I understand. I just want to be sure it is understood you are reading from the committee report, not the statute.

Mr. FLEMMING. The parts of the statute I read were to make purchases of strategic and critical materials with due regard to the objectives set forth in section 1 of this act and pursuant to provisions set forth in section 2 hereof, which purchases shall be made so far as is practicable from supplies and materials in excess of the current industrial demand.

That is the statute.

Then I return to the report of the Military Affairs Committee in order to help understand what they had in mind in putting into the 1946 statute a provision that was not in the 1939 statute. But having said that, and recognizing my obligations as a public official to keep in mind the cost factor, I, of course, felt that the needs of national defense should always be overriding and that if a conflict developed between

the cost factor and what was regarded as a proper policy to follow in the national defense area, you would resolve the conflict in favor of the national defense objectives, always.

Mr. COBURN. Well, now, I do not want to misquote you, but is this correct, then, that it was your position in the administration of the stockpile that the economical operation of the stockpile was secondary to the primary consideration set forth in your statement?

Mr. FLEMMING. It was secondary to the primary objective of the act as set forth in the act itself; namely——

Mr. COBURN. I am asking you about your statement now, though, Doctor. Let us keep on the subject.

As I understood you, you gave us a statement yesterday that was, I am sure, a carefully prepared statement on your part, in which you set forth the three main guidelines that you followed in the operation of the stockpile. I am asking whether you regarded the economical operation of the stockpile as being secondary to those three guidelines mentioned in your statement.

Mr. FLEMMING. All right, Mr. Counsel, let us take three guidelines.

Senator SYMINGTON. The counsel has already taken them.

Mr. FLEMMING. But, Mr. Chairman, I am going to answer——

Senator SYMINGTON. This is a hearing and the question is a simple question. I will not mention this again, but it seems to me a fairly simple question.

Mr. FLEMMING. Mr. Chairman, I am going to answer the question in respect to each of the three guidelines and I am not going to give a general comment.

Senator SYMINGTON. All right. You proceed.

Mr. FLEMMING. As counsel indicated, the first guideline was that the Office of Defense Mobilization should do everything possible to insure steady progress in the direction of achieving both the Nation's expansion and stockpile goals. If at any time I felt that there was a conflict between that particular objective and the cost factor, I would resolve it in favor of that objective.

The second guideline is that I said that I kept in mind the desirability of administering the materials program in such a manner as to avoid weakening the economy. Now, at that point, Mr. Counsel, it seems to me that the two objectives that we are talking about—that is, the objective that you mention as far as the cost factor is concerned and this one, might not find themselves in conflict very often. Conceivably—I cannot visualize a conflict. Maybe I can think later on of a specific situation.

The third guideline was to keep at the lowest possible minimum governmental trading in strategic and critical materials. As far as this guideline is concerned, I have indicated time and again already in this hearing that I felt that that, where there was a conflict between that and the question of cost, that the conflict should be resolved in favor of the guideline.

Mr. COBURN. That is, you thought that it was more important for the Government to pursue a course that would not be interpreted as trading in strategic and critical materials than it was to operate the stockpile economically in that respect?

Mr. FLEMMING. That is absolutely correct.

Mr. COBURN. All right. Thank you. I just wanted to make sure that we had your views in that respect.

Now, Dr. Flemming, if I may revert again to your letter of May 27, 1955, written by you to Mr. Snyder after your attention had been called to the criticism of the General Accounting Office with reference to cancellations, and I will not go into the cancellation phase of this letter any more; we have concluded all of that; but I wanted to ask you a few questions about this part of the letter which I think a copy of is now before each member of the committee this morning and in the file that is in front of you.

Senator SYMINGTON. Which letter is this?

Mr. COBURN. The letter of May 27, 1955.

Senator SYMINGTON. To Mr. Snyder from Dr. Flemming?

Mr. COBURN. Yes. And you have a copy before you, do you not, Dr. Flemming?

Mr. FLEMMING. Yes, sir.

Mr. COBURN. Let us look at the last paragraph of that letter. You say there——

> Further authorizations for similar releases are being put in terms of deferment.

Then you go ahead and say that if there is any way to correct this action, go ahead and do so.

As I read this letter, you took the position as a matter of policy at that time that although there would be no more cancellations, hereafter you would resort to deferrals; is that correct?

Mr. FLEMMING. That is correct.

Mr. COBURN. I am wondering if, before you wrote that letter, which represents a rather important policy change, it seems to me, did you discuss this question of deferrals with anybody?

Mr. FLEMMING. Well, I assume that I did. I undoubtedly discussed it with members of my staff and got the benefit of their advice before I made the decision that I did. I will say to you very frankly, I made the decision very quickly, as soon as I was made aware of the fact, as far as my own thinking was concerned, that I had, through the cancellations, put the Government in a position where it could not require those producers to deliver copper to the Government in the future, and as soon as this dawned on me, I moved as quickly as I could to correct the situation.

I am sure that I discussed the matter with some people.

Mr. COBURN. In your staff, you say?

Mr. FLEMMING. I assume that I did. That is the way I normally proceeded.

Mr. COBURN. But you have no recollection of having done so? In other words, do you recall whom you might have discussed it with?

Mr. FLEMMING. I do not.

Mr. COBURN. Do you recall discussing this problem with anybody outside of your staff, say in some other department of the Government?

Mr. FLEMMING. I do not.

Mr. COBURN. I think it is a fair statement to say that the Department of Commerce was pressing hard to get these diversions of copper from the Government into industry, was it not?

Mr. FLEMMING. I am sure that you have found in the file a series of letters from the Department of Commerce in which they set forth their views on the matter.

Mr. COBURN. And they were strongly in favor of diverting the deliveries from Government to industry, were they not, these letters?

Mr. FLEMMING. They recommended in a series of letters over this period that we are talking about, from the fourth quarter of 1954 to the second quarter of 1952, that we make such copper as we could available to industry.

Mr. COBURN. I ask you that because I am wondering if you discussed the desirability of deferring, using that as a device to divert, with Secretary Weeks, for instance.

Mr. FLEMMING. I do not recollect a conversation with him on it.

Mr. COBURN. Or anyone else in the Commerce Department, at all, the head of BESA or anyone in the Commerce Department?

Mr. FLEMMING. I do not recall a conversation with them.

Mr. COBURN. Your testimony is, then, you just do not remember having talked about the desirability—that is, the pros and cons of deferrals—with anyone?

Mr. FLEMMING. My assumption is that I discussed it with the staff.

Mr. COBURN. But you do not remember talking with anybody about it?

Mr. FLEMMING. I will let my testimony stand on what I have just said.

Mr. COBURN. Well, now, Dr. Flemming, I have noticed that you seem to—in fact you did submit to the Defense Mobilization Board each time before you either canceled or deferred, the question of doing so, did you not?

Mr. FLEMMING. This is correct.

Mr. COBURN. You took the matter up with them first, is that right?

Mr. FLEMMING. This is correct.

Mr. COBURN. Did you regard it as the right policy to follow their judgment on this matter every time, invariably?

Mr. FLEMMING. My attitude was that they were there to advise me and I would consider their advice and then make my own independent decision as to what I would do. I had the administrative responsibility, they did not.

Mr. COBURN. I see. So you regarded them, then, as serving an advisory function?

Mr. FLEMMING. That is correct.

Mr. COBURN. But in the ultimate analysis, it was your responsibility as to whether there should be cancellations or deferrals?

Mr. FLEMMING. That is correct.

Mr. COBURN. I asked about the Defense Mobilization Board because I wonder if this question of the advisability of deferrals was discussed in the Board and you obtained your views in favor of the deferrals from discussions in the Board.

Mr. FLEMMING. As far as my decision, to instruct GSA to defer in the future and not to cancel in the future, as far as that decision was concerned, I do not have a recollection of having discussed it with the Defense Mobilization Board. I made the decision.

Mr. COBURN. Well now, I think there may be certain things that we can all agree on here with reference to the wisdom of deferrals.

In the first place, there is no question but what the deferrals, made as they were at a time when the market prices were substantially higher

than the contract prices, resulted in the contractors enjoying an immediate windfall.

Is that not correct?

Mr. FLEMMING. Mr. Counsel, I cannot let that statement go without making this statement, because you have stated a conclusion. You have asked me to concur in that conclusion.

I read very carefully the testimony that was taken by this committee on April 16, 1962. I noticed that the witnesses used the term "windfall."

It had been my hope, Mr. Chairman, that, that being a conclusion, the committee would hold in abeyance its judgment on this particular matter until all points of view had been presented to it.

I think it is fair to say that in the popular mind the use of the word "windfall"—I mean, when the word "windfall" is used people conclude that a person or an organization got something to which it was not entitled. I do not think that that really is a correct definition of the word.

I think that if we look at its literal meaning we would conclude that it is something that comes to people unexpectedly, but not necessarily something to which they are not or were not entitled. Now, let's try to take a look at this situation——

Senator SYMINGTON. That is what we are doing.

Mr. COBURN. You have finished, have you?

Mr. FLEMMING. No, I had not. I did not know whether the chairman wanted to make a statement or not.

Mr. COBURN. You may finish your statement. Go ahead.

Mr. FLEMMING. These companies had contracted with the Government to furnish certain quantities of copper at certain stated prices, in accordance with a time schedule.

At this particular point the Government said to these companies, "The best interests of the country can be served by you making all of your copper available to the economy. At a later date we will expect you to supply the copper that you have agreed to supply and to supply it at the contract price."

In other words, the Government was protecting its right to get copper. But at the same time, the Government said, "We believe that the best interests of the country can be served by your making this copper available to the civilian economy."

By so doing they, like all other producers of copper, were able to obtain the market price, the then existing market price.

Now, I am not here to defend the companies at all. I am here only for the purpose of defending the policy that I very consciously decided to follow. And my basic consideration, in following the policy, was to do the thing that I felt was best for the country at that particular time.

And, Mr. Counsel, I wish that I had the ability to reconstruct the situation that existed at that time. Some members of this committee will recall that we were being bombarded, not only to do what we did but to release copper from the stockpile.

And, of course, we refused to do that because we felt that we had no right to do it under the law. But here are a group of companies that simply obtained, for what they produced, the market price at that time.

They got it because the Government said, "The best interests of the country will be served by your making this copper available to the economy."

The Government said, "You will still make available to us the copper that you agreed to make available, but you will do it at a later date."

All I want to suggest is that if the word "windfall" connotes the fact that they got something to which they were not entitled then I believe it is improper to use that word.

Mr. COBURN. Well, Doctor, you would call the phasing out program that was finally adopted, toward the end of the deferrals, in order to permit these companies to meet their obligations under the contracts as originally drafted, and also their obligations under the deferrals.

You remember that, do you not?

Mr. FLEMMING. That is correct.

Mr. COBURN. In one of those letters that you wrote, directing GSA to prepare a deferral program, you used the word "windfall" yourself.

You object to that now. You used the word "windfall" and directed them, in preparing the phase-out program, not to permit any windfalls.

Do you remember that?

Mr. FLEMMING. I remember it very distinctly, and when I made the statement that I just made I was conscious of the fact that my attention could be called to the fact that I used the word at that particular time.

I think I used it improperly because—not because, technically, it isn't a proper word to use, but I think I used it improperly because of which it appears to connote in the popular mind.

And all I am saying, Mr. Counsel, is that I do not feel that it is fair to say that the companies got something to which they were not entitled.

They got the market price just like everybody else got the market price during that particular period.

Mr. COBURN. Well, I do not——

Mr. FLEMMING. I think, as we said yesterday, I think when they were relieved of the responsibility of supplying the copper in those three instances they did get something to which they were not entitled.

Senator SYMINGTON. Excuse me, but Senator Cannon wants to leave for the Armed Services Committee.

Senator Case, will you yield?

Senator CASE. Yes, but I promised to go over and make a quorum at Public Works at this time.

Senator SYMINGTON. Will you yield just for one question?

Senator CASE. I will defer.

Senator CANNON. Doctor, you say that the companies did not get something that they were not entitled to.

On the other hand, if they had been forced to perform their contract that they had with the Government they would not have gotten what they did get, would they?

Mr. FLEMMING. If they had been forced to perform it at that time.

Senator CANNON. Whether it was a windfall or whatever you call it, as you called it I think in your letter of May 27, a "possible windfall," and that term has been used, they would not have gotten it if they had been required to perform the contracts then in existence with the Government?

Mr. FLEMMING. At that time, that is right. Now, they were required to perform it later.

Senator CANNON. Thank you.

Senator SYMINGTON. Senator Case.

Senator CASE. Yes, sir, Mr. Chairman.

Doctor Flemming, was it the purpose of the Stockpile Act to create a situation in which the Government would make profits by buying copper and holding it for a——

Mr. FLEMMING. It certainly was not, Senator Case.

Senator CASE. I think, Mr. Chairman, that it is appropriate to go back to the guidelines and to that second guideline that was suggested by the comment or the report of the House Committee on Military Affairs in connection with the Stockpiling Act.

And I read the sentence again from Dr. Flemming's statement of yesterday, and this is the House Military Affairs Committee speaking:

> Section 3(a) provides for the purchase of materials. Such purchases are to be made so far as is practicable from supplies in excess of the current industrial demand.
>
> This provision, which was not contained in the 1939 act, establishes the policy of an orderly purchase program, designed to acquire materials at reasonable costs and with the minimum interference to the normal operations of producers and consumers.

Now, Dr. Flemming, was it your thought that that guideline suggested that, where you could insure procurement at a reasonable cost, you were not in that procurement to interfere with the normal operations of producers and consumers unless some critical urgency of national defense developed as an instant situation?

Mr. FLEMMING. That is correct.

Senator CASE. In this letter of yours of May 27, 1955, to Mr. Snyder, the Assistant Administrator, it starts out by saying:

> This is in response to your letter of May 3 regarding the questions raised by the General Accounting Office on the cancellation of second quarter 1955 copper deliveries under Defense Production Act contracts.

Your letter to Mr. Snyder, in response, was dated May 27.

In the intervening 24 days, that is the time it took for your receipt of the letter, did you give consideration to the questions raised by the General Accounting Office on the effect of the cancellation of the second quarter, 1955, copper deliveries?

Mr. FLEMMING. Yes. The letter and the report of the General Accounting Office undoubtedly was not called to my attention immediately on receipt of Mr. Snyder's letter in the office.

They probably referred it to the Materials Division for comment before it came to me.

But this—the comments and observations of the General Accounting Office were very definitely considered by me in making the decision that I made.

Senator CASE. Now, I have in hand the letter, which has been reproduced by some member of the staff, which apparently is this letter of May 3, 1955, by Mr. Snyder to Dr. Flemming.

I want to read the letter into the record at this point.

It may have been placed in the record, but I want to read it for the purpose of putting a question.

DEAR MR. FLEMMING: April-June copper deliveries under Defense Production Act contracts were canceled as authorized in your letter of April 1.

The General Accounting Office has questioned these cancellations. The pertinent part of their letter is as follows:

"Under terms of the above contracts, the producers are required to deliver copper to DPA at prices ranging from 27.35 cents per pound, which are below the current market price of 36 cents. Therefore, in contrast with the prospective profits to be made by DPA through sales from its inventory, the proposed cancellations would result in substantial windfalls to the three contractors and would deny such profits to the Government. We do not consider that any such windfalls and loss of profits to the Government were contemplated under the ODM directive.

"We estimate the total profits which could be lost by GSA in this manner to be approximately $400,000, assuming that the current market price remains steady. We are of the opinion that this situation, which is clearly disadvantageous to the Government, can be administratively rectified by your office. We will appreciate your prompt consideration of this matter and your advice as to any corrective action taken."

That is the quote of the——

Mr. FLEMMING. General Accounting Office?

Senator CASE (continuing). Portion of the General Accounting Office letter.

Mr. FLEMMING. Right.

Senator CASE. Mr. Snyder concluded:

Before proceeding, we shall appreciate your views.

Cordially yours,

AL F. SNYDER, *Assistant Administrator.*

Now then, does it appear to you that the use of the word "windfall" was first brought up in the comments of the General Accounting Office?

Mr. FLEMMING. Apparently it was; yes, sir. I don't know whether it was first brought out——

Senator CASE. Well, at least, it was there——

Mr. FLEMMING. That is right.

Senator CASE (continuing). In your letter of May 27, responding to Mr. Snyder's letter of May 3, and you might well have used the term "windfall" by picking it up from the letter of the General Accounting Office to which Mr. Snyder referred?

Mr. FLEMMING. Might have, yes.

Senator CASE. And you used it in whatever context it might have been, responding to the presentation by the GAO?

Mr. FLEMMING. This is correct, Senator Case. I mean, I did what we all do, I think.

People begin to use a word which is really shorthand for the expression of an idea. It gets into common usage, and I did just what I did, following them all.

Senator CASE. Now, counsel has been endeavoring apparently to find out if you had any conferences with people either in the Defense Mobilization Board or the Department of Commerce or anywhere else

which led to your letter of May 27, reversing the action, so to speak, or changing the action previously taken.

Your testimony has been that you do not recall any such conversation.

Is it a fair assumption, however, for the committee to believe that between the time of your letter and the time Mr. Snyder's letter of May 3 was brought to your attention, with these comments of the General Accounting Office, you gave consideration to these points brought up by the General Accounting Office when you wrote your responsive letter of May 27?

Mr. FLEMMING. Senator Case, it certainly is and, as I indicated to the counsel for the committee, I assumed that I engaged in quite a number of discussions.

I think that if anyone discusses this with the people who worked with me in any of the agencies with which I was associated they will tell you that I did believe in consultive management, and it was my policy to consult fully with people who were in a position to advise me before I acted.

And I certainly assume that I did so in this case.

Senator CASE. Now, I come back to your letter of May 27.

You are referring directly to this comment or the questions raised by the General Accounting Office, and you state that the purpose of the authorization of April 1, of course, was to increase the supply of copper to industry, and the effect of the relief upon suppliers' profits was not adequately considered.

You intended to say just what it says, that the possible effect of the release upon the suppliers' profits was not adequately considered.

That is what you said and that is what you intended to say?

Mr. FLEMMING. That is correct.

Senator CASE. And then in the next sentence you say:

> In the light of the possible windfalls—

again, using the phrase which the General Accounting Office letter used—

> I feel that the authorization to cancel was a mistake and that the deferment of the deliveries would have been preferable.

Mr. FLEMMING. That is correct.

Senator CASE. That is what you said and that is what you intended to say?

Mr. FLEMMING. That is right and, Senator Case, in response to an inquiry from Senator Cannon yesterday I pointed out what I had in mind in terms of the "windfall," using that term in this particular instance, and that was that we had told them to sell in the market because we thought that was to the best interests of the country at that time.

But we had relieved them of their obligation to furnish copper at the market price. And, consequently, they—I felt that that was basically a mistake, and that is why I made the correction in the policy.

Senator CASE. And you do not recall outside conversations such as the counsel has questioned you about?

You do recall, and the record does show, this letter from Mr. Snyder, quoting the letter from the General Accounting Office, and your letter was responsive to that letter from Mr. Snyder?

Mr. FLEMMING. That is correct, Senator Case.

Senator CASE. Dr. Flemming, how long have you been connected with Government?

Perhaps I should say when was the first position in Government you held or what was it?

Mr. FLEMMING. Senator Case, in 1939 I was appointed by President Roosevelt as the Republican member of the U.S. Civil Service Commission. I served in that position until 1948.

During that period of time I also served as a member of the War Manpower Commission by appointment of the President.

Senator CASE. Who was the President at the time you were appointed to the War Manpower Commission?

Mr. FLEMMING. Well, that was during World War II and President Roosevelt, of course, was President at that time.

I continued until August of 1948, when I went back to Ohio Wesleyan as president. I came back to the Government——

Senator CASE. May I interrupt for just a moment?

Mr. FLEMMING. Yes.

Senator CASE. From 1939 to 1948 is more than the normal single term of a member of the Civil Service Commission, is it not?

Mr. FLEMMING. At that time, Senator Case, members of the Civil Service Commission served at the pleasure of the President. There was no term connected with the position.

Now, it is a 6-year term, but at that time you served——

Senator CASE. I was thinking of a 6-year term.

Mr. FLEMMING. That is right.

Senator CASE. But, in any event, you continued in service at the pleasure of the President, by your appointment by President Franklin Roosevelt in 1939 until some time in 1948, and that meant that you continued at the pleasure of President Truman, as well as President Roosevelt?

Mr. FLEMMING. That is correct. I served for approximately 3 years in the position under President Truman.

When hostilities broke out in Korea Mr. Charles Wilson, the former president of General Electric, was the Director of the Office of Defense Mobilization, and he asked me to come back to serve as Assistant Director in charge of the manpower side of the program.

Senator CASE. When you say "come back" you mean come back from being president of Ohio Wesleyan?

Mr. FLEMMING. To come back from being president of Ohio Wesleyan, that is right.

Senator CASE. How long did you serve in this position, along with Mr. Charles E. Wilson, at the War Production Board?

Mr. FLEMMING. I served during the entire period of his service and then continued when Mr. John Steelman took over as Acting Director of Defense Mobilization.

I continued to serve when Mr. Henry Fowler, who is now the Under Secretary of the Treasury, took over as Director of Defense Mobilization.

Senator CASE. And the "John Steelman" that you referred to, was he formerly an assistant to President Truman?

Mr. FLEMMING. That is correct. Then on January 20, 1953, President Eisenhower asked me to serve as Acting Director, which I did.

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And then approximately April 1, 1953, he appointed me Director, and I served then until the early part of 1957, when I returned to Ohio Wesleyan, and then came back on August 1, 1958, as Secretary of Health, Education, and Welfare.

Senator CASE. When you came in as Secretary of Health, Education, and Welfare, did that call for Senate confirmation of your appointment?

Mr. FLEMMING. It did, as did my position as Director of Defense Mobilization. It also called for senatorial confirmation.

Senator CASE. What year were you appointed to that position in Defense Mobilization?

Mr. FLEMMING. In 1953.

Senator CASE. In 1953?

Mr. FLEMMING. That is correct.

Senator CASE. And in 1958 you were confirmed by the Senate to the Cabinet position after having this period of service on the War Manpower Commission and the Civil Service Commission?

Mr. FLEMMING. That is correct.

Senator CASE. And following the Eisenhower administration what position did you then take?

Mr. FLEMMING. I became president of the University of Oregon.

Senator CASE. And that is the position you hold today?

Mr. FLEMMING. That is correct.

Senator CASE. Dr. Flemming, I have asked these questions because it seems to me, with the experience you have had in Government and the number of years that your life has been before the public from your appointment by President Roosevelt to the Civil Service Commission in 1939 to the present, that you have occupied many positions of responsibility and trust, and that that trust has been expressed by the Senate of the United States in confirmation on two occasions.

Now, then with your experience as Director of Defense Mobilization, with your knowledge of this whole stockpile matter, I should like to ask you, for the benefit of the committee, to suggest, if you could, policies that this committee, or guidelines, that this committee might well use in dealing with the stockpile situation that we now have.

I think it is admitted, through changes in technical developments, changes in space, changes in the scientific field and also changes in the production of rubber, that we have changed from an economy that was largely dependent upon natural rubber a few years back to one where most of our needs can now be met, and some of them better met, by synthetics.

We have a considerable stockpile of rubber. We apparently have more than we need of some of these other things.

What guidelines or policies would you suggest to the committee, for our recommendation to the Congress, in disposal of these excesses in the inventory?

Now, before you do that, and while you are thinking of it, may I recall that at the time Jesse Jones was in charge of the disposal of some of the stockpiles, I think it was before RFC or shortly after, there was a considerable accumulation of wool.

I do not know much about the stockpile in other areas, but I do recall at one time there was a considerable accumulation of wool following World War II.

During the war we purchased wool partly for our strategic needs. We purchased it partly for preemptive purchases, to keep it from falling into the hands of the Germans.

With that large stockpile the wool growers of the country feared that it was a threat to the market, and they were afraid the Government was going to dump it.

My recollection is that Mr. Jones decided, after talking with, perhaps, to advisers in the wool industry, and I do not know, but, in any event, that he would establish a sort of an upset price and would not dump it on the market but would, rather, fluff it off when it could be taken by the market without disruption.

Remembering that, and this is why I ask you, having had the experience that you have had, can you suggest to the committee any guidelines that will be helpful when we make our recommendations for disposal of excesses or surpluses?

Mr. FLEMMING. Senator Case, I appreciate very much the opportunity of responding to that question.

In response to some questions that were addressed to me yesterday I indicated that, on the question of disposal, I felt that the policy that is reflected in the 1946 law is still a sound policy and one that should be followed.

Under this policy, when the executive branch feels that the surplus is such that some positive action should be taken, it is required to come to the Congress with a very specific program. And that program must receive the approval of the Congress before it can be put into operation.

This, it seems to me, provides all interested parties with the opportunity of stating their views to the Congress.

It also means that when the Congress acts everyone will have a full and complete understanding just how the Government is going to operate.

And when I say "everyone," Senator Case, I feel that these days certainly we must keep in mind that this refers also to other countries, because these materials in many instances, of course, are materials that are on a world market, and our Nation cannot act in these areas without there being repercussion as far as the world market is concerned and this, in turn, can affect our relationships with other countries.

In other words, I feel that the procedure that was followed in 1960 in connection with rubber, when the administration came to the Congress and very frankly stated what the problem was, made some suggestions, and gave the Congress the opportunity of acting, is the right procedure.

And I think that it is necessary to deal with it on a case by case basis that way because the situation, as far as each material is concerned, is different at any given time.

And I just don't believe that you can indulge in generalization.

Senator CASE. That is, you would have commodities treated individually?

Mr. FLEMMING. That is correct. And, as I indicated in my testimony yesterday, when the matter was before the Congress in 1946, that is the matter of disposal, it is clear from the record that representatives of the Army and Navy wanted the executive branch to be given

greater flexibility than apparently the Congress was willing to give them when it came to disposal.

And again, in the report of the House Committee on Military Affairs they referred to that fact and concluded that greater flexibility is not required and would, without any compensating advantage, cause detriment.

In this case they were thinking particularly as to the mining industry.

And they said that the existence of discretionary authority, to release stockpile materials except for war purposes, for rotation to prevent deterioration or by reason of obsolescence, would prevent a great threat to the stability of mining operations, and to the confidence necessary to maintain a sound and healthy domestic mining industry.

They said it would thus imperil our major source of many of these materials.

The provisions of section 3, under which Congress retains the key to the stockpile, are designed to minimize this threat.

I believe that the Congress should continue to retain the key to the stockpile.

Senator CASE. Do you believe that the original and basic objectives of a stockpile for strategic and critical materials should be maintained?

Mr. FLEMMING. I do, Senator Case.

I recognize, of course, as you indicated in your question, that conditions have changed and have changed materially since, for example, I started to work on it in 1953. But, as I read the newspapers——

Senator SYMINGTON. Senator Case——

Senator CASE. Mr. Chairman, I preferred to let Senator Cannon question as long as he wanted to. I have no further questions after this, but I would like to let Dr. Flemming complete his answer.

Senator SYMINGTON. Fine.

Mr. FLEMMING (continuing). As I read the newspapers today, as we think in terms of our foreign policy, we are thinking in terms of the possibility of what we called, when I was Director of Defense Mobilization, limited activities which are now sometimes referred to as guerrilla activities or sometimes referred to as support of certain operations in South Vietnam.

It seems to me that no one can, with certainty, say that we would not become involved in some kind of a limited operation.

If we do become involved in that limited operation it is going to put a strain on our economy as far as the use of materials is concerned, and under those circumstances some of the ideas that we now have, relative to what is a good objective, might conceivably change.

It certainly has changed drastically since 1946. We have had our ups and down on it. And, as you think of the period in which we have been discussing, this 1955 period, there was real concern in this country as to whether or not we might become involved in limited hostilities.

There was real concern as to what we would have available in the way of strategic and critical materials.

Now, since then there have been developments which brought about a change in requirements, but I feel that we should still have a stockpile of strategic and critical materials.

I think it should be subject to constant review in terms of what are the requirements. And I think that when the executive branch feels

that it has got a situation where there ought to be some disposal, that it should come to the Congress and present the facts to the Congress and obtain the judgment of the Congress.

Senator CASE. Just this, briefly: Is it not true that most of the contracts for the stockpile objectives were made in 1951 and 1952?

Mr. FLEMMING. A great many of them were entered into during the period of the Korean hostilities.

This is also true of the Defense Production Act contracts.

Senator CASE. Thank you very much, Mr. Chairman.

Senator SYMINGTON. Senator Cannon.

Senator CANNON. Thank you, Mr. Chairman.

Doctor, now to get back to the situation in 1955, do I correctly understand your testimony, in brief, to Senator Case, that you received a critical memorandum or notification from the General Accounting Office on the cancellation of the second quarter of 1955 copper deliveries?

Mr. FLEMMING. General Services Administration did, yes.

Senator CANNON. Was not that a criticism from the General Accounting Office?

Mr. FLEMMING. From the General Accounting Office to the General Services Administration which they, in turn, relayed to me.

Senator CANNON. Yes, and then Mr. Snyder, in his letter of May 3, called the matter to your attention?

Mr. FLEMMING. That is correct.

Senator CANNON. Then on May 27 you responded to Mr. Snyder's letter and said that a mistake had been made?

Mr. FLEMMING. That is correct.

Senator CANNON. Now, do I correctly understand your testimony, in response to Senator Case's questions, that you cannot recall any conversations had with anyone from the date this matter was called to your attention, on May 3, to your letter of May 27, concerning this particular problem?

Mr. FLEMMING. I do not recall any specific conversations with specific persons participating in the conversations.

I am sure that I had such conversations with my staff, because that is the way in which I operated, and I am sure that it was on the basis of those conversations that I made the decision that I made.

Senator, remember this is 7 years.

Senator CANNON. Yes, I understand that, Doctor.

And you think that you might have had conversations with people other than members of your staff concerning this matter which you defined within the light of possible windfalls to the suppliers?

Mr. FLEMMING. I don't recall conversations on the outside of the agency, but I wouldn't allege categorically that I didn't have them. I just don't recall any on the outside.

Senator CANNON. The reason I am concerned, Doctor, is because Senator Case has brought up that you have a long period of very fine public service, extending from 1939 in a number of extremely important positions which, I am sure, you handled very, very well.

Now, it seems rather surprising to me that, in view of that history of service, that you would not be able to recall whether you had discussions concerning such an important item as this, where it had been handled from the standpoint of criticism by the General Accounting

Office, and called to your attention by a very important letter apparently on May 3, and one which you took some 3 weeks to consider before answering.

It seems rather unusual to me that you did not have some conversations with somebody concerning this problem over that period of time, and——

Mr. FLEMMING. Well, Senator Cannon, I would like to make this statement.

I had a policy, when I was Director of Defense Mobilization, of full disclosure of everything that went on in the Office of Defense Mobilization to any committee of the Congress.

I was available in 1955, and I was available for 2 years after that, to come before this committee, to come before the Senate Committee on Banking and Currency, the House Committee on Banking and Currency, the Joint Committee on Defense Production and, in fact, I was before all three of those committees during this period of time.

And anyone could have asked me questions about this at that particular time, and I could have recalled everything in connection with it. And I, of course, would have recalled.

This is the first time I have been put in a position where I appear not to be putting before a committee everything that I should put before a committee. But I just am operating under the human frailty of finding it hard to reconstruct something that happened 7 years ago.

But I think that my record is clear in dealing with the Congress of the United States. I have never withheld anything.

There has never been an issue raised by a committee saying that, while I was in an administrative position, that I refused to cooperate with the committees of the Congress.

I am trying to cooperate with this committee to the fullest extent. And if we are going to go into specific matters in detail this way, I am going to ask the committee to give me an opportunity to arrange for a leave of absence as president of the University of Oregon, and come here and spend a couple of months and get out every file I can get out and do everything I can to reconstruct.

I can't do it before about the middle of June, but I am perfectly willing to put in the summer doing that.

I just have never been put in this kind of a position, and I am unhappy about it because it makes it appear that I am not willing to cooperate with the committees of the Congress.

I believe in this system of checks and balances and I always said to my staffs, "We are going to put everything that we can before the committees and everything that they want."

Now, what I am being asked to do is to reconstruct a decisionmaking process that I engaged in 7 years ago. And Senator Symington knows—he has been in an administrative position—how you go about it.

An issue comes up. You have people in your office. Ideas are tossed back and forth, and you sit and listen to them. You consider whatever documents there are to consider, and you say, "Here is the way we are going to do it."

And I was in a position here which demanded quick action. The economy was in bad shape as far as copper was concerned. I was trying to stay on top of it.

There were certain things that I couldn't do under the law, but there were other things that I could, and I was simply trying to move as fast as I could.

Now, time and again yesterday afternoon, and again today, I am being asked to reconstruct something. And I will do my level best to reconstruct but, Senator, I am sure you would agree with me, and I am here as a witness under oath, that I should not draw on my imagination. I shouldn't pull names down out of the air, if I am not sure of the fact that those names belong here.

Senator CANNON. The committee certainly would not want that.

Mr. FLEMMING. I appreciate that.

Senator CANNON. We want only the facts that you can reconstruct, and this is an important item; I am sure you recognize that. And your letter of May 27 indicates that you considered it so.

Mr. FLEMMING. I certainly did.

Senator CANNON. And you did refer to it as a possible windfall, and you changed your policy as a result of it.

Mr. FLEMMING. That is right.

Senator CANNON. And my question is directed solely to try to find out if we cannot, by going over this thing, find out actually what the facts were.

Now, that is all we want, are facts, and I am sure the Chairman made it very clear to you yesterday that if you have not had enough time he will see that you get ample time; that you will have the opportunity to examine all of the records that you wish to examine in connection with this matter.

Mr. FLEMMING. Senator Cannon, there is no argument between us on this at all. I mean, the Senator's statement that he made is a correct statement, and one that I have found to be true on the basis of my short experience.

Now, frankly, when the counsel talked to me he said he wanted me to come in and discuss the policies that I followed in connection with this question of deferral.

I didn't anticipate going into as much detail regarding specific situations, but this committee has got a perfect right to do it. And I have got the obligation to cooperate with the commitee.

But I am simply saying that if this is the course that the counsel and the committee desire to take, then I think I should request, in effect, a leave of absence from my duties to come in here and spend the time that it takes not only to look at ODM files, but I should look at the Department of Commerce files.

I should look at GSA files, and try my best to put the whole thing together.

Now, after I have done all of that, Senator Cannon, we will come down to the point where, with all of the papers that it is possible to get in front of me, I still sit at a desk, listened to people talk, and finally arrived at a decision.

And you do not arrive at your decision solely on the basis of the papers that are in front of you.

You arrive at that decision on the basis of things that are said to you, on the basis of your own evaluation of the situation at that time.

I was in the National Security Council, sitting as a member, an active member. Of course, I had impressions from that which entered into my decisions.

And I am not arguing with the committee. I am not criticizing the committee. I am just suggesting the difficulties that are involved in going down the path that we are talking about going down right now.

Now, you take on this question of cancellation——

Senator SYMINGTON. Will you yield?

Senator CANNON. Yes.

Mr. FLEMMING. Only 7 percent of the total program that was involved here were deferrals.

Senator CANNON. Senator Symington.

Senator SYMINGTON. Thank you, Senator Cannon.

The effort of this committee will be to obtain the facts with respect to the billions of dollars of metals and materials this country has it does not need. We appreciate everything you have remembered. We regret, but are fully sympathetic with what you cannot remember.

Between June of 1950 and December of 1950, the policies of the stockpile were my responsibility. Then, starting in 1951, January to January, my responsibility had to do with two stockpile programs; rubber and tin.

In 1953, January, I came to the Senate. Shortly thereafter employees of the General Services Administration and the ODM protested to me about some of the contracts being made at that time. As a result, without success, I attempted to obtain declassification of the stockpile, because when operations come in the public domain it is generally automatic that possible mistakes will not be made because it becomes a matter of public knowledge.

In January 1955, I was appointed chairman of this Stockpile Subcommittee. One of the first things I did was ask you, Dr. Flemming, to come down and testify before the subcommittee.

Nobody appreciates more the constant encomiums you have given the Congress during your testimony of the last 2 days. We are very grateful.

In any case, in January 1955, and from then on, I have been attempting to get this stockpile declassified for 7 years. I did my best with you, and have read the record of our hearings in 1955, the effort to obtain declassification.

That was especially true because a negotiator for the Government, Mr. Irving Gumbel, came to me and told of things that had happened which he thought were not in the best interests of the Government.

In a June 1955 executive committee meeting of the Armed Services Committee, I gave reasons why I thought the stockpile should be declassified but was never able to obtain declassification.

As soon as you went to another position and another man became the head of the agency, I again did my best to see the stockpile declassified, because then such matters could be cleared up; there would be no rumors, no gossip, rather authenticated facts.

I was not willing to conduct a hearing of this character if we would be prevented from getting the facts by classification.

Finally, in January 1961, rather, March of 1961, because there was some delay in the appointment of a successor in now what is called OEP——

Mr. FLEMMING. Right.

Senator SYMINGTON (continuing). Started to work again, to the best of my ability, to get this stockpile declassified. You cannot get the facts out on the table unless you have declassification, and move it all into the public domain, everything except what might help a possible enemy.

For years, and I believe the record will so show, we have been buying a great deal which the military did not think we wanted and which those of us in the Congress who had studied the subject did not think we wanted, and which many members of the organizations of OEP and GSA did not think we wanted.

Up to this point I have said nothing about any deliberate mistakes; but I do believe that when you declassify in Government you make it much more difficult if not impossible to make mistakes.

Finally, when President Kennedy himself took a direct interest in this matter, we obtained declassification of the stockpiles, and the contracts incident to those stockpiles.

There has been no criticism. You seem to be, if I may respectfully say so, perhaps a bit upset that you have been called and asked questions.

I do not know any other way, inasmuch as through the files and through previous testimony, your name is constantly referred to, that we can get at this matter, which we intend to do, unless we ask these questions respectfully of a man who has a fine public record, and I would be the first to say so.

We get into the semantics of the word "windfall." I noticed the word was used in a headline this morning in a paper, and think it entirely proper. With respect to these hearings, the first time I heard or read the word was in a letter you wrote, in which you said, "We are going to adopt this policy to avoid windfalls."

We have had a lot of discussion which to me, frankly, seems to be getting pretty theoretical as to just what "windfall" does or does not mean.

The dictionary says "windfall" means an unexpected legacy, or other gain.

If a supplier makes a contract for copper at 27 cents and then persuades the buyer to agree to new arrangements which result in the supplier receiving 41 cents, it seems to me he has obtained an unexpected gain. That is what the dictionary says "windfall" means.

Let me emphasize we do not want to be a bother to you. We know you have an important position a long way from Washington.

We want to work with you to get the facts out on the table. We have a counsel who has come down here with the premise he would be allowed to get these facts; and we intend to carry out that premise.

This is not a matter entirely for the Congress. I think the executive branch was and is directly responsible for administrative actions. As to whether or not, because of the way the world is today, we should have a law which says we cannot move any of this admittedly tremendous excess without waiting 6 months, I am not sure.

In any case, again, the purpose of this committee is to get to the facts, and place them in the public domain.

As I understand it, that is one of the duties of the Congress, incident to its appropriating the taxpayers' dollars for the conduct of Government.

Senator Engle, have you any questions?

Mr. FLEMMING. Mr. Chairman, could I respond briefly to your statement, because you have made some allegations relative to my attitude which I do not think are correct.

First of all, you say that I appear to resent having been called as a witness. I appreciate being called as a witness, and I hope that every time that anything comes up involving any action that I took, that I will be provided with the opportunity of appearing before the committee. I welcome it. I think it is my duty as a citizen to respond, and I want to do it, and, as I indicated to Senator Cannon, I want to be just as helpful as I can.

Now, on the matter of classification, I know that this is an issue that you have raised consistently, and your record is very consistent on this point.

But I do want to point out that, under the law, the executive branch furnished a report on stockpiling to the Congress every 6 months, and although some matters, of course, as long as it was classified, could not be discussed in open session, we were available for all of the cross-examining that anybody wanted to subject us to in executive session.

And the fact of the matter is this happened with the Joint Committee on Defense Production and with the Banking and Currency Committees of the two Houses in connection with the Defense Production Act.

I would also like to point out that on the matter that we have had under discussion here now for 2 days, there are no classification problems involved because we have not been discussing the Stockpile Act or the actions under the Stockpile Act.

We have been discussing the Defense Production Act. And I might also say that I certainly agreed with the definition of "windfall." I said that.

I just simply said that it seems to come around to the place where it connotes in people's minds a situation where people got something to which they were not entitled.

I agreed with you that they got something that they didn't expect to get. So I am not going to press that point at all.

I just simply was trying to put the thing in the context in which I saw it at that particular time.

Senator SYMINGTON. Well, I appreciate that. My reply will also be brief. If we could have obtained declassification of the status of the stockpile in 1955, we would have had these hearings in 1955. If we could have obtained it in 1956, the same would be true; and also 1957, and 1958, and 1959, and 1960, and 1961.

Now we have removed the secrecy and we are going ahead with these hearings.

Senator Engle.

Senator ENGLE. I do not have any questions, Mr. Chairman, but I would like to say that I have followed these hearings as best I could, even though I have not been able to be here as often as I would like. I have a bill pending before the Banking and Currency Committee, and that presents a problem.

Senator SYMINGTON. We appreciate that. As a matter of fact, knowing Dr. Flemming has come a long way, we did something unusual this morning. This is our regular full Armed Services Committee meeting day. With the permission of the chairman of the full committee, we are doing something unusual.

We are having a hearing of a subcommittee at the same time the full committee is also having its regular hearing.

I appreciate the good Senator's comments, and he knows he is always welcome, especially because of his long knowledge in this field as a result of his chairmanship of the subcommittee on the stockpile in the House.

Mr. Counsel.

Mr. COBURN. Thank you, Mr. Chairman.

Dr. Flemming, I would like to return with you to the consideration of this deferral question and as to the wisdom of this policy of deferrals that was established after it was decided that cancellation should no longer be pursued.

And I was saying earlier that I thought there were certain areas with reference to this deferral problem as to which we should be able to agree, namely, that the deferral of the copper at a time when the market price was substantially higher than the contract price, did cause the contractors to enjoy, if "windfall" is odious, let us say an unexpected legacy.

Is that not correct?

Mr. FLEMMING. Correct.

Mr. COBURN. It was not something that was intended by the parties to the contract when the Government and the contractor entered into it?

Mr. FLEMMING. That is correct.

Mr. COBURN. If there were a contract for the delivery of copper to the Government at 30 cents, it was clearly the intention of the contractor and the Government, when the contract was entered into, that the contractor would be paid 30 cents and no more for his copper.

Is that not right?

Mr. FLEMMING. That is correct.

Mr. COBURN. Now, you have said earlier in your testimony that your primary purpose in adopting the policy of deferrals, by which the copper would ultimately be delivered to the Government, was to promote the defense program.

Is that not what you have said?

Mr. FLEMMING. Correct.

Mr. COBURN. I accept your purpose. I accept the fact that that was your purpose in arriving at this deferral policy, namely, to require a subsequent delivery of copper and at the same time to promote the defense program.

I accept that. But, having that in mind, was there any particular objection to also protecting the interest of the Government from a financial standpoint while you were doing that?

Mr. FLEMMING. I thought that there was, and I indicated my reasons for feeling that, in the testimony yesterday.

I felt that——

Mr. COBURN. You mean, you referred to the financial situation that the Government was in, or you regarded the financial situation that

the Government was in at that time, with reference to this contract, as a matter of no consideration?

I do not want to seem to be nagging you about this, but my point is this, Dr. Flemming, and I do not believe it will be necessary for you to go back to your statement because that has been read several times.

But my point is that as long as you were following this primary purpose of promoting the defense program, which I accept, was there any reason why safeguards could not have been taken that would protect the financial position of the Government in this particular transaction?

Mr. FLEMMING. Are you referring now to the possibility of receiving it and reselling it, or are you referring to the possibility of attaching conditions to the deferral?

Mr. COBURN. I am referring to attaching conditions to the deferrals so as to give the Government price protection.

Mr. FLEMMING. As I indicated in my testimony, this matter, on the basis of the record that has been developed here by this committee, was presented to me; that is, namely, whether or not we, in effect, should do some renegotiating at the time that we decided that the deferrals should be made.

It seems clear that I decided not to at that time. It likewise seems clear that I apparently decided that that matter should be gone into when the rescheduling program was worked out, because you have already referred to my communication at that time.

Now, I thought about that and, to the best of my recollection, I decided against taking the time for negotiation at that particular point in the interest of getting this copper into the hands of the economy and the defense production industry just as soon as possible.

Now, here again that certainly is a debatable proposition, but this is what I did and why I did it, and then when I instructed GSA to arrange for the redelivery—I mean for the rescheduling of the copper, to which the Government was entitled, I did use the expression to which you have referred earlier, and I gather from testimony given by GSA that that led to their making a provision to the effect that when it came back in, that the Government would pay either the contract price or the market price, whichever was lower.

Mr. COBURN. Well, then, as I understand it from what you have just said, at the time that the policy was arrived at to defer the delivery of copper in the case of the fixed-price contracts, and most of these were fixed-price contracts, you could have had the contractors agree that deferred copper, to be delivered to the Government, would be paid by the Government at either the lower of the contract price or the market price at the time of delivery.

That could have been done, could it not?

Mr. FLEMMING. That would have been a possibility, no doubt about it.

Mr. COBURN. And so that if copper in the meantime, after the deferrals, had dropped to 20 cents, then the Government would have been prevented from paying, we will say, 30 cents, if it was that kind of contract, for 20-cent copper.

Is that not right?

Mr. FLEMMING. That is right. This was done when they rescheduled immediate delivery.

Mr. COBURN. It could have been done back in May of 1955, when you wrote your letter in response to the criticism by GAO.

Is that not right?

Mr. FLEMMING. It could have been done at that time. It was done later.

Mr. COBURN. And, on the other hand, with reference to the market price contracts, the deferred copper could have been paid for at the lower of the market price at the time of the deferral or the market price at the time of the replacement, and the Government would have been protected by any change in the market?

Mr. FLEMMING. That, of course, became very academic because the market went down and——

Mr. COBURN. That is right.

Mr. FLEMMING (continuing). The general feeling certainly at the time, when we were dealing with this problem, was that the market was at a pretty high point because of the——

Mr. COBURN. Yes.

Mr. FLEMMING (continuing.) Very stringent supply-and-demand situation.

So I don't think that particular point is as relevant as the one you just finished discussing——

Mr. COBURN. I agree with you in view of what happened in the market later, of the market going down instead of up. That is exactly right.

Mr. FLEMMING. But your first point is very relevant. It could have been done at that time.

As it happens, it was done later, and if I interpret Mr. Brooks' testimony correctly, and this is something I have not asked or had a chance to ask about.

I have not had a chance to ask whether or not this was done in connection with all deliveries that were rescheduled, but he said that during this period; that is, the restoration period, a price protection provision was incorporated into the contracts by an amendment, which required replacement of copper finally to be delivered at the lower of the contract price or the market.

And I assume that GSA did that in response to my direction that they were to work out this rescheduling so as to prevent windfalls.

Mr. COBURN. That is exactly right.

In this phaseout program, at the end of these deliveries——

Mr. FLEMMING. That is right.

Mr. COBURN. The GSA, which had been contending for this price protection all along, finally went ahead and did that because of this directive that you wrote them to proceed with the phaseout program, but to try to avoid "windfalls"?

Mr. FLEMMING. That is correct.

Mr. COBURN. This memorandum of June 15, 1955, to which reference has been made earlier in an earlier hearing, but while you were not here, I think, or, did you testify with reference to this yesterday?

Mr. FLEMMING. I read that memorandum—I have read this memorandum because of the fact that I read the transcript of your hearing of April 16.

Mr. COBURN. Yes. First, may I introduce this into the record again to make sure it is before the entire committee, Mr. Chairman?

Senator SYMINGTON. Without objection.

Mr. COBURN (reading):

JUNE 15, 1955.

To: Director, Purchase Division, EP.
From: Assistant General Counsel, LD.
Subject: Copper diversion.

In connection with copper diversions directed by ODM for the month of June and for the third calendar quarter of 1955, certain questions have been raised concerning the conditions, if any, to be attached to such diversion. I am informed that Mr. Kendall informed Mr. Elliott that no condition with respect to the distribution of the copper was to be imposed. In other words, that GSA was to assume no responsibility for such distribution. I have been informed by Mr. Witt that this position was confirmed to him by Mr. Floyd of ODM.

Mr. Walsh advised Johnston Russell and me yesterday afternoon that he had had a discussion last Saturday morning with Dr. Flemming, Mr. Floyd, and Mr. Shepard. Mr. Walsh said that at that time he asked the following questions of Dr. Flemming:

1. Whether GSA should require that replacement copper be delivered to the Government under fixed-price contracts at the lower of the contract price, or the market price in effect at the time of replacement.

2. Whether GSA should require that under market price contracts the replacement copper to be delivered should be paid for at the lower of market price at time of diversion, or market price at time of replacement.

Mr. Walsh further said that Dr. Flemming said that neither condition should be imposed. Based on the foregoing, this Office is, therefore, approving the telegrams authorizing the copper diversion discussed in this memorandum.

Now, do you recall that meeting with Mr. Walsh, of GSA, and Mr. Floyd, your deputy, and Mr. Shepard?

Mr. FLEMMING. Mr. Counsel, in my statement yesterday I said this, and referring to this memorandum:

I have no clear recollection of the conversation in which reference was made. I will assume, however, that it took place.

And it would have been a perfectly natural, normal thing for Mr. Walsh to do, to come over and discuss this matter with me. He is no longer living, as you know, but he was a very, very fine public official and one whom I respected.

But I again now—we are in this business of reconstructing a decision. I mean, clearly here were three people in my office on that particular morning. They discussed this.

Mr. Walsh presented a point of view to me. I assume other points of view were also presented and I finally said, "no, let's go ahead with the deferral."

And all I can assume is that because of the urgency of the situation that confronted us at that time that what went through my mind was probably that this is something that we can work on when we work out this rescheduling.

In the meantime I don't want to have anything done that will cause a delay in getting this copper or getting it in a position where it is available to the consumers. Now, that is the only thing that I can say in reconstructing it.

I obviously recognized that it was a good point because I followed it up at a later point and put GSA in a position where they could do something about it.

So if I recognized that it was a valid point I must have simply decided no, not at this time and let's get it out.

Mr. COBURN. Of course, it was perfectly consistent, this price protection, with your primary purpose of making delivery of copper immediately to the industry but later getting it back to the Government.

Mr. FLEMMING. It certainly was. I mean, I have no argument about that at all.

Mr. COBURN. And, as you have said, in the phasing out aspect of this copper diversion program, this very price protection suggestion was employed later on?

Mr. FLEMMING. That is correct.

Mr. COBURN. Now, Dr. Flemming, I am not going to delay things any more than I absolutely have to because our hearings have been rather extended but, without asking you the details of each one of these, there was a sixth diversion letter that was sent out on September 14, 1955, deferring deliveries for the fourth quarter of 1955, was there not?

Mr. FLEMMING. You are referring to a letter—what was the date, Mr. Counsel?

Mr. COBURN. September 14, 1955.

Mr. FLEMMING. Yes, I have that. I have the letter in front of me.

Mr. COBURN. It deferred deliveries during the fourth quarter of 1955 to the 30th of September 1956, did it not?

Mr. FLEMMING. That is right. I mean, this would have been one of the—I think you have referred to it as a "redeferral," wasn't it? I mean:

I am authorizing you to amend the stockpile defense production contracts to permit postponement of copper deliveries for the fourth quarter of 1955—

this was written in September—wait a minute—

for the fourth quarter of 1955 until September 30, of 1956.

That is right. I am sorry. I had in mind the fourth quarter of 1954 for a moment.

Mr. COBURN. Mr. Chairman, I would like to comment that at that point the market price on copper had risen to 43 cents a pound.

Now, Dr. Flemming, there was a seventh deferral letter that was sent out by you on the 19th of December 1955, was there not, deferring the delivery of copper that was due in the first quarter of 1956?

Mr. FLEMMING. I am sorry, but I don't have a copy of the letter. I have a copy of the release which said that we took some action in relation to the flood disaster that prevailed at that time.

Mr. COBURN. Well, we have already read into the record here——

Mr. FLEMMING. OK.

Mr. COBURN. A deferral letter of the 19th of December, 1955, that applies to copper deliveries in the first quarter of 1956.

Mr. FLEMMING. All right.

Mr. COBURN. And then, Dr. Flemming, there was a final letter written by you on March 12, 1956, deferring copper deliveries due in the second quarter of 1956 to a later date, was there not?

Mr. FLEMMING. Yes.

Mr. COBURN. Mr. Chairman, I would like to note that at this time the price of copper had risen to 46 cents a pound.

Senator SYMINGTON. 46?

Mr. COBURN. 46 cents a pound.

Senator SYMINGTON. That was the highest, was it not?

Mr. COBURN. Yes, it was, Mr. Chairman.

Senator ENGLE. What was the Government contract price at that time?

Mr. COBURN. They averaged about 30 cents a pound, Senator. There were some variations but it was about 30 cents.

Senator SYMINGTON. So if a company were making an estimated 10 percent profit at 30 cents, it would be making way over 50 percent net profit at 46 cents, would it not?

Mr. COBURN. I think those figures would be right, yes.

Senator SYMINGTON. That can be borne out by calculations.

Mr. FLEMMING. Mr. Chairman, assuming that nothing had happened of an inflationary nature in the meantime, and that their own costs hadn't gone up, I mean because of wages and other factors——

Senator SYMINGTON. Well, that would not have been taken into consideration at the time, would it?

Mr. FLEMMING. This did not enter into my thinking at all at that time.

As I indicated, I did it as a matter of policy, feeling that the Government should not get into the trading operation.

Mr. Chairman and Mr. Counsel, I would like to just mention one thing on this. I don't know whether you have compiled or prepared an exhibit which would show this or not, but I think it might be helpful to the committee.

Not all companies took advantage or responded to the Government's invitation to defer.

Now, I don't know what went through their minds in deciding not to do it. I assume it was probably a business judgment that they——

Senator SYMINGTON. Maybe they felt that they were interested in the economy, had a deflationary concept. If you added the additional price of the copper used in refrigerators and washing machines, television sets, and so forth, they felt perhaps that it would not be in the best interests of the economy.

I want to be frank, I have not seen any evidence of that yet, but it could have been a logical thought on their part.

Mr. FLEMMING. I haven't run across anything that would indicate that that entered into the thinking, but I think it is—it is important, as a matter of fact, to realize that they apparently, for some reason or other, decided not to do it.

Now, I will say this: I wasn't particularly happy about that decision, keeping in mind what our objective was, and that was to get the copper out so that people could use it.

But at least they had the right to exercise that judgment, of course. I couldn't require them to.

Senator SYMINGTON. At that time, not only were you interested in the stockpile; you were the No. 1 person, under the President, interested in maintaining a solid economy and a balanced budget, were you not?

Mr. FLEMMING. That is correct. I always operated on the theory that one of the most important contributions to a strong mobilization base was a sound economy.

Senator SYMINGTON. Right.

Senator ENGLE. May I ask one question, Mr. Chairman?

Senator SYMINGTON. Yes, Senator Engle.

Senator ENGLE. Did it ever occur to you, Dr. Flemming, that somebody was going to get mighty unhappy about windfall profits of this magnitude falling into the hands of private corporations as a result of the deferral of the Government contracts and that eventually there would be an awful stink about it?

Mr. FLEMMING. Senator Engle, you were not here yesterday when I——

Senator ENGLE. No, I am sorry I wasn't, for the reasons I explained——

Mr. FLEMMING. I appreciate that.

Senator ENGLE. But I read your testimony and, as I understand it——

Senator SYMINGTON. I was talking to counsel. Would you repeat the question, please?

Senator ENGLE. What I said was:

I asked the Doctor did it not ever occur to him that eventually there would be an awful stink about these private corporations picking off a windfall profit of this magnitude.

It seemed to me that if I were sitting down there I would have been mighty uneasy about this, and this is a thing that you cannot understand.

Now, I read your testimony, Doctor, and it says that as a policy matter you felt that the Government ought not to get into the position of, in effect, playing the market.

Mr. FLEMMING. That is correct.

Senator ENGLE. And I think you would have to counterbalance that, though, against what seems to me would obviously occur to a man who has had great experience in governmental affairs, that sooner or later somebody is going to take a look at that and say that, well, the contract is for 30 cents and they got loose from it to sell at 46 and, boy, look at them shake that apple tree, and somebody would just haul off and raise hell about it.

Now, did that not ever occur to you?

Mr. FLEMMING. Senator Engle, this problem was presented to me in just about as vivid——

Senator ENGLE. I am sorry?

Mr. FLEMMING. I say that problem was presented to me in just about as vivid manner as you have presented it to me at the present time, and I had to think it through on that basis.

Now, first of all, as you appreciate, I am sure, this was not a matter that was kept under the table. There wasn't anything classified about this.

This was done right out in the open. Every time we acted we issued a statement to the public saying what we had done and, as I indicated, I was before the committees of Congress where this was discussed.

I discussed it with Congressman Vanik of Ohio, in a hearing before the House Committee on Banking and Currency, and so on.

So the whole thing was out in the open. But you have summarized my position very accurately.

I felt there was a principle at stake here, and I felt that the Government should hold strictly to the principle of not going into the market solely for the purpose of making some money.

And I felt that the Government should go into the market only when there was a clearly identified national defense objective to be obtained.

Now, I held consistently to that all the way through.

Senator SYMINGTON. If the Senator will yield?

Senator ENGLE. Yes.

Senator SYMINGTON. There were quite a few deferrals in the national stockpile which were declassified, were there not?

Mr. FLEMMING. Pardon me?

Senator SYMINGTON. There were quite a few deferrals in the national stockpile which were declassified, were there not?

Mr. FLEMMING. Which were declassified, or classified?

Senator SYMINGTON. There were quite a few agreements to defer on contracts in the national stockpile, which stockpile was classified, were there not?

Mr. FLEMMING. Yes, but I——

Senator SYMINGTON. In fact, there were more contracts in the national stockpile that were deferred than there were in the DPA inventory, were there not?

Mr. FLEMMING. Actually, 70 percent of what we are talking about involved contracts for the stockpile and the public announcements said that.

Senator SYMINGTON. Therefore, there was an element of classification, was there not?

Mr. FLEMMING. Well, I mean to the extent that your stockpile operation, there was, but no element of classification in the fact that I had deferred, and every time that we did defer we stated that there would be no withdrawals from the stockpile.

That was the standard language that we put in. But as far as the Defense Production Act contract, which is really, as you pointed out—or I don't know whether, Mr. Chairman, you agree with the position that I took or not—but as far as 70 percent of this operation was concerned, in my judgment under the law, there was nothing that the Government could have done in terms of taking it in and then reselling it at market.

And that accounts for 70 percent of this program.

Now, as far as the remaining 30 percent, Senator Engle, it could have done just what you suggested, take it in and resell it. And the principle that I applied to it was that I did not feel that the Government should start, in the strategic and critical materials area, going into the market solely for the purpose of making money.

Now, I appreciate that is a debatable issue, but I tried to stick with that all the way through, even though I knew that this kind of criticism could be made. I anticipated it, and I got some of it at that time.

I am sure that Congressman Vanik was not in complete agreement with the position that I took, although he didn't pursue it vigorously.

He had the feeling that we should ask for an amendment to the Stockpiling Act which would permit us to do this in connection with the stockpile.

And I said that I disagreed with that, that I thought the Stockpile Act should stay as it was.

Senator ENGLE. Yes, I recall that testimony.

May I pursue this for one more point?

Senator SYMINGTON. Yes.

Senator ENGLE. I think, as a general proposition, it would be bad business for the Government to get into a speculative field as far as copper or anything else is concerned, but, as I understand the situation, the objective of these deferrals was to make it possible for the private sector to operate; that is, copper had gotten short because of conditions that had arisen.

And, as a consequence, in order to relieve that the Government which, by its contracts, had preempted a certain amount of production, was prepared to try to help the private sector out. And what we sought to determine is whether or not it was not possible to accomplish that objective without creating a windfall profit to private corporations which would naturally be looked upon with some suspicion and, certainly, some criticism.

Now, my recollection is there were a couple of ways to do that. Is that not right?

In other words, the basic objection, actually, was to say to the private sector that the Government has so many contracts in the copper area that we have thereby shortened the market to fulfill them in the light of the production conditions and so forth, and we want to have them to be able to go forward.

Now, that would be an appropriate objective for the Government; that is, to protect the private sector in its ability to produce in the use of copper, and it would seem to me that some method ought to be discovered where that could be done without putting the Government in the hands or in the position, rather, of dumping untold hundreds of thousands of dollars into the hands of these private contractors and thereby facing the kind of criticism we necessarily would if that was very well known.

And I think counsel developed some of those techniques. Two or three were available, were they not?

Mr. FLEMMING. Senator Engle, you have stated, of course, accurately, that our objective was to get into the private sector, which included some defense production activity also, you appreciate.

There is no doubt in my mind at all but as far as 30 percent of the total deferrals that were involved in this program are concerned, that legally the Government could have taken this in accordance with the contract price and immediately have turned around and resold it at the market price, and in that manner would have made it available to the private sector and would also have picked up this additional money.

Now, my decision against that rested basically on the fact, as I indicated to you earlier, that I just believed that the Government should hold rigidly to the principle, in this strategic and critical materials area, of not going into the market solely for the purpose of making money because I believe, Senator, once the Government does that you do something to the market that I don't believe any of us want to do.

You put in there a Government that has a terrific power. As I pointed out in my testimony, we had a $2,100 million borrowing authority. We have, of course, hundreds of millions of dollars available to us for stockpile purchases and so on.

And I just don't think that you should get the Government started down that particular path.

Now, there were two other considerations that entered into my thinking which I outlined in my testimony and which you have read, but this one was paramount.

This, I recall very distinctly, discussions on this particular issue, and this was paramount in my thinking, and I applied it all the way down the line, knowing that it was open to the date. But I still think the principle is sound.

Senator ENGLE. Well, according to the principles that you applied, the Government would, in our opinion, release the copper which it had under contract for the purpose of making it possible for private industry to go forward and only under those limited circumstances.

Mr. FLEMMING. Well, I go with you down the road, that Government had an obligation to make it available, and I also adhere definitely to the proposition that when it made it available that it should retain the right to get the copper at a later date at the contract price.

Our primary objective was to get copper that we could put into the defense production inventory and take into the stockpile inventory.

We were short on our stockpile objective. And, consequently, we did say, "You have got to come back at a later date and give us this copper at the contract price but, in the meantime, the Nation's best interests will be served by making it available to the economy."

Senator ENGLE. Thank you very much, Mr. Chairman.

Thank you, Counsel.

Mr. COBURN. Yes, certainly.

Well, Doctor, we are in agreement on this, are we not, that if a deferral of copper had been had with price protection for the Government, that would not have been playing the market, and it would have accomplished the objective of getting copper to the distressed industry and yet ultimately getting it back into the Government inventory.

Now, we are in agreement on that, are we not?

Mr. FLEMMING. We certainly are, Mr. Counsel, as indicated by the fact that at a later point I directed that that be done. And, fortunately, it was done.

Now, I——

Mr. COBURN. Well, I do not know whether we can say just that, can we, Dr. Flemming?

Your later directive on the phaseout program simply said, in general terms, that windfalls should be avoided.

Did you have in mind price protection when you included that in your letter?

Mr. FLEMMING. That, certainly, and I will keep in mind my previous discussion on this matter with Mr. Walsh.

This is certainly one of the things I had in mind. I didn't give them a specific directive that "you must include this in it."

I gave them an opportunity to negotiate, feeling maybe there might be other things that they could do also to deal with this situation effectively.

Apparently they relied primarily on the thing that was talked about—I mean, the approach that was talked about earlier. And it seems to me they exercised good judgment in doing that.

Mr. COBURN. Well, I just wondered whether you had in mind the price protection that had been suggested to you earlier, or, whether you were just picking that term up again from previous correspondence?

Mr. FLEMMING. No, I think, Mr. Counsel, that it is fair to assume that when I used it I used it in the light of the previous discussions that have taken place on that possibility, and I am very glad that it is done.

I mean, our only difference here is on timing, not on the end result.

Mr. COBURN. Dr. Flemming, you have stated, and stated very well and very, very strongly, your views this morning that the Stockpile Act should not be amended so as to permit a disposal of materials in the stockpile without the consent of Congress.

You stated that view, did you not?

Mr. FLEMMING. Yes, sir.

Mr. COBURN. And in response to a question from Senator Case you seem to feel very strongly that there ought not to be any change made in that respect?

Mr. FLEMMING. That is correct.

Mr. COBURN. Which requires 6 months' notice and then the action of both Houses of Congress, does it not?

Mr. FLEMMING. No. No, Mr. Counsel. You have got two provisions here.

If you are dealing with a material that has become obsolete then the executive branch can put a notice in the Federal Register of its intentions and then must wait 6 months to give the Congress the opportunity to act, if it so desires.

But if the material does not come within that classification then you have got to present the plan to the Congress and receive the affirmative approval of the Congress.

That might take 6 months or it might take a much shorter period of time, depending on the sense of urgency and how fast the Congress acted on it. But you have got those two procedures.

Mr. COBURN. Well, I recognize that. I did not go into one because it has not occurred very often.

Most of the time the dispositions, as I understand it, have been by an act of Congress.

Mr. FLEMMING. Well, that is correct. I mean, your rubber is your best illustration.

Mr. COBURN. Well, anyway, that is an aside from what I was really starting to ask you.

So you do feel, apparently, very strongly, and I defer to your judgment because of your great experience in this particular field, that that part of the Stockpile Act that requires the consent of the Congress to the disposition of materials should not be changed?

Mr. FLEMMING. That is correct.

Mr. COBURN. Now, I wonder if, when you were in the midst of this deferral program and were allowing copper to go directly from the contractor to industry, that was due the Government, if you felt that that was in any wise contrary to the spirit and intent of the Stockpile Act because you were disposing of copper really without an act of Congress?

Mr. FLEMMING. Well, Mr. Coburn, I would take issue with your last statement, that I was disposing of copper without an act of Congress.

If I had permitted that copper, that was headed for the stockpile, to get into the hands of the Government at any point then I would have had no right to do anything with it except with the consent of Congress.

But this related to a question of purchase and, under the Stockpile Act, the directive to me was such purchases are to be made so far as is practicable from suppliers in excess of the current industrial demand.

I would contend that, on the basis of the findings that I made at that particular time, that legally I had no right to acquire that stockpile—I mean, that copper for the stockpile, because it was clear that I was not acquiring from supplies in excess of the current industrial demand. There was a very real industrial demand.

So I wasn't doing any disposing.

I was not acquiring and, in not acquiring, I was following the law as passed by the Congress in 1946, and I think it is a very good—I endorse that provision.

I mean the Congress put that in very deliberately because it was not in the 1939 act. It grew out of experience, apparently, between 1939 and 1946.

Mr. COBURN. Now, Dr. Flemming, in asking this question I am not trying to be critical of your operation of your office. I am only thinking of the future administration of the Stockpile Act.

Of course the Stockpile Act says nothing with reference to a deferral or diversion of materials that are due to come into the stockpile under existing contracts, does it?

Mr. FLEMMING. No, it just tells you—it sets up a standard as far as purchasing is concerned.

Mr. COBURN. And I am just wondering, as a matter of policy, whether it is wise in view of the fact that the Congress has thrown very strong safeguards around the disposition of articles from the stockpile, whether it is good policy to employ the Stockpile Act in such a way as to defer material due to the stockpile to industry.

Is it consistent with the act and the intention of Congress in passing it?

Mr. FLEMMING. Well, Mr. Coburn, I submit that it is not only consistent but it is required by the act.

Now, if you have in mind whether or not on the basis of this experience we should think in terms of some language that would deal specifically with the problem of deferrals, I think that this might be worth consideration.

On the basis of the experience that I have had, I would think it would be well worth taking a look at it.

Mr. COBURN. Well, that is what I had in mind—excuse me, Senator.

Senator ENGLE. I am having difficulty understanding the distinction which is made.

Now, as I understand the case, the Stockpile Act said that you should not go out and purchase it except for excess.

Mr. FLEMMING. That is right.

Senator ENGLE. But whenever the Government enters into a contract the Government then has a proprietary right in that contract and the contract, in effect, becomes the property of the Federal Government?

Mr. FLEMMING. That is right.

Senator ENGLE. The physical disposition of the copper under the contract in the stockpile does not seem to me to create a proper cutoff.

As I get the testimony, it was felt to be legal if the purchase was diverted although contracted for prior to the time that they actually let the copper in and put it into the stockpile.

But it seems to me that when the Government has a contract, that that contract then assumes a proprietary aspect; that is, it becomes a piece of property of value, and whenever it is given up then it is an assignment or a turning over of what is actually Government property.

Now, if something needs to be clarified it seems to me that we ought to clarify the proposition that when the Government has a contract, and it is a valuable contract, for copper, when the price of copper is at 50 cents or when the price of copper is at 36 cents, that any release of that contract is, in effect, a release of a valuable property held by the Federal Government, and it becomes to that extent a gift to the person who gets the benefit of it.

Mr. FLEMMING. Senator Engle, I will be glad to address myself to this, and I go back to my comment to the counsel.

It may very well be that out of this experience there could be a clarification of the law which would further tighten up the stockpile, but only——

Senator ENGLE. Do you not feel that when the Government has a contract that it becomes a piece of property?

Mr. FLEMMING. Well, this is correct, and we have never lost sight of that fact. The only change that the Government indicated is a willingness to make in the contract at the time of delivery. It made no indication of a willingness to change any of the other provisions of the contract and, as far as the stockpile is concerned, the thought never crossed our minds of relinquishing title to this copper.

We said that we have the right to it. We expected to get it, but that we would defer the delivery.

Now, we did that, as I very frankly said to the committee, or said to committee after committee in the Congress, we did that in order to comply with the provision that we should purchase from supplies in excess of the current industrial demand, and if you can't have at least that much discretion, then you nullify this particular provision of the Stockpiling Act, because your stockpile contracts, of necessity, cover a period of time, and you can't anticipate when you enter into it at what time these supplies will be in excess of the current industrial demand.

That isn't something that anyone can foresee. And all we did was to defer the time of delivery in order to comply with the provision that we were to purchase from the supplies in excess of the current industrial demand.

Mr. Chairman, we didn't cancel a single stockpile——

Senator ENGLE. Well, I would read the act to mean that you could not go out and contract for more copper when copper was not in ex-

cess, but, having made the contract, the contract then becomes the property of the Federal Government, and when it becomes the property of the Federal Government it cannot legally, in my opinion, be disposed of to the disadvantage of the Government.

If I were sitting there in one of those contract meetings myself, as an individual, and I had a right to buy copper at 30 cents, and I knew the market was 46, and somebody told me that I had to let loose of that contract, I would be heard to high heavens that they were taking my property without just compensation and without due process of law.

And it seems to me what really needs to be clarified, in my opinion, in line with what the counsel said, is that in this act to which, Dr. Flemming, you suggested that it would not or that you would not recommend a change that we try to clarify the proposition, that when we are talking about purchasing when the market is in short supply we do not mean that the Federal Government should unhook itself from contracts in which it has a proprietary right and the proprietary interest of great value.

Mr. FLEMMING. Senator Engle, if I could respond to that, again, I want to say that I think it altogether possible to develop language that would be very helpful to future administrators of this law.

But you use the analogy as a private contractor being in this particular position and indicating that you would yell to high heaven if something like this happened.

It seems to me that the Government's position is different at this point and that Congress indicated that the Government was in a different position.

The Congress indicated that at times there are considerations that should override the stockpile consideration, and that time is when the Government is unable to get the supplies in excess of the current industrial demand.

As I say, all the Government did in this case was not to let go of any of them under the Stockpiling Act. I mean, strategic and critical materials under the Stockpiling Act, but to insist that all of it must be delivered at the market price.

They said, as a Government, "We think as of this time it is in the best interests of the Nation to make it available to the private sector, including defense production."

Senator SYMINGTON. If the Senator will yield, as I understand it, you say that the statute in this case overrides the contract; that, therefore, even though you did have a contract—and I believe Senator Engle has brought out with clarity the fact that the contract was a piece of property—that the statute forced you to give up this property, which the Government owned in the form of this contract.

Is that correct?

Mr. FLEMMING. Not to give up the property, Senator.

Senator SYMINGTON. Well, you did give it up.

Mr. FLEMMING. Only to defer the delivery date of the property which we had acquired by contract. That is all we did.

Senator SYMINGTON. But you do not——

Mr. FLEMMING. The property came to us.

Senator SYMINGTON. You do not think there was any theoretical, let alone practical, addition in the value of your property because of the rise in the market price of the copper?

Mr. FLEMMING. Well, it seemed to us, as we looked at the legal aspect of it at that time, that it was clear that we should not get supplies in excess of the current industrial demand; that this would be the case if we took them in at this particular time.

So we would simply defer delivery, still get it, but get it at a time when they would not be in excess of the current industrial demand.

And, as I say, this was—Mr. Chairman, this wasn't a classified action, because I put this right out in front of the Congress, as Senator Engle indicated, he looked at the testimony when I was before the House Banking and Currency Committee, and discussed this whole thing under questioning from Congressman Vanik. And I did it a number of times.

Senator ENGLE. I looked at the record this morning. I could not recall it at this time.

However, let me say that I was familiar with this at that time and that this was going on.

Mr. FLEMMING. Right. Well, as you say, we had it on top of the table.

Senator ENGLE. I knew what was happening.

Mr. COBURN. Now, Dr. Flemming, because of any possible changes in the statutes involving the Stockpile Act, it is a matter of interest to the committee.

Do you feel that the stockpile—well, do you feel that it is desirable, as a matter of policy, for the Executive Department, to have the power to divert deliveries of materials due the Government under stockpile contracts to industry in such instances as occurred in 1954, 1955, and 1956?

Mr. FLEMMING. I do. Growing out of that—this grows out of my experience.

I think that because we were able to do it, it did make a considerable contribution to the economy, and I think that the reports of the Joint Committee on the Defense Production bear that out.

Mr. COBURN. Now, if that is the case, there is some question in your mind, is there not, as to whether the Stockpile Act permits that?

There is nothing in the Stockpile Act that says anything about that, does it?

Mr. FLEMMING. No, there is no specific reference to it at all——

Mr. COBURN. Excuse me. I do not want to interrupt you, but we want to move along.

Mr. FLEMMING. Go ahead.

Mr. COBURN. And in view of the fact that the Congress did obviously intend, in the Stockpile Act, to impose severe restrictions on the disposition of the materials in the Stockpile Act, do you think that it would be advisable for the Stockpile Act to be amended so as to permit diversions under certain circumstances, perhaps?

Mr. FLEMMING. Mr. Counsel, in response to that, first of all, of course I was convinced that we had the legal right to take the action that we did, and that right was subjected to rather close scrutiny.

But I, as one who is a firm believer in having congressional intent spelled out in situations of this kind, would think that it might be very well to consider a possible section or subsection which would deal with the problem that we have been discussing for the last 2 days.

And I would certainly, Mr. Chairman, be very happy to cooperate with the committee in making any specific suggestions along that line.

Senator SYMINGTON. Thank you very much.

Mr. FLEMMING. That is, growing out of the rather intensive experience I had with it. And happily, I think I might say.

Mr. COBURN. Now, let me ask you one more thing, and this really bears on the question of whether it is really good policy to divert.

Did you get the feeling, after you had this experience of diverting copper, and, by the way, there were some other materials that were diverted besides copper, were there not?

Mr. FLEMMING. Oh, yes.

Mr. COBURN. Aluminum and nickel?

Mr. FLEMMING. Nickel, particularly.

Mr. COBURN. And, perhaps, one other, aluminum—I do not want to alarm you. I am not going into those diversions at this time.

Mr. FLEMMING. No, but they do present some other issues.

Mr. COBURN. I merely mention it in passing because it was a problem of some scope.

Mr. FLEMMING. That is right.

Mr. COBURN. After having diverted some of these materials to private industry, when the contractors were under contract to deliver to the Government, did you have the feeling after that that these diversions had not always accomplished the objective that you had in mind?

I mean by that, did you find that in some instances the industry had proceeded to do a little stockpiling of their own under those circumstances and benefited by it, or that they had acquired materials for a tax purpose, tax advantage, or that they had shipped materials abroad and, thereby, drained this country, to some extent, of materials that were in relatively short supply?

Mr. FLEMMING. Mr. Counsel, in dealing with an area of this kind, of course, you always run across some situations where you feel that possibly the action taken by an individual or a company has not been in the best interest of the country.

But I do think that before one arrives at that conclusion it is important to try to find out what was running through their minds at that particular time.

Take on this question of inventories—I have noted the kind of practical business experience that the chairman has had but I think that you always—I have been given to understand that you have always got to look behind the question of the inventory and see why it was there.

They may have been doing it with the very best motive in mind, in terms of being able to continue to move or in terms of a defense productive item.

But on an overall basis I feel that the conclusion is that it is those conclusions that were set forth in the two reports of the Joint Committee on Defense Production to which I referred, that they are valid, on balance, and the operation worked to the benefit of the economy, and that means to the benefit of the defense-producing industries as well as other industries.

And it seems to me that if we had not done it we might have had some rather serious consequences.

Now, as you know, in getting acquainted with the record we held the line absolutely on the stockpile. I mean, as far as taking anything out of it was concerned, even though that was up time and time again——

Mr. COBURN. On the basis of your experience, do you think that pursuing a policy of this kind is inclined to cause businessmen and business concerns to rely on the Government's stockpile in times of stringency, we will say and, therefore, not to stockpile themselves as much as they should?

Mr. FLEMMING. Well, Mr. Coburn, I think we have made it abundantly clear during this period both as far as copper, aluminum, and nickel, as far as all three were concerned, that they could not rely on what was in the stockpile; that under the law we could not take it out and we didn't come to Congress and ask for authority to take it out, as Senator Symington knows.

Mr. COBURN. I know I have not made myself clear.

I mean, by deferring deliveries, as you did——

Mr. FLEMMING. Well, OK——

Mr. COBURN (continuing). Do you think there is any likelihood of creating the impression with the business concerns that they can look to the Government contracts, if you want to call it that, rather than the stockpile to provide them with the inventory that they should have had themselves?

Mr. FLEMMING. It is possible that you might get such a result. That is right. I mean, I——

Mr. COBURN. I am wondering if you had that feeling from your own experience in ODM after these deferrals had occurred.

Mr. FLEMMING. Well, really, this came very suddenly as far as most of them are concerned, or, the situation developed very suddenly and it was of a comparatively short duration, as you have indicated.

So I don't know that we had the opportunity really of accumulating evidence along that line. But if some evidence can be brought together along that line it would be helpful in determining future policy in dealing with this kind of a situation.

Mr. COBURN. It is something that should be borne in mind in determining future policy, do you not think?

Mr. FLEMMING. I agree with you. I agree with you completely on that.

Mr. COBURN. Now, Dr. Flemming, I would like to turn to the problem of this contract that you had with the International Nickel Co. and we have heard one side of that question the other day from the GSA people, and it is only fair to hear your side, too.

Do you have those papers before you?

Mr. FLEMMING. If I can have just a minute.

Senator SYMINGTON. Mr. Flemming, it is 21 minutes after 12. We can reconvene at 2:30, and——

Mr. FLEMMING. I would be glad to do whatever you suggest.

Senator SYMINGTON. Well, suppose we recess now until 2:30; then you can get those papers, and if counsel has anything he would like to ask——

Mr. COBURN. No, I think this would be a good stopping place.

Senator SYMINGTON. Fine. We will stand in recess until 2:30.

(Whereupon, at 12:21 p.m., the subcommittee recessed, to reconvene at 2:30 p.m., this same day.)

(Reporter's note: The hearing was subsequently postponed subject to the call of the Chair because it was decided by the Senate that during the current debate on H.R. 1361 no committees could hold hearings while the Senate was in session.)

STOCKPILE INVESTIGATION

MONDAY, MAY 7, 1962

U.S. SENATE,
SUBCOMMITTEE ON THE NATIONAL STOCKPILE
AND NAVAL PETROLEUM RESERVES OF THE
COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The subcommittee (composed of Senators Symington, chairman; Thurmond, Engle, Cannon, Case of South Dakota, and Beall), met, pursuant to call, in room 235, Old Senate Office Building, at 10 a.m.

Present: Senators Symington (presiding) and Beall.

Also present: Richmond C. Coburn, chief counsel to the subcommittee; T. J. May, assistant counsel; J. H. Zimmer, assistant counsel; Edward O. McCue III, assistant counsel, and James J. Gehrig, special assistant to Senator Symington.

Senator SYMINGTON. The hearing will come to order.

I have a short statement this morning. A recent editorial in a metal trade paper stated that contracts for "copper producers to deliver metal to the national stockpile were signed by a Truman Democratic administration during the Korean war period."

Of the nine national stockpile contracts listed in the table on copper diversions, four were executed in the Truman administration, five in the Eisenhower administration. In addition, all of the six DPA copper diversion contracts were executed in the Eisenhower administration.

In any case, as has been previously stated, this subcommittee is interested in obtaining the facts, regardless of when they occurred.

The editorial in question also states that the diversion of copper tonnage was "relatively small."

About 83,748,000 pounds of copper were diverted. This gave an excess profit totaling millions of dollars to those contractors favored by being allowed deferment.

The editorial criticized this subcommittee for "attempting to suggest that certain copper producers reaped a profit 'windfall' in 1955."

In a letter of May 27, 1955, from Director Flemming of the Office of Defense Mobilization to Mr. Al E. Snyder, Assistant Administrator of the General Services Administration, Dr. Flemming stated:

> In the light of the possible windfalls to the suppliers I feel that the authorization to cancel was a mistake and that the deferment of the deliveries would have been preferable.

The profits occurred regardless of whether the contracts in question were deferred or canceled.

One large company offered to purchase its copper contract from the Government on a basis that would have netted the Government mil-

lions of dollars. This was refused. Other copper companies, however, were allowed to cancel their contracts with the Government at no cost to them.

Dr. Flemming was often unresponsive to the effort of counsel to locate the source of the recommendations for these deferrals.

As example, when Counsel Coburn asked him, "Who was it that you consulted with on this subject that expressed an opinion in favor of deferrals?" Dr. Flemming answered:

I told you that I consulted with the Defense Mobilization Board and the Defense Mobilization Board recommended that the deferrals take place.

Mr. COBURN. Did you simply rely entirely on their recommendation?

Mr. FLEMMING. I do not know whether I did or not. I mean I can't remember this particular instance * * *.

Later, the colloquy ran on as follows:

Mr. COBURN. I ask you that because I am wondering if you discussed the desirability of deferring, using that as a device to divert, with Secretary Weeks, for instance.

Mr. FLEMMING. I do not recollect a conversation with him on it.

Mr. COBURN. Or anyone else in the Commerce Department, at all, the head of BDSA or anyone in the Commerce Department?

Mr. FLEMMING. I do not recall a conversation with them.

Mr. COBURN. Your testimony is, then, you just do not remember having talked about the desirability—that is, the pros and cons—of deferrals, with anyone?

Mr. FLEMMING. My assumption is that I discussed it with the staff.

Mr. COBURN. But you do not remember talking with anyone about it?

Mr. FLEMMING. I will let my testimony stand on what I have just said.

The subcommittee is indebted to the senior Senator from Delaware for contributing clarification to this matter. On Friday, April 27 last, Senator Williams placed in the record a letter to him from Dr. Flemming, dated April 2, 1955, in which Dr. Flemming said:

All deferments of deliveries of copper to the Government have been authorized at the request of the Department of Commerce and after consultation with the Defense Mobilization Board.

Turning now to another subject, an article in the Washington Daily News of April 30 reports that former Secretary of the Treasury George M. Humphrey stated recently:

The Senate stockpile investigation shows signs of becoming "a personal vendetta against me."

The record will show there is no justification whatever for any such alleged statement.

The article also reports that Secretary Humphrey stated:

Everywhere the committee has turned they have hit a stone wall. There just was no scandal.

The subcommittee has not prophesied any scandal. It has consistently stated that its purpose was to bring out facts long concealed by classification. Secretary Humphrey is the one talking about scandal, not the subcommittee.

In this same article, former Secretary of Commerce Sinclair Weeks is quoted as saying recently:

It has always looked to me as though they (this subcommittee) are after political paydirt. I don't believe there is any.

We regret this characterization of the efforts of this subcommittee and its counsel.

In due course the subcommittee will give Secretary Weeks the opportunity to justify this charge.

I ask unanimous consent that the article in question be placed in the record at this point.

Senator BEALL. No objection.

Senator SYMINGTON. Without objection.

(The article referred to follows:)

[From the Washington Daily News, Apr. 30, 1962]

HUMPHREY SEES PROBE AS PERSONAL VENDETTA—WEEKS CRITICAL ALSO

(By Vance Trimble)

Former Treasury Secretary George M. Humphrey believes the Senate stockpile investigation shows signs of becoming "a personal vendetta against me."

And former Commerce Secretary Sinclair Weeks also is sharply critical of the line of inquiry taken by the subcommittee headed by Senator Stuart Symington, Democrat, of Missouri.

"It has always looked to me," Mr. Weeks said today, "as though they are after political paydirt. I don't believe there is any."

These two Eisenhower administration Cabinet officers presumably will be the hearing's next big-name witnesses. The investigation was requested by President Kennedy who suggested there may have been heavy profiteering in buying the $9 billion stockpile of war-scarce materials.

ASKED TO EXPLAIN

Messrs. Weeks and Humphrey may be asked to explain their roles in high-level policy decisions which appeared to favor stockpile suppliers at the expense of the taxpayers in the 1953–56 period.

The hazy memory of Dr. Arthur S. Flemming, former Office of Defense Mobilization Director, has both irritated and frustrated the committee. He was unable fully to explain decisions that handed copper contractors $2 million in windfall profits when deliveries to the stockpile were canceled or deferred.

Messrs. Weeks and Humphery sat on Mr. Flemming's advisory board. Thus, they could be expected to shed light on the decisions. Mr. Weeks, a letter in evidence discloses, vetoed the copper deferrals on March 10, 1955, but 2 weeks later attended a conference where they were authorized.

R. C. Coburn, subcommittee chief counsel, said both could be asked to testify—"it just depends." Their names figure prominently in testimony on copper and rubber stockpiling.

MORE INVOLVED

Mr. Humphrey also is more directly involved. The Hanna Mining Co., subsidiary of a Cleveland industrial complex he headed, received a $103 million contract to supply nickel to the stockpile. This was signed January 16, 1953, 3 days before he became Treasury Secretary.

"I know of no scandal in the program—from start to finish," Mr. Humphrey said by phone from his Cleveland office.

"President Kennedy came out with a sensational statement, and I presume he had been told, 'we've got those babies over a barrel.' I don't think he realized that 90 percent of the stockpile was ordered in the Truman administration.

"Mr. Kennedy apparently was misinformed. Everywhere the committee has turned they have hit a stone wall. There just was no scandal."

Senator SYMINGTON. Mr. Counsel, you have witnesses this morning?

Senator BEALL. Mr. Chairman, don't you think it would be a good idea when this comes up that we have the Congressmen, I mean Members of Congress who questioned Mr. Flemming, to withdraw these stockpiles back to private industries, those who wrote at that time in October 1954 and 1956; as I remember it at that time, there was some

talk about Members of Congress who were requesting that the private industries have this stockpile.

Senator SYMINGTON. Let me say to the able Senator I would appreciate his discussing this with counsel. We would want to call before the subcommittee any witnesses he felt should be called before the subcommittee.

Senator BEALL. I don't mean to take the witnesses, but just the letters from Members of Congress who made this request.

Senator SYMINGTON. Would you work with counsel and get the letters together you would like to have made part of the record?

Senator BEALL. I do know that Members of Congress wrote them. I don't know what they are specifically.

Senator SYMINGTON. Let us know what you would like to do in the matter and we will do it.

Who is your first witness?

Mr. COBURN. Mr. Chairman, Mr. William N. Lawrence is the first witness, and Mr. May, assistant counsel here, is prepared to examine Mr. Lawrence on one phase of his testimony so I will defer to Mr. May.

Senator SYMINGTON. Fine.

Will you proceed, Mr. May?

Mr. MAY. Mr. Lawrence, you, of course, have appeared before this hearing and consider yourself still sworn and for the purposes of the record would you again identify the position that you presently hold with the Office of Emergency Planning?

TESTIMONY OF WILLIAM N. LAWRENCE, ASSISTANT DIRECTOR OF MOBILIZATION ANALYSIS, OFFICE OF EMERGENCY PLANNING

Mr. LAWRENCE. I am presently the Deputy Director of Mobilization Analysis of our Office of Emergency Planning.

Mr. MAY. All right.

Mr. Witness, during the course of these hearings, we have heard some discussion about the question of objectives, and as I understand it the testimony has been that objectives are established for each strategic and critical material, and that determines the amount of material that we are going to need, the quantity of that particular material that we need to stockpile for purposes of a war, is that correct?

Mr. LAWRENCE. That is correct.

Mr. MAY. Mr. Lawrence, how long have you been at the Office of Emergency Planning or its predecessors?

Mr. LAWRENCE. Since 1947.

Mr. MAY. During that period have you had responsibility at one time or the other for setting objectives or for participating in objectives for various materials?

Mr. LAWRENCE. I have had—I have been in the participation of recommending objectives.

Mr. MAY. You are familiar with the manner in which they are set; is that correct?

Mr. LAWRENCE. That is correct.

Mr. MAY. Fine.

Now one of the things we would like to determine this morning is just how these objectives are set, and whether or not this is a type of a guessing game or rather a more scientific approach and perhaps you will be able to help us on that.

We would like to explore this matter with particular reference to the rubber objectives, and turning your attention to the years 1955 and 1956, at that time did the Office of Defense Mobilization conduct a review of its stockpile situation for rubber?

Mr. LAWRENCE. It did.

Mr. MAY. Who, in the Office of Defense Mobilization, conducted the review?

Mr. LAWRENCE. The Interdepartmental Chemical and Rubber Advisory Committee of the Office of Defense Mobilization.

Mr. MAY. Now, this was a Committee?

Who composed this Committee?

Mr. LAWRENCE. The Departments of Agriculture, Commerce, Defense, Interior, State, General Services Administration, and the Tariff Commission.

Mr. MAY. In other words, each one of these departments had a representative delegated to sit on this Committee?

Mr. LAWRENCE. That is correct.

Mr. MAY. And I assume then that these people were all somewhat expert in various aspects of the rubber situation?

Mr. LAWRENCE. That is right.

Mr. MAY. What specifically is the function of this Committee?

Mr. LAWRENCE. The Committee, this Advisory Committee reviewed the supply requirements data, prepared the data sheets on supply and requirements, and they recommended objectives.

Mr. MAY. So they did three things, in other words, they would review the supply of rubber available in time of war, what our requirements were going to be during time of war, then they would prepare what you called basic data sheets?

Mr. LAWRENCE. That is correct.

Mr. MAY. Then the final thing they would do would be to recommend what the objective for that particular material—in this case rubber—should be.

Mr. LAWRENCE. That is correct.

Mr. MAY. Now, would you explain what data sheets are?

Mr. LAWRENCE. Data sheets are a statement of the expected supply and requirements for a 5-year war, which was the guiding principle at that time.

Mr. MAY. By that you mean what supply would be available to the United States during—during the assumed 5-year war?

Mr. LAWRENCE. That is correct.

Mr. MAY. And also what the requirements were that we would have for rubber during that 5-year war.

Mr. LAWRENCE. That is correct.

Mr. MAY. In this case what do the supply data sheets show that were prepared as a consequence of this review in 1955 and 1956?

Mr. LAWRENCE. They showed the estimated amount of rubber that would be available from imports to the United States during the 5-year war period, that we have under study.

Mr. MAY. Well, what are these estimates based on?

Mr. LAWRENCE. The estimates are based on normal imports received from rubber-producing countries in the United States.

Mr. MAY. Who would furnish these supply figures to the committee?

Mr. LAWRENCE. The Rubber Branch of the Business and Defense Services Administration of the Department of Commerce.

Mr. MAY. Do you do anything to these figures? In other words, do you factor these figures?

Mr. LAWRENCE. Yes, we do.

Mr. MAY. Can you explain to the committee what you mean by "factor"?

Mr. LAWRENCE. We have a factoring formula which applies to all materials. Under this formula we have several discounts where we discount the normal expedited supply, one of them is the internal dependability of the exporting country due to possible shipping losses due to geographic location of the country, and there is a concentration of supply in any one particular area.

Now, these discounts range all the way from 10 to 100 percent.

I might add that the discounts for, which are established for, only one country, apply to all the materials which would come from that country.

Mr. MAY. So if you had country X, you have a formula that had been set up in advance, and under this formula you discount so much for these three different factors that you have named?

Mr. LAWRENCE. That is correct.

Mr. MAY. And you do that for all the materials involved in the stockpile?

Mr. LAWRENCE. Right.

Mr. MAY. Isn't that right?

You would take, for example, the normal expected supply from country X. Suppose this were 10,000 long tons, and you would discount this normal expected supply, using a set formula.

Let's assume that you discounted at 15 percent for the internal dependability and you discounted at 30 percent for shipping loss and you discounted at 20 percent for concentration. There would be a total, would it not, of 65 percent total discounts?

Mr. LAWRENCE. That is correct.

Mr. MAY. So you would then take 65 percent of the normal 10,000-long-ton expected supply, which would leave you with only 3,500 long tons of the amount of the material that you would expect to rely on from that country during the 5-year war period; is that correct?

Mr. LAWRENCE. That is correct.

Mr. MAY. That is what you called the factored supply system?

Mr. LAWRENCE. That is correct.

Mr. MAY. What do these data sheets or these backing formulas show for rubber in the review conducted in 1955 and 1956?

Mr. LAWRENCE. They showed that the supply, the factored supply, was a total of 332,000 long tons, expected for a 5-year war.

Mr. MAY. What—from what countries did we expect to get these materials?

Mr. LAWRENCE. We had Ceylon.

Mr. MAY. How many tons did we expect to get from Ceylon during the 5 years?

Mr. LAWRENCE. Ceylon, 30,000 tons; Indonesia, 96,000 tons; Belgium Congo, 14,000 tons; Liberia, 182,000 tons; and Nigeria, 10,000 tons.

Mr. MAY. And that makes a total of 332,000 long tons of rubber as the entire amount of rubber we could expect to import from the rest of the world during a 5-year war period.

Mr. LAWRENCE. That is correct.

Mr. MAY. All right.

Now, I believe you say that the data sheets also show what our estimated rubber requirements would be during the 5-year war.

Mr. LAWRENCE. That is right.

Mr. MAY. First, I would like to ask you now what we are talking about here is just natural rubber. Then we had additional requirements for synthetic rubber, did we not?

Mr. LAWRENCE. That is correct.

Mr. MAY. So what we are talking about are just the supply and requirements of natural rubber?

Mr. LAWRENCE. That is right.

Mr. MAY. Are these requirements divided into military and civilian?

Mr. LAWRENCE. They are.

Mr. MAY. OK. Who would supply the military requirements?

Mr. LAWRENCE. The Department of Defense.

Mr. MAY. What would they base their estimates of what our requirements would be?

Mr. LAWRENCE. Well, the requirements were based on military or strategic guidance which the Joint Chiefs would provide for the armed services.

Mr. MAY. I see.

In 1955 and 1956, what were the military requirements for natural rubber submitted for the period beginning January 1, 1957, which was the assumed start of a 5-year war?

Mr. LAWRENCE. We had a total of, for transportation purposes for the 5-year war of 345,327 long tons.

For nontransportation uses in the military we had an additional 114,505 tons which gave us a total military requirement of 460,132 long tons.

Mr. MAY. Right.

Now, you have just had two categories, you have had transportation products and nontransportation products. I assume these are quite detailed and broken down in specific components in the data sheets?

Mr. LAWRENCE. They are.

Mr. MAY. So that this is quite scientifically determined, they take all the estimated needs and break them down into individual components?

Mr. LAWRENCE. That is right.

Mr. MAY. Airplanes, guns, tanks, whatever they need rubber for, is that correct?

Mr. LAWRENCE. That is correct.

Mr. MAY. Now, who supplies the essential civilian requirements in these data sheets?

Mr. LAWRENCE. The Rubber Branch of Business and Defense Services Administration.

Mr. MAY. What do they base their requirements estimates on?

Mr. LAWRENCE. Well, their requirements estimates are based on past usages, plus what the necessary civilian use would be in wartime, of course, on a restricted basis.

Mr. MAY. All right.

What were the civilian requirements that were submitted to this committee for the assumed war period that would begin January 1, 1957?

Mr. LAWRENCE. The civilian requirements for transportation on an annual basis were 88,091 long tons for transportation, for nontransportation purposes annual requirement was 22,231 long tons or 110,322 long tons for annually——

Mr. MAY. That was just each year of the 5-year war so you had to multiply that figure by five in order to get the requirements, total requirements for the 5-year war period?

Mr. LAWRENCE. That is correct here, the 551,610 long tons for civilian purposes.

Mr. MAY. Then our total mobilization requirements by this review committee showed that for the 5-year duration of the war, including both military and civilian requirements we had a total of 460,132 for military, and 551,610 for civilian and that this gave you a rough total of what?

Mr. LAWRENCE. Excuse me—we had also one additional requirement here for export of 25,000 long tons. The three figures added together gave us a total of 1,036,742 long tons as the total requirements for the 5-year war.

Mr. MAY. I assume that we needed some rubber to export to our allies, is that correct?

Mr. LAWRENCE. This is correct. This is a small normal token figure that was added into exports to our allies.

Mr. MAY. So our total factored supply of rubber from all known sources during that 5 years was estimated to be 332,000, is that right?

Mr. LAWRENCE. That is correct.

Mr. MAY. So if we subtract our supply, our estimated supply from our estimated total requirements then that would leave a deficit during those 5 years of 700,000 long tons, is that correct?

Mr. LAWRENCE. That is correct.

Mr. MAY. Would you say and was it the understanding then that that was the amount of rubber that had to be stockpiled in order to take care of the deficit that we were going to have during this 5-year war?

Mr. LAWRENCE. That is correct.

Mr. MAY. That figure you would then call the objective?

Mr. LAWRENCE. That is correct.

Mr. MAY. So that would be the objective then for rubber based on this detailed scientific analysis which was recommended to be 700,000 long tons?

Mr. LAWRENCE. That is correct.

Mr. MAY. What was our objective at that time?

Mr. LAWRENCE. 1,230,000 long tons.

Mr. MAY. In other words, we had our objective which was 530,000 long tons over what our expected deficit would be?

Mr. LAWRENCE. That is correct.

Mr. MAY. What action was taken on this new data that were developed by the committee?

Mr. LAWRENCE. Well, the Office of Defense Mobilization, after it had received this advice from the Advisory Committee, proposed that IMAC, which is the Interdepartmental Materials Advisory Committee——

Mr. MAY. Excuse me, in other words, the ODM staff——

Mr. LAWRENCE. That is correct.

Mr. MAY. Who received this study, then made a recommendation or a proposal as to what you call IMAC?

Mr. LAWRENCE. That is correct.

Mr. MAY. And you say IMAC means Interdepartmental Materials Advisory Committee?

Mr. LAWRENCE. Interdepartmental Materials Advisory Committee.

Mr. MAY. I see.

Mr. LAWRENCE. That they accept the basic data sheets which had been prepared for establishing this objective, that they revise the stockpile objective from 1,230,000 long tons to 700,000 long tons, and that the General Services Administration be authorized pursuant to section 3 of Public law 520, the 79th Congress, to dispose of the inventories of rubber in excess of the total mobilization requirements of 1,036,000 long tons.

Mr. MAY. Excuse me a minute.

Now, our total mobilization requirement, that is all of our requirements?

Mr. LAWRENCE. That is correct.

Mr. MAY. So they proposed that GSA be authorized to dispose of any amount that we had in the stockpile in excess of that, is that correct?

Mr. LAWRENCE. That is correct.

Mr. MAY. But they recommended that we adopt an objective of 700,000 long tons?

Mr. LAWRENCE. That is correct.

Mr. MAY. So that they did not then recommend the disposal of all surplus to the recommended objective but only what was surplus to our total mobilization requirements?

Mr. LAWRENCE. That is correct.

Senator SYMINGTON. What date was that?

Mr. MAY. That was what date?

Mr. LAWRENCE. January 20, 1956.

Mr. MAY. What reason did they assign for not recommending a disposal of all in excess of the recommended objective?

Mr. LAWRENCE. Well, you had several reasons here, one of which was the fact that we had had considerable difficulty in World War II in obtaining sufficient natural rubber for our war needs, and, two, that the requirements of the Stockpile Act itself, which requires that we take congnizance of the market conditions, the fact that we had considerable amount of rubber over this objective that would take us some time to dispose of if we were to refrain from upsetting the market.

Mr. MAY. I see. I believe that at this time your data sheets reflect that requirements—at that time synthetic rubber accounted for 60 percent of our total number——

Mr. LAWRENCE. That is approximately correct; yes, sir.

Mr. MAY. In this review study it also pointed out the fact that laboratory synthesis had achieved a duplicate of molecular structure natural rubber and they anticipated then that it may develop to the point soon so that the United Staes would become completely self-sufficient in rubber?

Mr. LAWRENCE. That is also correct.

Mr. MAY. The study also points out that fact.

Mr. LAWRENCE. Yes, it does.

Mr. MAY. Who are the members of IMAC to whom this recommendation was made?

Mr. LAWRENCE. They are the Departments of State, Defense, Interior, Agriculture, Commerce, General Services Administration, at that time it was the International Cooperation Administration which is AID of the State Department.

We also have a member now, the National Aeronautics and Space Administration but they were not members in 1956.

In addition we had three observers, one from the Bureau of the Budget, Atomic Energy Commission, and from the Small Business Administration.

Mr. MAY. So you had practically a representative from all of the branches of Government.

I assume that the representative from each of these branches of the Government were again people who were knowledgeable and expert in the matter of rubber and stockpile?

Mr. LAWRENCE. That is correct.

Mr. MAY. What action did IMAC take on the recommendations made to it by the ODM staff pursuant to the review of the ODM staff which they had conducted?

Mr. LAWRENCE. Now, in this case IMAC recommended approval of the basic data sheets but——

Mr. MAY. Just wait a minute now.

When they say recommended approval of the basic data sheet, the basic data sheets are the ones which showed what our mobilization requirements, military and civilian, were going to be during those 5 years, and they also showed what our expected supply would be during those 5 years; is that correct?

Mr. LAWRENCE. That is correct.

Mr. MAY. And it was on the basis of those data sheets that the committee conducted they needed only, to stockpile only, 700,000 long tons.

Is that correct?

Mr. LAWRENCE. Did you say they concluded they needed——

Mr. MAY. Well, as I say, the data sheets——

Mr. LAWRENCE. The data sheets, that is correct.

Mr. MAY. Show that.

Mr. LAWRENCE. That is correct.

Mr. MAY. So when the IMAC committee recommended approval of the data sheets they were recommending acceptance of the basic data contained in those sheets; is that correct?

Mr. LAWRENCE. That is correct.

Mr. MAY. All right. What was the next recommendation that they made?

Mr. LAWRENCE. They recommended because of the State Department objections that the IMAC should recommend an objective at 1,036,000 long tons.

Mr. MAY. Well, they did recommend a cut in the objective, is that right, of around 200,000 long tons?

Mr. LAWRENCE. That is approximately correct; yes, sir.

Senator SYMINGTON. For clarification, so I get this straight, Mr. Counsel, what was the original recommendaiton before it was reduced?

Mr. LAWRENCE. From the Advisory Committee and ODM staff it was to establish the objective at 700,000 long tons.

Senator SYMINGTON. What was the objective before that recommendation?

Mr. LAWRENCE. It was 1,230,000 long tons.

Senator SYMINGTON. And what was the compromise recommendation of this IMAC again?

Mr. LAWRENCE. It was 1,036,000 long tons.

Senator SYMINGTON. Thank you.

Mr. MAY. Now, this 1,036,000 long tons equalled our total mobilization requirements; did it not?

Mr. LAWRENCE. That is correct.

Mr. MAY. Did they make an additional recommendation?

Mr. Witness, as I understand it they also recommended disposal of any surplus, in addition, that was excess to the new recommended objective; is that correct?

Mr. LAWRENCE. That is correct; yes.

Mr. MAY. Do you have the date when IMAC made these recommendations?

Mr. LAWRENCE. January 30, 1956.

Mr. MAY. Now, you have already stated that you surmised that the IMAC committee set a higher recommended objective than the ODM Advisory Committee?

Mr. LAWRENCE. That is correct.

Mr. MAY. And you, I believe, stated that this was done, well, in terms of a compromise because of the objections that were raised by the State Department?

Mr. LAWRENCE. That is correct.

Mr. MAY. Now, specifically what factor did the State Department object to about it?

Mr. LAWRENCE. The principal reason for the State Department's statement was that they felt that the impact on our foreign policy through the disposal of this rubber and the possible effect on the market, would be very detrimental to the United States relations with the rubber-producing countries.

Mr. MAY. I see. When the IMAC committee made their recommendations, were they unanimous?

Mr. LAWRENCE. Well, it is difficult to state, Mr. Counsel. It seems that the objective was kind of established as an alternate to the 700,000. There were no indications there were any other objections from other IMAC members.

Mr. MAY. Did the State Department go along with this recommendation?

Mr. LAWRENCE. Not completely. They subsequently prepared another paper in which the—when the issue was submitted to the Defense Mobilization Board, and in this particular paper they recommended again that we retain the old objective of 1,230,000 tons.

Mr. MAY. You can conclude that ultimately they did not go along with the otherwise unanimous recommendation of the IMAC committee?

Mr. LAWRENCE. That is apparently, as the record states it; yes, sir.

Mr. MAY. Mr. Chairman, I have a letter, part of which I would like to introduce in the record.

This is a letter from C. F. Ogden, the Assistant Director of the Office of Defense Mobilization, to Dr. Flemming, and it is dated February 14, 1956, and without objection I would like to place part of this in the record.

Senator SYMINGTON. Without objection.

Mr. MAY. The letter refers to the State Department's objection to the setting of these new objectives, and reads—the part I am going to put into the record reads:

> With regard to the third point raised by the State Department, it is recognized that there is no easy solution. However, it does not appear likely that it would be any easier to dispose of surpluses 2, 3, or 5 years hence than it would be today.
>
> Current natural rubber prices are about double what they were in the latter half of 1953 and first half of 1954. If any disposal is contemplated, it would appear desirable that such disposal be during periods of shortage as evidenced by high prices.
>
> A further problem is the fact that approximately 135,000 tons of the total is in nonspecification grade rubber, with an estimated "shelf" life of only 2 or 3 years as compared with the average "shelf" life of specification grades of 15 years or more. This nonspecification grade rubber must be moved and the only three courses are to—
>
> 1. Dispose of it;
> 2. Rotate and replace with comparable nonspecification material; or
> 3. Rotate and upgrade.
>
> The latter two alternatives would be very difficult to justify under existing circumstances.
>
> The IMAC members (except State) agreed with the position that while an objective of 700,000 long tons (the deficit between requirements and factored supplies) could be amply justified, the selection of the higher objective of 1,035,000 is a prudent step until the next complete review, especially since it is unlikely that even the 185,000 long tons can be disposed of in an orderly manner without upsetting the rubber market before another review.
>
> Furthermore, since all indications are that the peak need for a natural rubber stockpile has been passed and that with the passage of time the need will continue to diminish, it was felt that as little time as possible should be lost in taking steps to dispose of the surplus rubber. The surplus may increase progressively with each succeeding review.
>
> RECOMMENDATION
>
> It is recommended that the advice of IMAC be accepted and that the natural rubber stockpile objective be set at 1,035,000 and that the General Services Administration be directed to take the necessary actions to dispose of the excess above the new objective.

Now, Mr. Witness, was this matter then considered by the Defense Mobilization Board at the meeting?

Mr. LAWRENCE. It was.

Mr. MAY. What was the date of this meeting?

Mr. LAWRENCE. June 6, 1956.

Mr. MAY. Did the State Department submit a paper at that meeting?

Mr. LAWRENCE. It did.

Mr. MAY. What was the substance of that paper?

Mr. LAWRENCE. There was the statement of the foreign policy considerations in regard to rubber stockpile disposal. It said, in effect, that the impact of this rubber disposal program would be very detrimental to our relations with the rubber-producing countries in the Far East and also to their economy.

Mr. MAY. What determination did the DMB or Defense Mobilization Board make in this matter?

Mr. LAWRENCE. The DMB——

Mr. MAY. Well, if they didn't make a determination, at least what final determination was made of this matter?

Mr. LAWRENCE. Well, the Chairman of the DMB indicated——

Mr. MAY. Who was the Chairman?

Mr. LAWRENCE. Arthur S. Flemming.

Mr. MAY. All right.

Mr. LAWRENCE. He indicated that while he was willing to assume from the facts presented that the stockpile objective could be lowered, he is aware that even an indication that the United States intended placing surplus rubber stocks on the market would create a very difficult international situation, and he suggested that the Board concur in a statement which was prepared for public release which stated, in part, that the stockpile objective has been under review and there are certain factors in the picture which cannot be evaluated in accurate and satisfactory manner.

Therefore, there will be no change in the stockpile objective or in the program for the rotation of rubber in the stockpile.

Mr. MAY. So, Dr. Flemming then reaffirmed the old stockpile objective of 1,230,000 long tons?

Mr. LAWRENCE. That is correct.

Mr. MAY. What date did he officially make this reaffirmation?

Mr. LAWRENCE. I am sorry, Mr. Counsel, I don't have the date of the publication of the public notice. I think I can probably find it for you and supply it for the record.

Mr. MAY. Will you furnish this for the record?

Mr. LAWRENCE. Yes, I will.

Mr. MAY. So then, Mr. Witness, in spite of the fact that our estimated deficit, as arrived at in the best manner then known, and through what we have seen is a rather scientific manner, was not only 700,000 long tons, and that consequently, our objective, which is nothing other than our deficit, should have been no greater than that?

Mr. LAWRENCE. That is correct.

Mr. MAY. That despite that fact, Dr. Flemming, with the concurrence apparently of the Defense Mobilization Board, kept the objective at 1,230,000 long tons, one-half million more than we actually needed?

Mr. LAWRENCE. That is correct.

Mr. MAY. And prevented the disposal of any of our surpluses?

Mr. LAWRENCE. That is correct.

Mr. MAY. Thank you, that is all I have.

Mr. COBURN. Mr. Chairman, I would like to have this witness stand aside a moment. I am going to ask him some other questions about some other matters that we are going into here this morning, but I

would like to call as a witness Mr. Sydney Mellen, of the Department of State, at this time.

Senator SYMINGTON. Mr. Lawrence, you were previously sworn, were you not?

Mr. LAWRENCE. That is right.

Senator SYMINGTON. Mr. Mellen.

Mr. Mellen, you were sworn before, were you not? You consider yourself sworn?

TESTIMONY OF SYDNEY L. W. MELLEN, CHIEF OF COMMODITIES DIVISION, OFFICE OF INTERNATIONAL RESOURCES, DEPARTMENT OF STATE

Mr. MELLEN. Yes, sir.

Mr. COBURN. Mr. Chairman, as I understand it, the committee has taken the position at an earlier date that witnesses who appeared before the committee would be permitted to edit their statements so far as, their answers, so far as the form of the answer is concerned but not so far as the facts contained in their answer are concerned.

Since the last hearing, Mr. Mellen has sent in a change in his testimony with reference to a matter of fact, and I, therefore, thought it was essential that he be brought back to testify under oath, as to this change in his statement of fact.

Mr. Mellen appeared before this committee on April 23, 1962, at which time we were looking into the, among other things, to the plan of disposal of rubber which the United States now has in progress, and we developed in the course of the hearing that we started our plan of disposal on October 1, 1959, and that at the same time the United Kingdom began disposing of its rubber in the stockpile that it had, and at that point, I asked Mr. Mellen this question, and I would like to have you listen to this, Mr. Mellen, so we will make sure that the transcript is correct:

After the British began making their sales, did they advise you where the rubber was going?

Do you remember that question being asked?

Mr. MELLEN. I am sure it is correct, Mr. Counsel.

Mr. COBURN. And did you make this answer:

It was sold on the world—London is a big world market for rubber, and rubber moves from there all over Europe, to the Continent of Europe, to the Western European countries, and undoubtedly also to Russia. Russia buys part of its rubber at all times in the London market.

Do you remember making that answer?

Mr. MELLEN. Yes, sir, I am sure that is right.

Mr. COBURN. Then you remember this question being asked you:

Well, my question was whether they advised you as to whether any of this rubber went to Russia?

Do you remember that?

Mr. MELLEN. Yes, sir.

Mr. COBURN. And you are giving this answer:

Yes, sir; it never came up; no, sir. We never had any discussions as to which particular countries would be the recipients of it.

Do you remember that answer?

Mr. MELLEN. Yes, sir.

Mr. COBURN. And then I asked you this question:

Well, as the sales progressed did you learn that the British rubber was moving to Russia.

Do you remember that?

Mr. MELLEN. Yes, sir.

Mr. COBURN. And this answer given by you:

I don't think we were ever informed, no. I remember that the firm of Golodetz, there were trade reports, as I remember it, that the firm of Golodetz was making sales to Russian buyers.

Do you remember giving that answer?

Mr. MELLEN. Yes, sir.

Mr. COBURN. As I understand it, you want to change your testimony with reference to this last answer by saying this instead:

Subsequent review of the files showed that the State Department had received official reports as well as trade reports to the effect that rubber from the British stockpile was being sold to Russia. The official reports were made in mid-1960 by the American Embassy in London based on information received from the British Board of Trade that rubber from the British stockpile had been sold to a London dealer purchasing for the U.S.S.R.

Is that the answer that you would like to have made final in the record here?

Mr. MELLEN. Yes, thank you, Mr. Counsel. That is the correct answer, which I should have made in the beginning and I am very sorry.

Mr. COBURN. You want to have that placed in the record in lieu of the other answer that you gave?

Mr. MELLEN. That would make the record correct, Mr. Chairman, and Mr. Counsel.

Mr. COBURN. When did you find that you were in error about this testimony, Mr. Mellen?

Mr. MELLEN. It must have been later that same day, toward 6 o'clock, on that—no, wait a minute, let me see, yes, I think it was that same day.

Mr. COBURN. What caused you to find that you had made a mistake, how did you come across this mistake?

Mr. MELLEN. I was sitting talking with some colleagues when someone brought in, my superiors, when someone brought in a memorandum from the office of the Secretary, Mr. Rusk, in which there was a stenographic record of a conversation which perhaps Senator Symington, I am not sure, it may have been yourself, someone from the Senator's office, had made to the Secretary's office.

The Secretary had apparently been out when the call came through and the Secretary's secretary, a young lady whose name I don't remember or know, took the message down.

The message received was that the committee believed that there was a certain—that there had in fact, been a certain—dispatch from London reading as follows: and then the full text of the dispatch was given and I believe it had a date on it of April or June, June, I guess, 1960.

And as soon as I saw that I hurried down and looked at our files and, of course, it was a correct and exact text of a dispatch that had been sent from London.

Mr. COBURN. You had in your files two dispatches, did you, from the——

Mr. MELLEN. Our files——

Mr. COBURN. Excuse me.

Mr. MELLEN. Yes, sir.

Mr. COBURN. You had in your files two dispatches from the American Embassy to the State Department in Washington advising the State Department that the British had informed the American Embassy in London that this rubber was being sold to Russia?

Mr. MELLEN. Yes, sir, we found two such dispatches. There may even have been a third, I don't know. But we found two.

Mr. COBURN. And they were sent in mid-1960?

Mr. MELLEN. Yes, sir, between April and July, somewhere in there.

Mr. COBURN. When you saw those dispatches, did you remember that you had seen them when they were received?

Mr. MELLEN. Yes, I did, Mr. Counsel.

Mr. COBURN. You were present in the hearing room when Mr. S. S. Groggins testified, were you not?

Mr. MELLEN. Yes, sir.

Mr. COBURN. In which he testified that a firm, his firm or a firm with which he is associated in London, had sold the British rubber to the Russian Government?

Mr. MELLEN. Yes.

Mr. COBURN. Is that right?

Mr. MELLEN. That is right, Mr. Counsel.

Mr. COBURN. Didn't that recall or refresh your recollection that you had seen these dispatches?

Mr. MELLEN. It recalled rather vividly to my mind the knowledge that we had at that time that the sales were taking place. I did not recall the dispatches.

Mr. COBURN. His testimony, then, did not bring back the dispatches?

Mr. MELLEN. Not the dispatches. It brought back the fact but not the official report of our Embassy in London.

Mr. COBURN. And it wasn't until you got back to the State Department that evening that the matter was called to your attention?

Mr. MELLEN. That is right.

Mr. COBURN. And then only because the committee suggested that the matter be brought to your attention?

Mr. MELLEN. That is correct, Mr. Counsel. I am extremely sorry—if I may say a word——

Mr. COBURN. You may say anything you would like.

Mr. MELLEN (continuing). That my memory was at fault. The committee will understand in the past 4 years I have probably handled, I have estimated, probably 10,000 dispatches from posts abroad on rubber, tin, copper, wheat and sugar and coffee and a lot of other commodities, and I try to remember as much as I can, but there are undoubtedly instances where a particular piece of paper will just fade from my memory and this was one of those cases.

I hope I did not suggest to the committee that the information which had been given the committee by Groggins was incorrect. I did know of trade reports at that time.

Mr. COBURN. Yes, you testified to that before.

Mr. MELLEN. Yes, sir.

Mr. COBURN. But you said before, as I recall it, that you had no official report on the subject.

Mr. MELLEN. That was incorrect and I am deeply sorry that I couldn't remember them.

Mr. COBURN. I am not in the least disposed to lecture you on the subject, but I will make this comment that this committee is very much in earnest in an effort to obtain the facts about anything that they are going into, and so we necessarily must insist on facts being brought to the committee, and we would appreciate all branches of the Government cooperating to that end.

I think I am authorized in saying that, am I not, Mr. Chairman?

Senator SYMINGTON. You are, Mr. Coburn.

Mr. COBURN. I believe I have no further questions.

Senator SYMINGTON. Senator Beall?

Senator BEALL. I have no questions.

Senator SYMINGTON. Mr. Mellen, I would ask a question or two just to get this matter in perspective.

You heard some testimony from the prior witness?

Mr. MELLEN. Yes, I did, Mr. Chairman.

Senator SYMINGTON. As I understand it, we were very short of rubber in World War II, were we not?

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. As a result we built up a synthetic rubber business.

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. When the Korean war came we felt that the shortage of rubber might be duplicated, is that right?

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. As a result of that we went out and bought as much natural rubber as we could, as quickly as we could, is that correct?

Mr. MELLEN. That is correct, Mr. Chairman.

Senator SYMINGTON. As a result, as brought out by Mr. May, as a result of that you had an objective of around 1,230,000 tons.

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. That was for a 5-year war, was it not?

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. The synthetic rubber was good for all purposes except heavy-duty tires and a few other relatively unimportant units, is that correct?

Mr. MELLEN. That is my understanding, yes, Mr. Chairman.

Senator SYMINGTON. Therefore, the rubber stockpile was built up against the fact you needed natural rubber for heavy-duty tires?

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. But then, later on, as a result of studies it was decided that the rubber stockpile could be cut a half million tons, decision of ODM. The compromise of IMAC was that it should only be cut 200,000 tons.

In 1956 the decision was made by the head of ODM that it should not be cut at all, is that correct?

Mr. MELLEN. I have heard that for the first time this morning in detail, Mr. Chairman. The questioning was very clear and the answers were very clear, and I am certain that is correct.

Senator SYMINGTON. That is what you did hear?

Mr. MELLEN. Beg pardon?

Senator SYMINGTON. That is what you did hear?

Mr. MELLEN. Oh, yes.

Senator SYMINGTON. There was no action taken on the recommendation to reduce the stockpile a half million tons. Then whatever the recommendation, we, in effect, added to the surplus by reducing the length of the estimated war from 5 years to 3 years, is that correct?

Mr. MELLEN. That change was made, Mr. Chairman, I think probably other changes probably occurred such as greater use of the aircraft.

Senator SYMINGTON. Was that date 1958 or 1959?

Mr. MELLEN. I think it was made final sometime early in 1959.

Senator SYMINGTON. If there had been justification in reducing the stockpile a half million tons, or even to the compromise figure of 200,000 tons, when you reduced it from a 5-year war estimate to a 3-year estimate, eliminating the problems of diplomacy, looking at it strictly from the need of the economy, the need would have been decreased as a result of that reduction from 5 to 3 years, would it not?

Mr. MELLEN. Not necessarily, Mr. Chairman. There may have been other changes, too.

Senator SYMINGTON. Do you know of any?

Mr. MELLEN. That is not a field I am competent in. I do know in the IMAC meeting in which I took part, which was at the end of 1958 or early 1959, the same process of data sheets, which Mr. May has brought out so well, led to an estimate of 750,000 tons as the deficit which the United States would need to be prepared for.

Senator SYMINGTON. How long have you been handling the rubber program in the State Department?

Mr. MELLEN. Since the end of 1957 or I should say early 1958. I didn't take on the rubber job until about the middle of 1958, Mr. Chairman.

Senator SYMINGTON. And before that you did not know the rubber situation?

Mr. MELLEN. No, sir.

Senator SYMINGTON. Now, you heard testimony from experts in the rubber field that, as a result of the development of stereo rubber the chief reason for wanting to have the natural rubber stockpile as large as it had been to a considerable extent eliminated. You heard that question?

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. Do you know anything in the law which justifies the stockpile being considered an arm of State Department policy from the standpoint of rendering additional foreign aid or maintaining prices for foreign countries?

Mr. MELLEN. No, sir.

Senator SYMINGTON. Therefore, if there has been an effort to maintain a price, or a policy not to sell rubber that was considered unnec-

essary because of developments in the trade, that is not in accordance with the statute, is it?

Mr. MELLEN. Well, if I may, Mr. Chairman, the statute does——

Senator SYMINGTON. I am only asking.

Mr. MELLEN. Yes; right.

The statute, as I remember it, does say that the procedure for disposal is to develop a plan which must be submitted to Congress for its approval unless the material is obsolete, which was not the case in rubber, and, therefore, we did require congressional approval, but that the plan should be drawn up in such a way as to protect the United States from avoidable loss, and to protect producers, consumers, and processors against disruption of their usual market.

Senator SYMINGTON. In other countries?

Mr. MELLEN. The producers of natural rubber are in other countries, Mr. Chairman.

Senator SYMINGTON. So your concept of the law is that we could maintain a price on rubber at a higher figure, or that we could not sell rubber no longer needed, because in that way we would benefit producers in foreign countries, is that correct?

Mr. MELLEN. I would think, Mr. Chairman, I would put it this way: that the statute, as we understood it, did authorize the refraining from disposing of rubber or of limiting the amount of rubber to be disposed of if some other, if the other alternative action would have caused avoidable disruption of markets.

Senator SYMINGTON. As I understand it, the administration did recommend the disposal of some 470,000 tons, is that correct?

Mr. MELLEN. That is the correct figure; yes, sir.

Senator SYMINGTON. When was that recommended?

Mr. MELLEN. The submission was made to Congress in, I should think, about the 15th of September, 1959.

Senator SYMINGTON. And we have only sold around 130,000 tons since that time?

Mr. MELLEN. It is approaching 150,000; yes, sir.

Senator SYMINGTON. Nearly 150,000?

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. Why have we only sold so little, inasmuch as the Congress has given approval?

Mr. MELLEN. The Congress approved, Mr. Chairman, a particular plan which was submitted by the administration, which provided for the sale of the entire 470,000 tons over a period of approximately 9 years.

That is at a rate of, on an average of 50,000 tons a year, although it might be more in some years and less in others. I think all those words or that substance was in the proposal submitted to Congress, and in fact we have submitted rather—we have sold rather more than 50,000 tons a year since the date of that submission to Congress.

Senator SYMINGTON. Under present arrangements, you must sell 5,000 tons a month regardless, is that correct?

Mr. MELLEN. No, sir, that is the limit we have set ourselves which we don't intend to exceed so long as the price remains at current levels.

Senator SYMINGTON. You do not have to sell 5,000 tons——

Mr. MELLEN. No, sir.

Senator SYMINGTON. A month. But you would like to sell 5,000 tons a month.

Mr. MELLEN. Yes, sir; and we have been selling 5,000 tons.

Senator SYMINGTON. At what price?

Mr. MELLEN. The present, I would have to get—I would have to check with someone else, my impression is it is between 27 and 28 cents now, Mr. Chairman.

Senator SYMINGTON. But you can't sell any more than 5,000 tons unless the rubber goes to a different price?

Mr. MELLEN. To a higher price, 32 cents, yes.

Senator SYMINGTON. Thirty-two cents?

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. So then the world rubber people know if the price can be maintained at a certain figure, not more than 5,000 tons can be sold out of the stockpile?

Mr. MELLEN. Unless we change our minds, Mr. Chairman.

Senator SYMINGTON. Change our rules, not our minds.

Mr. MELLEN. Change our rules, yes.

Senator SYMINGTON. I have no further questions.

Mr. COBURN. Mr. Chairman, may I say to clarify the record here and to prevent Mr. Mellen coming back again, the resolution of Congress passed by both Houses of Congress authorized simply the disposal of 470,000 tons of rubber, did it not?

Mr. MELLEN. I am sure you are right, Mr. Counsel.

I haven't got that before me. I have no doubt that you have it.

Mr. COBURN. My distinct recollection is that the resolution of Congress simply authorized the sale of 470,000 tons of rubber, and it did not, did it, Mr. Mellen, undertake to approve the details of the disposal plan that was drawn by the GSA?

Mr. MELLEN. Certainly not the details, Mr. Counsel. I do remember that the proposal made to the Congress did specify 470,000 tons, speaking of a general plan to dispose of it over approximately 9 years, and I assumed that submission was the basis for the action by Congress.

Mr. COBURN. To be entirely correct about this matter, Mr. Chairman, my recollection is that the disposal plan that was drawn up by GSA and which is in effect subject to certain modifications now, was discussed on the floor of the House, but the joint resolution of the Congress authorizing the sale of the rubber simply provided for the disposal of 470,000 tons over a period of 9 years.

Mr. MELLEN. I see.

Mr. COBURN. So it is entirely within the power of GSA, so far as I can see, to change this rubber disposal plan, and to increase or decrease the disposal on a monthly basis if it found that to be in the national interest.

Senator SYMINGTON. Do you agree with what counsel has said?

Mr. MELLEN. I defer to counsel's learning in the law. I am not a lawyer and would have to——

Senator SYMINGTON. I am not talking about the law. I am talking about the facts.

Mr. MELLEN. Well, I thought the fact was a question of law, that is whether the action of Congress left the administration free——

Senator SYMINGTON. You told me a few minutes ago that the Congress put the limitations on the nature of the way the rubber could be sold.

Mr. MELLEN. I hope I didn't say that, Mr. Chairman. That would be incorrect.

Senator SYMINGTON. I thought you did.

Will you review your testimony?

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. And we won't bother you to come down again.

Mr. MELLEN. All right.

Senator SYMINGTON. You have been in charge of this program for some time?

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. We are interested in moving this rubber surplus because every day there is further obsolescence and deterioration and a rise in the development of new stereo rubber and we are liable to be stuck with it. If we are going to be stuck with it, let's know why.

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. We don't want to be misled as to why we do not sell it.

That is a fair position for us to take, isn't it?

Mr. MELLEN. Yes, sir.

Senator SYMINGTON. Thank you.

Mr. MELLEN. Thank you, Mr. Chairman.

Senator SYMINGTON. Mr. Counsel?

Mr. COBURN. No further questions, Mr. Chairman.

Senator SYMINGTON. Your next witness.

Mr. COBURN. I will ask Mr. Lawrence to resume the witness stand, please.

TESTIMONY OF WILLIAM N. LAWRENCE, ASSISTANT DIRECTOR OF MOBILIZATION ANALYSIS, OFFICE OF EMERGENCY PLANNING—Resumed

Mr. LAWRENCE. Before we proceed, Mr. Counsel, and members, with regard to that press release, I found I had the copy on the rubber and it was dated on June 19, 1956.

Senator SYMINGTON. Is that the one from Dr. Flemming?

Mr. LAWRENCE. Yes, sir.

Senator SYMINGTON. Is that the one which decided we were were not going to sell any more rubber?

Mr. LAWRENCE. We were not going to change the objective and make no further disposals.

Senator SYMINGTON. That was the date it was decided to maintain a million two hundred and thirty-some thousand tons objective, is that correct?

Mr. LAWRENCE. This is correct.

Mr. COBURN. Mr. Chairman, I introduce into the record certain tables showing the stockpile objectives for diamonds (crushing bort grade); stockpile objectives for quartz crystals and the annual U.S. consumption of diamonds (crushing bort grade and quartz crystals).

Senator SYMINGTON. There being no objection they may be introduced.

(The tables referred to follow:)

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Diamonds (crushing bort grade) objectives

Establishing agency	Date	Amount carried	Amount (thousand carats)
Munitions Board	Nov. 20, 1944		27,000
Do	Mar. 16, 1950		49,000
Do	Nov. 9, 1950		48,000
Do	Aug. 2, 1951		37,700
Do	Mar. 23, 1953		37,700
Office of Defense Mobilization	Apr. 13, 1954		31,200
Do	June 22, 1954	Minimum	36,000
		Maximum	66,000
Do	June 30, 1958	Basic	21,300
		Maximum	39,600
Office of Civil and Defense Mobilization	June 4, 1959	Basic	20,000
		Maximum	30,000

Quartz crystals objectives

Establishing agency	Date	Amount carried	Amount (pounds)
Munitions Board	Nov. 20, 1944		4,000,000
Do	June 15, 1950		4,800,000
Do	Oct. 26, 1950		11,200,000
Do	Oct. 27, 1952		3,700,000
Office of Defense Mobilization	June 29, 1954	Minimum	4,100,000
		Maximum	5,800,000
Do	June 30, 1958	Basic	2,600,000
		Maximum	3,600,000
Office of Civil and Defense Mobilization	July 1, 1959	Basic	400,000
		Maximum	650,000

Quartz crystals, U.S. consumption (not including purchases for stockpile)

Date:	*Pounds*	Date—Continued	*Pounds*
1950	114,300	1956	162,000
1951	282,300	1957	182,000
1952	502,500	1958	158,000
1953	399,200	1959	201,000
1954	154,300	1960	230,000
1955	143,000	1961	200,000

Diamonds, crushing bort grade, U.S. consumption (not including purchases for stockpile)

Date:	*Carats*	Date—Continued	*Carats*
1954	7,400,000	1958	6,300,000
1955	4,500,000	1959	7,000,000
1956	6,800,000	1960	8,000,000
1957	6,500,000	1961	8,000,000

Mr. COBURN. Mr. Lawrence, I would like to direct your attention to an entirely different subject at this point; namely, the item of quartz crystals which is an item in the national stockpile.

Will you tell us what the original objective was for the purchase of quartz crystals for the national stockpile?

Mr. LAWRENCE. It was 4 million pounds, established in 1944.

Mr. COBURN. May I ask you so that everyone here can follow this testimony: What, generally, is the use of quartz crystals so far as the defense effort is concerned?

Mr. LAWRENCE. They are used principally in oscillator units.

Mr. COBURN. Oscillator units in what?

Mr. LAWRENCE. In the electronic field.

Mr. COBURN. Communicating equipment?

Mr. LAWRENCE. Yes, sir.

Mr. COBURN. All right.

Well, I won't ask you to go into more detail with respect to that.

We have other men who can give information on that subject. But you say, then, that the first objective in quartz crystals was established on November 20, 1944, at 4 million pounds?

Mr. LAWRENCE. That is correct.

Mr. COBURN. Will you tell us what that objective was based on?

Mr. LAWRENCE. This was the first objective established in the old Munitions Board and it was based on advice which had been given to the Munitions Board by the Joint Chiefs of Staff that they would use the year 1943 as a base period on the assumption that that was the maximum consumption that had been taking place during World War II and to multiply it by 5 years to get the total objective.

Mr. COBURN. As I understand it, then, this 4 million pounds was based on the consumption of the country in 1943 multiplied by five times because of the 5-year war concept?

Mr. LAWRENCE. That is correct.

Mr. COBURN. As I understand it, Mr. Lawrence, during World War II quartz crystals were in wide use by the military, were they not?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. In connection with various communicating equipment that was used in tanks and vehicles and even walkie-talkies?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. Now, at a subsequent date was there a change in the objective on quartz crystals?

Mr. LAWRENCE. Yes.

On June 15, 1950, the objective was increased from 4 million to 4,800,000 pounds.

Mr. COBURN. What was that new objective based on?

Mr. LAWRENCE. This was based on the electronic equipment capacity of the United States at this time. What they did was they related the wartime expenditures for electronics in World War II to the annual quartz crystal consumption.

Under this method it was computed that during World War II 0.0006 pound of usable quartz was consumed per dollar spent for electronic equipment. This pounds-per-dollar factor was then applied to the projected level of expenditures for the mobilization period for electronics equipment.

The requirement thus developed amounted to 13½ million pounds of usable quartz crystals estimated for the 5-year emergency.

Mr. COBURN. Well, but the objective was set at 4,800,000?

Mr. LAWRENCE. That is correct. This was a total requirement that I am giving you here, the 13½ million.

Now, the factored supply was approximately 8,600,000 pounds that would be available in the 5-year period.

Mr. COBURN. So the net result was 4,800,000 pounds, is that right?

Mr. LAWRENCE. That is the total objective; yes, sir.

Mr. COBURN. And the objective was set at that figure?

Mr. LAWRENCE. That is right, sir.

Mr. COBURN. At the time that objective was set we were then in the Korean conflict, were we not?

Mr. LAWRENCE. That is correct. Well, we were just starting.

Mr. COBURN. Just starting.

Was there a change made in that objective at a later date?

Mr. LAWRENCE. Yes, sir; on October 26, 1950, the objective was increased from 4,800,000 to 11,200,000 pounds.

Mr. COBURN. Mr. Lawrence, that is only 4 months later.

What caused that enormous increase in the objective?

Mr. LAWRENCE. Well, Mr. Counsel, the reason for this increase was a difference, a change in the factoring system which was supplied to the Munitions Board by the Joint Chiefs of Staff.

We have searched the records from all over and we have no record nor can we find a record of these changed factors nor the reasons why they were so drastically changed.

But the supply dropped from the 8,600,000 to 2,310,000 pounds all due to this change in this factoring system.

Mr. COBURN. Well, you do find, do you not, in your notes, with reference to the establishment of this big objective of 11,200,000 pounds, that the armed services as that time were unable to furnish any mobilization requirements; isn't that correct?

Mr. LAWRENCE. That is correct.

They were just estimates based on past consumption.

Mr. COBURN. And then the Munitions Board simply made an estimate of 11,200,000 pounds?

Mr. LAWRENCE. That is correct.

Mr. COBURN. But did not have any information from the armed services upon which to justify that?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. Later, was the objective changed again?

Mr. LAWRENCE. Yes.

On October 27, 1952, the objective was reduced from 11,200,000 pounds to 3,700,000 pounds.

Mr. COBURN. What was that based on?

Mr. LAWRENCE. Now, this one was based on new basic data which were developed by the Munitions Board Interdepartmental Nonmetallic Minerals Committee dated December 15, 1952, in which the quartz requirements were developed from actual military mobilization estimates for quartz, oscillator units.

Mr. COBURN. Furnished by whom?

Mr. LAWRENCE. By the services. This new quartz requirement was based on the estimate that 18 finished units could be made from 1 pound of quartz of average stockpile quality. This method of calculating emergency requirements was, of course, far more accurate than we had had in World War II, and it resulted in a great reduction in the quantity and the average size of quartz oscillators used in the individual military communications equipment.

Further, a considerable portion of the future electronics production dollarwise, was expected to be in new items which used relatively less or no quartz. Hence, the previous pound per dollar procedure involved in the accumulation of several erroneous assumptions.

Consequently despite a sound increase requirements for communications equipment the total amount of quartz needed for oscillators in a future war emergency was expected to be much less than during World War II.

Mr. COBURN. We were still engaged in the Korean conflict at that time, were we?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. Do you regard this figure of 3,700,000 pounds as much more realistic than the 11,200,000-pound figure?

Mr. LAWRENCE. I say absolutely.

Mr. COBURN. All right.

Was there a subsequent change in the objective?

Mr. LAWRENCE. On June 29, 1954, the objective was increased from 3.7 million to 4.1 million pounds.

Mr. COBURN. Toward the minimum objective?

Mr. LAWRENCE. That is correct. Then we established at the same time a long-term objective of 5,800,000 pounds.

Mr. COBURN. What was that based on?

Mr. LAWRENCE. The supply estimates were increased slightly but they were offset by an increase of approximately 8 percent in estimated requirements. The long-term objective was established of course, on the basis there would be no oversea supplies.

Mr. COBURN. All right.

Was there a still later change in the objective?

Mr. LAWRENCE. On June 30, 1958, we reduced the basic objective as a minimum objective to 2.6 million pounds and the maximum objective to 3.6 million pounds. This was due to the reduction of the emergency period from 5 to 3 years.

Mr. COBURN. And then was there still later another change in the objective?

Mr. LAWRENCE. On July 1, 1959, the basic objective was reduced to 400,000 pounds, and the maximum objective to 650,000 pounds.

Mr. COBURN. Now, may I ask you, if I may interrupt, is that the present objective?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. Tell us what these objectives were based on?

Mr. LAWRENCE. These severe reductions were due to technological changes as well as changes in military concepts and planning.

Mr. COBURN. By technological changes, do you know just what they were?

Mr. LAWRENCE. We now have in production, commercial production, in this country synthetic quartz crystals. With these processes it is estimated that the cost of production of this syntheic is nearly equal to that of the natural quartz crystals on the end product basis. Synthetic crystals have fewer flaws resulting in much greater yield. One pound of synthetic crystal is equivalent to about 2 to 4 pounds of an actual crystal. Also the fabricating costs are materially lowered than for the natural crystals. We also had a decided change in recent years in the average number of crystal units obtained per pound of raw quartz processed, processed raw quartz.

At present it is conservatively estimated that 30 finished piezoelectric units are produced from each pound of electronic grade quartz as against 18 to 20 previously cut.

Mr. COBURN. What do you mean by a piezoelectric unit?

Mr. LAWRENCE. This is a little bit beyond my ability here in the technical field but as I understand the piezoelectric is the ability of quartz to transmit or generate an electric charge.

Mr. COBURN. Well, do I understand it then, do I understand you to say that the military people themselves have reduced their requirements of quartz markedly?

Mr. LAWRENCE. In 1958 there was a very sharp reduction in military requirements.

Senator SYMINGTON. From what to what?

Mr. COBURN. There was a reduction from 3.6 million maximum to 600,000.

Senator SYMINGTON. 3.6 million what?

Mr. COBURN. Pounds.

Mr. Lawrence, what is the present inventory of quartz crystals in the national stockpile?

Mr. LAWRENCE. I am sorry, I don't seem to have that paper.

Mr. COBURN. Well, Mr. Chairman, this is already in evidence, so I will—in the record, so I will simply refer to what we have already introduced.

It shows that at the present time the total inventory of quartz crystals in the national stockpile and supplemental stockpile is 5,044,000 pounds; that is approximately eight times our maximum objective, is it not, Mr. Lawrence?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. Is there any disposal plan in existence for the disposition of this surplus in quartz crystals?

Mr. LAWRENCE. Not for the stockpile trade. We have a disposal plan for some subspecification quartz, which has been under—proposed to Congress for some time.

Mr. COBURN. As I understand it then, in addition to the 5,044,000 pounds of quartz crystal, you have some subspecification crystal too?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. And you are trying to sell that under the disposal plan that is in existence; is that right?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. How is it moving?

Mr. LAWRENCE. I don't believe that we have officially started selling it yet. I am not sure.

Mr. COBURN. Has Congress approved that plan?

Mr. LAWRENCE. I don't believe so, sir.

Mr. COBURN. That is still before the Congress, is it?

Mr. LAWRENCE. Wait a minute, subspecification wouldn't require congressional—I am sorry.

Senator SYMINGTON. Which one of the various stockpiles is it in, if counsel will yield?

Mr. LAWRENCE. Sir?

Senator SYMINGTON. Substandard quartz, which one of the stockpiles is it in?

Mr. LAWRENCE. It would be in the national stockpile, sir.

Senator SYMINGTON. And you say we have now got over eight times more than we figure we would need on a maximum basis; is that correct?

Mr. LAWRENCE. That is correct, sir.

Senator SYMINGTON. How much more than that have we in substandard?

Mr. LAWRENCE. I don't have that figure, Senator. I will have to get the figure. I believe it is——

Senator SYMINGTON. One of the members of the staff gives me a figure of 897,000 pounds additional.

Mr. LAWRENCE. That sounds approximately the right figure, sir.

Senator SYMINGTON. So you have nearly 10 times as much as you need, have you not?

Mr. LAWRENCE. That is correct. Although I don't know whether this substandard inventory is—can be used for making the finished crystal units.

It might be used mainly for jewelry purposes. It depends on the quality, of whether the pieces are large enough to cut, as I understand it.

Senator SYMINGTON. Did we buy it originally for jewelry purposes?

Mr. LAWRENCE. No, sir.

Senator SYMINGTON. If it is not capable of being used, why was it bought?

Mr. LAWRENCE. I understand, sir, it was the crystals we have had left over from World War II contractors and Korean contractors.

In other words, it was the inventory that was in process or the finished inventory of some type like that where we just, when we terminated contracts before the completion, we took over the raw material in processed inventory as part of the termination proceedings.

Senator SYMINGTON. What did we use it for in World War II and in the Korean war?

Mr. LAWRENCE. For the oscillator units and the electronics communication equipment.

Senator SYMINGTON. Is that what we plan to use it for?

Mr. LAWRENCE. Sir?

Senator SYMINGTON. Is that what we plan to use it for now?

Mr. LAWRENCE. Yes, sir.

Senator SYMINGTON. Then it never was any good, was it?

Mr. LAWRENCE. About this 800,000 pounds, I mean it was the type of thing that—of course, in all quartz crystal you have this wasting of natural quartz when you cut it.

Senator SYMINGTON. I won't pursue this, but we have something you say we don't need and never was right. I wondered why we paid for it at all.

Mr. LAWRENCE. Sir?

Senator SYMINGTON. I wondered why we paid for it at all.

Mr. LAWRENCE. I think perhaps it was a fairly good crystal when we bought it in the lump form, but in the cutting there has been some waste and I assume during these termination proceedings, that the military contractors kind of swept up the floor. That is why we have some stuff here that is not very good.

Senator SYMINGTON. Part of it was deterioration and part was poor procurement, is that right?

Mr. LAWRENCE. I couldn't say as to poor procurement. I am not familiar with that end of it.

Senator SYMINGTON. You were the one who used the phrase.

Do you think letting them sweep up the floor and then letting them buy what they swept up would be good procurement?

Mr. LAWRENCE. I don't mean that exactly. But in termination of contract—I am not trying to infer that the Department of Defense military contracting officers or procurement officers don't do a good job, but in termination of raw materials from end process inventories you are always liable to get a little bit of junk.

Senator SYMINGTON. 897,000 pounds. [Laughter.]

Mr. LAWRENCE. As I say, sir, I am not acquainted with the problem.

Senator SYMINGTON. I wouldn't call that a little bit.

Go ahead, Mr. Counsel.

Mr. COBURN. You don't want to change the name of the national stockpile to the national junk pile, do you, Mr. Lawrence?

Mr. LAWRENCE. No, sir.

Mr. COBURN. Let me pursue this just a little bit further.

We have this 897,000 pounds of nonspecification quartz crystal.

Mr. LAWRENCE. Yes, sir.

Mr. COBURN. Which you say is being sold by GSA now because it does not require an act of Congress, is that right, to sell nonspecification stuff?

Mr. LAWRENCE. Yes, sir.

Mr. COBURN. How are the sales going, do you know?

Mr. LAWRENCE. I have no knowledge, sir. I haven't noticed any report on these crystals.

Mr. COBURN. We do have, however, in specification crystals, in the stockpile, about 800 percent of our objective, do we not?

Mr LAWRENCE. That is correct, sir.

Mr. COBURN. We are overstockpiled about 800 percent?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. You do not have any disposal plan for the quartz crystals of specification grade?

Mr. LAWRENCE. Not at the present, sir.

Mr. COBURN. Is OEP studying that problem?

Mr. LAWRENCE. Yes, sir.

At the present time we have a specification committee which has been established under the Executive Stockpile Committee which is studying the problem of long-range disposal plan of all surpluses in the stockpile.

Mr. COBURN. Well, do you know whether they are studying quartz crystals?

Mr. LAWRENCE. Quartz crystals will be considered along with all other surpluses but at the present time I can't say whether quartz crystals would be on a disposal list or not.

Mr. COBURN. Are you a member of that committee?

Mr. LAWRENCE. Yes, sir.

Mr. COBURN. Then you would know, wouldn't you, whether quartz crystals were under study?

Mr. LAWRENCE. We just started on this—we established this task force about 10 days ago and its preliminary report will not be due for about 10 days yet.

Mr COBURN. There will be a report in 10 days' time?

Mr. LAWRENCE. Yes, sir.

The first report that is due then will have to receive further departmental consideration, and also will have to be taken before the Executive Committee itself before it is finally approved.

Mr. COBURN. And made public?

Mr. LAWRENCE. I can't say as to what the final plan of disposal of public notice will be sir.

Mr. COBURN. Where is this quartz crystal purchased in the natural state?

Mr. LAWRENCE. It may—the majority, almost entirely all of quartz crystal, natural quartz crystal, comes from Brazil.

Mr. COBURN. Now, Mr. Lawrence, I want to change the subject entirely and would like to ask you some questions about, with reference to industrial diamonds, and more particularly, industrial diamonds of what you call bort grade.

Senator SYMINGTON. Would counsel yield for one question?

Mr. COBURN. Yes.

Senator SYMINGTON. Before we leave quartz crystals, what is your opinion as to why we bought so much more than we ever figured we would need on any basis?

Mr. LAWRENCE. Well, I think that our problem, Senator, was that we were producing against objectives that, well, in the beginning, our military requirements for crystals were extremely high, and they continued high in our planning all the way through 1958.

Most of our procurement had taken place prior to that time.

In 1958, the whole concept of military fighting and mobilization was changed drastically, and there was a substantial reduction in needs for military equipment which caused us to be in a very heavy oversupply in our inventories, where we have no apparent future needs.

Now, military requirements, or our concepts of fighting, may again change where they go up.

Senator SYMINGTON. But at this point could I ask, Did you consider the development of synthetic quartz?

Mr. LAWRENCE. We have, to the best of our ability. We try to do that in all stockpile objectives. We give full consideration, on the best knowledge we can obtain from industry, as to any future development which might replace the material.

Senator SYMINGTON. Despite that although you had a large reduction in the demand by the military, and you recognized the growth of synthetic quartz, to the best of your recollection we haven't sold any quartz out of the stockpile, is that correct?

Mr. LAWRENCE. That is correct, sir.

Senator SYMINGTON. Over a period of years?

Mr. LAWRENCE. That is correct, sir.

Senator SYMINGTON. How do you justify that from the standpoint of the Government's interest?

Mr. LAWRENCE. Well, in the last few years the market for quartz crystals, commercial market, has been fairly weak—maybe that is too strong a term. The market has been progressively reduced over the years.

Senator SYMINGTON. But if you hold onto it and with the rise of synthetic quartz, if you don't sell fairly soon it will be weaker later, won't it?

Mr. LAWRENCE. That would be a good assumption to make, I think, sir, although at the present time we purchased most of this crystal, as I recall some time ago, as I say, and I guess the last delivery of quartz crystal to the stockpile was made back in 1956, or prior to that, was

about 62 or 63 cents a pound. I think the present price is about 90 cents or maybe higher, average price is what I am speaking of, and I don't think——

Senator SYMINGTON. If it was bought at 60 and the present price is 90, wouldn't you do well to sell some?

Mr. LAWRENCE. Well, certainly we would take advantage of the market if we felt there would be a demand here, I mean this is our problem.

Senator SYMINGTON. If there is a world price of 90, and you bought it at 60, why don't you try to sell some?

Mr. LAWRENCE. I think the average consumption of quartz at the present time—excuse me, let me look at the figure.

Senator SYMINGTON. What has that to do with it? Why don't you try to sell some at the price of 90?

Mr. LAWRENCE. We simply can't put it on the market in any substantial quantities without breaking the whole price structure.

Senator SYMINGTON. But you could sell it in orderly fashion, some on the market.

Mr. LAWRENCE. That is what we hope to do in the future.

Senator SYMINGTON. But you said you hadn't any plans to do it.

Mr. LAWRENCE. We haven't at the present, but I hope we will have one in the next few weeks.

Senator SYMINGTON. Now your testimony is that you hope to have some plans to do it in the near future?

Mr. LAWRENCE. That is correct.

Senator SYMINGTON. Do you think we would be in a situation like this if this stockpile had been declassified so everyone, the trade public and Government, could be looking at it every day?

Mr. LAWRENCE. On this question, Senator, I don't know whether declassification would have helped us at all in quartz. Our principal procurement for quartz has been for military purposes. We have been dependent on military planning. I mean, we can't question their needs. This is our real problem here.

Although I think the declassification would certainly have given us who are involved in setting objectives for procurement considerably, well, say, some caution in buying.

Senator SYMINGTON. In all sincerity, you wouldn't say declassification would hinder your operation, would you?

Mr. LAWRENCE. No, sir.

Senator SYMINGTON. The Government never has a balance sheet. But when you give the value of what the Government owns in a stockpile at a figure which it could not be sold for, you are really giving an erroneous estimate, if you take cost or market as the definition of value, are you not?

Mr. LAWRENCE. Yes, sir, I think you could make that assumption, although what we follow is a standard accounting procedure, sir.

Senator SYMINGTON. You don't follow standard accounting procedure from the standpoint of business practice, because you would normally evaluate at cost of market. If this is worth as little as you at least implied this morning, and continue to maintain a price which you, yourself, have testified this morning, is a price that represents a fictitious value.

Mr. LAWRENCE. Well, I think you can make that assumption; yes, sir.

Senator SYMINGTON. Thank you, Mr. Counsel.

Mr. COBURN. May I ask you this one thing more, Mr. Lawrence, about quartz crystals: I notice by this table, this basic table we have resorted to so much in these hearings, that as of December 31, 1961, the market value of our total supply of specification quartz crystals was $90,800,000.

Do you know whether that figure is a reliable figure, Mr. Lawrence?

Mr. LAWRENCE. It is based on the market price, average market price, of crystals as of the date that you set forth there.

Mr. COBURN. Is that a world market price, do you know?

Mr. LAWRENCE. That I am not sure of. The General Services Administration makes up those figures for us.

Mr. COBURN. If that is a reliable figure then, as of December 31, our quartz crystals were worth $90 million and we had paid only $62 million for them; is that right?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. So this might be a very advantageous time to undertake to move some of this vast surplus that we have.

Mr. LAWRENCE. Well, that is correct, sir. But the problem here is, I think, consumption at the present time, annual consumption at the present time, annual consumption in the United States for 1960 was about 200,000 pounds.

I mean, with the surplus that we have here, it is going to take us some considerable length of time in which to move even if we say 5 or 10 percent of the market, why, we would—probably have some severe effect on the market itself, or the price.

Mr. COBURN. Well, I recognize that it would have to be distributed over a period of time, that is the problem we have with many items in the stockpile; is it not?

Mr. LAWRENCE. Yes, sir.

Mr. COBURN. Do you know what the entire consumption of the world is for quartz crystal, by any chance?

Mr. LAWRENCE. I don't know.

Mr. COBURN. You have given us the U.S. figures. I was wondering if you knew the world figures.

Senator SYMINGTON. While you are looking at that, here is a document classified, so we can't release details, but I see no reason not to release this figure.

You have a report to the Congress in which you show a profit of $28 million in quartz crystals, but your testimony today shows that profit as strictly fictitious.

Mr. LAWRENCE. It is certainly a paper profit at this moment, sir.

Senator SYMINGTON. From the standpoint of true value, is it cost or market. I don't understand, inasmuch as you say you were operating under good accounting practice. I am going to discuss this with the General Accounting Office, because I don't see how the value you place on it in the classified report you give to the Congress can be justified, based on your testimony this morning.

Mr. LAWRENCE. I don't have a figure, Mr. Counsel, for the world consumption of quartz crystals, I am sorry.

Mr. COBURN. Well, Mr. Lawrence, may I now direct your attention to industrial diamonds of bort grade?

Mr. LAWRENCE. Yes, sir.

Mr. COBURN. Tell us first what we mean by bort grade?

Mr. LAWRENCE. This was the diamonds which have been crushed, in other words, or the scraps and so forth which are obtained from cuttings, all of which have been crushed in order to be utilized in the manufacture of grinding wheels.

That is the principle use of them.

Mr. COBURN. In other words, the bort grade of diamonds are small pieces or chips of diamonds relative to the stones we are all familiar with?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. We have this item in the stockpile, too, do we not?

Mr. LAWRENCE. Yes, sir.

Mr. COBURN. I notice that as of December 31, 1961, we had a total of 35,637,000 carats of industrial diamonds of bort grade?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. Of which the acquisition costs according to your figures was $74,200,000?

Mr. LAWRENCE. Yes, sir.

Mr. COBURN. Is that right?

Mr. LAWRENCE. Yes, sir.

I don't have those figures in front of me but——

Mr. COBURN. And the market value as of December 31, 1961, was $99,800,000?

Mr. LAWRENCE. That is right.

Mr. COBURN. So that again we have a paper, and I emphasize "paper," profit, is that right?

Mr. LAWRENCE. Yes, sir, that is correct, sir.

Mr. COBURN. Mr. Lawrence, will you tell us what the first objective in diamonds of bort grade was?

Mr. LAWRENCE. The first objective established on November 24, 1944, was 27 million carats. This estimate of requirements was based on a JCS assumption for future war requirements, as I testified on quartz crystals of 1943 consumption levels multiplied by five.

Mr. COBURN. That was set by what agency?

Mr. LAWRENCE. By the Munitions Board, excuse me.

Mr. COBURN. Again this objective, like the similar objective set on the same date with reference to quartz crystals, was based on the 1943 consumption of the Nation?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. That is when we were at the height of World War II?

Mr. LAWRENCE. Yes, sir.

Mr. COBURN. All right.

Now, was that objective changed at any time later?

Mr. LAWRENCE. It was changed, it was not changed again until March 16, 1950, where it was increased from 27 million carats to 49 million carats.

Mr. COBURN. That was based on what?

Mr. LAWRENCE. This was based on a revision relating to the World War II usage objective in proportion to the increase in steel production, as compared to World War II.

I might say here we use steel production as the guide in order to project from that the use of industrial diamonds since the principal use for diamond wheels is grinding of steel and steel products.

Mr. COBURN. Who was it that set that objective?

Mr. LAWRENCE. That would be the Munitions Board again.

Mr. COBURN. Were we in the Korean conflict at that time?

Mr. LAWRENCE. Yes, sir.

Senator SYMINGTON. March 26, 1950?

Mr. COBURN. March 16th.

Mr. LAWRENCE. No, I guess we had not gotten into it yet.

Senator SYMINGTON. We were a long way away from it, were we not—months?

Mr. LAWRENCE. Yes, sir, I guess you are right.

Mr. COBURN. It was a few months after that?

Mr. LAWRENCE. Yes, sir.

Senator SYMINGTON. Over 3 months.

Mr. LAWRENCE. Yes, sir.

Mr. COBURN. Now, then,——

Senator SYMINGTON. Excuse me, to be sure I understand. From 27 million to what?

Mr. LAWRENCE. To 49 million carats.

Senator SYMINGTON. Forty-nine million carats, because of the Korean war. We weren't in that war yet. Why did we increase it?

Mr. LAWRENCE. No, we increased it at this time in order to project our total objective to the increases in steel production capacity which had occurred since 1944.

Senator SYMINGTON. What would the increase in steel capacity have to do with the requirements of the stockpile on an emergency basis?

Mr. LAWRENCE. You mean in 1950?

Senator SYMINGTON. Yes. I don't understand why an increase in steel capacity necessarily means an increase in diamonds. We weren't stockpiling steel, were we?

Mr. LAWRENCE. No, sir, but we relate the use of industrial diamonds of crushing bort grade to steel production because the principal——

Senator SYMINGTON. Then it would embrace the entire economy, not just the mobilization aspect, would it not?

Mr. LAWRENCE. That is right.

Senator SYMINGTON. Thank you.

Mr. COBURN. All right.

Now, you have testified as to the establishment of this objective of 49 million carats on March 16, 1950. Was there a change in that objective at a later time?

Mr. LAWRENCE. Yes, November 9, 1950, the objective was reduced slightly to 48 million carats.

Mr. COBURN. By that time we were in the Korean war, were we not?

Mr. LAWRENCE. I think so, yes, sir.

Mr. COBURN. That is a small change, of course, but it is a little reduction.

What was it based on?

Mr. LAWRENCE. Well, this was based on the application of a new set of strategic factors which we had received from the Joint Chiefs of Staff, which raised the supply estimates of total industrial diamonds by about 600,000 carats from the Belgian Congo and by 500,000 carats from the Union of South Africa, the total factored supply was raised at that time from 9.4 million carats to 10.6, and the bulk of this increase, of course, applied to the crushing bort.

Mr. COBURN. Was there a later change in the objective?

Mr. LAWRENCE. Yes, sir, on October 2, 1951, the Munitions Board decreased the objective from 48 million carats to 37,700,000 carats.

This was done by another system of factoring supplies of strategic and critical materials in order to determine the materials to be stockpiled.

Senator SYMINGTON. What was that date?

Mr. LAWRENCE. August—June 21, 1951, is when they changed the factoring.

The change in the objective for the diamonds was August 2, 1951.

Mr. COBURN. You said October 2, you meant August 2, did you?

Mr. LAWRENCE. August 2.

Mr. COBURN. All right.

Mr. LAWRENCE. This new system of factoring again increased the supplies available to us from the Belgian Congo. This was the principal change.

Mr. COBURN. Then was that change, the objective changed again later?

Mr. LAWRENCE. Yes, sir, again on April 13, 1954, it was further reduced from 37,700,000 carats to 31,200,000 carats.

Mr. COBURN. What caused that reduction?

Mr. LAWRENCE. This was again a change in the factoring estimates which increased supplies.

Mr. COBURN. The Korean conflict was over by that time, was it not?

Mr. LAWRENCE. Yes, sir.

Mr. COBURN. Would that have had any effect on causing a reduction of the objective?

Mr. LAWRENCE. I am not able to tell you that, Mr. Counsel. The factoring system was supplied to us, this was in ODM's day, by the Joint Chiefs and the Department of State, and we only apply them to the supplies as they are furnished to us.

Mr. COBURN. All right. Was there another change in the objective?

Mr. LAWRENCE. Yes, sir. On June 22, 1954, the basic objective was increased to 36 million carats, and we established the long-term objective of 66 million carats.

This was——

Senator SYMINGTON. 66 million?

Mr. LAWRENCE. For the long-term objectives. This was where you discount all oversea supplies, sir.

Senator SYMINGTON. But you had no war on.

Mr. LAWRENCE. No, sir, but this was where we established the long-term objective for all metals and minerals in the stockpile by the action of the President.

Mr. COBURN. That was the highest objective that was ever established in industrial diamonds, was it not, of bort grade?

Mr. LAWRENCE. Yes, sir, that is correct.

Mr. COBURN. Although the maximum objective or long-term objective, you call it, was the highest really in all materials, was it not?

Mr. LAWRENCE. That was the peak objective for all materials, yes, sir.

Mr. COBURN. In the stockpile?

Mr. LAWRENCE. Yes, sir.

Mr. COBURN. All right.

Now, after the establishment of that highest peak objective of 66 million carats, was there any change in the objectives after that?

Mr. LAWRENCE. Yes, sir. On June 30, 1958, we reduced the basic or minimum objective from 36 million to 21,300,000 carats. The maximum objective was reduced from 66 million to 39,600,000 carats, and this, of course, was due to the reduction of the emergency period from 5 to 3 years.

Mr. COBURN. And then was there a still later objective change?

Mr. LAWRENCE. The last objective established by OEP or OCDM was on June 4, 1959, where we reduced the basic objective from 21,300,000 to 20 million carats and the maximum objective to 30 million.

Mr. COBURN. Is that the objective that now exists, the current objective?

Mr. LAWRENCE. That is correct.

Mr. COBUBN. All right. What was that change based on?

Mr. LAWRENCE. This reduction was due primarily to the development of the synthetic diamonds which had at this time entered into commercial production.

Mr. COBURN. Now, our maximum objective being presently 30 million carats, we are overstockpiled, are we not in this particular item?

Mr. LAWRENCE. Yes, sir.

Mr. COBURN. We have 35,836,000 carats?

Mr. LAWRENCE. That is correct.

Mr. COBURN. Or we did on December 31, 1961, is that right?

Mr. LAWRENCE. That is correct, yes, sir.

Mr. COBURN. Is there any disposal plan in existence for diamonds of bort grade at the present time?

Mr. LAWRENCE. No, sir.

Mr. COBURN. Is that under study?

Mr. LAWRENCE. That one will be under study, too.

Mr. COBURN. Well, is it now?

Mr. LAWRENCE. Well, it will be included in a list of those that are being studied by this task force.

Senator SYMINGTON. Would counsel yield at that point?

Mr. COBURN. Yes.

Senator SYMINGTON. When did you decide you would study these?

Mr. LAWRENCE. What was that, sir?

Senator SYMINGTON. When did you decide to have a board or a committee to study these disposal items?

Mr. LAWRENCE. This was established as one of the recommendations of the Executive Stockpile Committee and it was, just in keeping with those recommendations that we established this task force, as I say about 10 days ago.

Senator SYMINGTON. About 10 days ago?

Mr. LAWRENCE. Yes, sir.

Senator SYMINGTON. To look at the surpluses in the stockpile?

Mr. LAWRENCE. That is correct, sir.

Senator SYMINGTON. And to decide what should or should not be sold?

Mr. LAWRENCE. Yes, sir, and the rate at which we hoped to dispose of them.

Senator SYMINGTON. You would want to do that now, because you are beginning to move in or this selling on an orderly basis, is that correct?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. I meant to ask you this, Mr. Lawrence, about both of these items we have been discussing: Is quartz crystal on the list of materials for which barter for agricultural commodities can be made?

Mr. LAWRENCE. It has been in the past. It is not at the present time.

Mr. COBURN. Is not at the present time?

Mr. LAWRENCE. It is not on the list.

Mr. COBURN. When was it taken off the barter list?

Mr. LAWRENCE. Well, this one I don't remember the date. I think it must have been about 2 years ago. I don't think—well, actually the items on the barter list are not taken off. They are put on for a specific amount and when that contract is completed, the material is considered again by a special advisory committee in the Department of Agriculture as to whether there should be further listing of that specific commodity.

Mr. COBURN. Then do I understand you that at the present time quartz crystals are not on the barter list?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. And you do not remember how long they have not been on the barter list?

Mr. LAWRENCE. I don't remember when the last contract was completed. I think it was 2 years ago if my memory serves me correctly.

Mr. COBURN. What about industrial diamonds of bort grade, is that on the barter list at the present time?

Mr. LAWRENCE. This one I am not sure of. I believe that industrial diamonds bort grade are still on the list.

Mr. COBURN. Mr. Lawrence, prior to the establishment of this committee to study disposals which you say was set up 10 days ago, who had the responsibility for disposing of items in the stockpile in the OEP?

Mr. LAWRENCE. The mobilization base analysis group.

Mr. COBURN. Who were in that group?

Mr. LAWRENCE. Well, I am the Deputy Director, Russell H. Hughes, is the Director, and we have in the material area about six people. Would you like their names?

Mr. COBURN. Yes, I think so.

Mr. LAWRENCE. Well, we have W. W. Schultz, now head of our materials management area. We have—I mean materials management; in the materials commodity we have Mr. J. H. Stehman, Mr. Max Osias, and Mr. Edward Gray.

Mr. COBURN. And what is the duty of that particular group with reference to the disposal of items in the stockpile?

Mr. LAWRENCE. Well, they make recommendations for disposal. They prepare the necessary staff papers, which present the supply requirements position and so forth. They obtain advice from the proper department, Department of Interior, Commerce, and from the General Services Administration, as to the prospective markets.

They make the recommendations to the director or myself, and we take the matter to the Interdepartmental Materials Advisory Committee for their advice.

From that, if it is approved by the IMAC, as we call it, then it is taken to the Director of the Office of Emergency Planning for his approval. He has the final responsibility before it is transmitted to the General Services Administration.

Senator SYMINGTON. Will counsel yield?

Mr. COBURN. Yes, sir.

Senator SYMINGTON. Suppose IMAC does not approve it or one of the various components of IMAC persuades that it not be approved.

Do you appeal to the OEP Director, or does it just end there?

Mr. LAWRENCE. Under the procedures which were recently published in the Federal Register, I think last week, in the order known as DMO5–7, which is the paper which establishes the policies for the management of the stockpile, the Department of State and Department of Interior can make objection to a proposed disposal.

The Director, if he feels the objections are valid, takes the matters to the President for final decision.

Senator SYMINGTON. Yes.

But as I understood it, if IMAC did not approve, it would not go to the Director. That was not quite clear to me.

Mr. LAWRENCE. IMAC is advisory.

Senator SYMINGTON. As I understand it, the rules have been changed so that the Director does now have the final approval, Director of OEP. An objection from State or from Interior has to be finally decided by the President, is that correct?

Mr. LAWRENCE. That is correct.

Senator SYMINGTON. So now you don't have a final decision in IMAC. You have a final decision in the Director of OEP.

Mr. LAWRENCE. That is correct.

Senator SYMINGTON. And/or the President in case State and Interior object, is that right?

Mr. LAWRENCE. That is correct.

Senator SYMINGTON. Thank you, Mr. Counsel.

Mr. COBURN. Mr. Lawrence, what did you call this group that had the responsibility for preparing the reports on disposal of materials prior to the one that was just created 10 days ago?

Mr. LAWRENCE. You mean our materials staff?

Mr. COBURN. What do you call it?

Mr. LAWRENCE. Materials and Commodity Staff.

Mr. COBURN. Materials and Commodity Staff, is that it?

Mr. LAWRENCE. It makes—yes, sir; that is the name of it.

Mr. COBURN. All right.

How often did that materials and commodity staff meet?

Mr. LAWRENCE. Well, the commodity staff are our permanent employees, they work all the time just on these specific commodities in the stockpile.

Mr. COBURN. I understand you to say this staff was conducting a continuous study of the disposal of materials in the stockpile?

Mr. LAWRENCE. Well, not necessarily all the time on disposal. They are also responsible for establishing the basic data or preparing to see

that the basic data are supplied and to establish a review of objectives.

Mr. COBURN. Yes. But what I am wondering is whether there was a continuous study of the disposal of commodities by this staff?

Mr. LAWRENCE. Well, I wouldn't say that necessarily. I mean, I think that the fact that in the past we haven't had what we would call an orderly plan for disposal, which we hope to establish within this new task force that I spoke of.

Mr. COBURN. If you didn't make a continuous study, did you have a periodic study, say once a year or once every 2 years?

Mr. LAWRENCE. Yes, sir, we usually examine all of the materials both as to objectives and whether it would be appropriate disposal action once every year on each item.

Mr. COBURN. At least once a year?

Mr. LAWRENCE. Yes, sir.

Mr. COBURN. How often did this staff meet to consider the disposal of items in the stockpile?

Mr. LAWRENCE. Well, they don't have to meet, sir. They make recommendations to, as I said, the Director or to myself as to the proposed disposal.

Mr. COBURN. Excuse me, I didn't want to interrupt you.

Mr. LAWRENCE. That is all that I would say.

Mr. COBURN. Did this staff consider the impact of the synthetic manufacture of items in the stockpile on our needs for retaining items, in the stockpile?

Mr. LAWRENCE. Oh, yes, sir.

Mr. COBURN. How many recommendations did this staff group make to the OEP Director in the last 12 months, let us say, to dispose of stockpiled material?

Mr. LAWRENCE. Well, I would have to guess on that. I don't know the exact figure. There have been a considerable number. I would say that both specification and nonspecification materials, we have had I would say 40 to 50 individual commodities examined periodically.

Mr. COBURN. I am not talking about examinations now. I am talking about recommendations of disposal.

Mr. LAWRENCE. Recommendations—I would say there have been about that number of recommendations.

Mr. COBURN. What about specification material, how many recommendations?

Mr. LAWRENCE. I would say about half of the number about 20.

Mr. COBURN. But quartz crystals and diamonds were not among them?

Mr. LAWRENCE. That is correct, sir.

Mr. COBURN. That is all.

Senator SYMINGTON. I would just like to ask one question there, Mr. Lawrence.

In business, when you have inventory, normally you are not prone to take that loss. Has there been any of that thinking in your minds?

Mr. LAWRENCE. You mean do we reflect the changes in the market in total inventory valuation?

Senator SYMINGTON. Well, you have shown a very heavy profit in the purchase of quartz as against the current market price; also a heavy profit in the purchase of industrial diamonds.

Mr. LAWRENCE. Yes.

Senator SYMINGTON. Inasmuch as you knew that you could not sell it and get anything like the profit you say you have made in it, did you consider taking any reserves against it, as people do in business?

Mr. LAWRENCE. No, sir, we don't do that. We establish, or General Services Administration establishes, the price at the current market.

Some things we make profits, some of the others we have taken very drastic losses on.

Senator SYMINGTON. When you consider the question of a surplus or deficit in the national picture, don't you think the fact you have a figure which does not represent true value is significant?

Mr. LAWRENCE. Well, I see what you are driving at, but I don't think that GSA has any other basis for making an evaluation as of a given moment other than market price.

We can anticipate that we will depress the market.

Senator SYMINGTON. My question is purely one of curiosity, not of criticism.

Mr. LAWRENCE. I can see what your point is very clearly, Senator. I mean certainly if we were to dump all of our holdings at one time we would take a substantial loss.

Senator SYMINGTON. I don't think that fair, because you have said that (a) you have never recommended it be sold, (b) you plan to do that sometime in the future as a result of the committee started 10 days ago, and (c) even if you do it on an orderly basis because there is a heavy lack of demand you probably would break the place seriously.

That hasn't anything to do with dumping.

Mr. LAWRENCE. No, sir, I agree with that.

Senator SYMINGTON. OK.

Mr. COBURN. Mr. Lawrence, may I ask you just this: How long have you been on this, a member of this staff group that maintains a continuous study of the disposal of items in the stockpile?

Mr. LAWRENCE. Well, in my present position I have been there about 5 years. But I have been on one side, or mostly on the requirements end since back in 1952, I guess, when the stockpile, or 1953, when the stockpile was transferred from the Munitions Board to ODM.

Mr. COBURN. Well, then, you have been a member of the staff that had the responsibility for recommending disposals since about 1952, do I understand you?

Mr. LAWRENCE. 1953.

Mr. COBURN. 1953, excuse me.

During that time did you ever give any consideration to the disposition of quartz crystals?

Mr. LAWRENCE. Oh, yes. We have considered it from time to time. But we haven't found a market condition which makes a disposal action seem feasible.

Mr. COBURN. Did you take into consideration the fact that synthetic quartz crystals are now being produced in this country in substantial amounts?

Mr. LAWRENCE. We have certainly taken that into consideration, but the fact that we have a prospective obsolescence does not relieve us of

the responsibility we have under the Stockpile Act that we take due regard of the market before we make disposals.

Mr. COBURN. Well, the market is weak now, and apparently has been since 1953, has it?

Mr. LAWRENCE. No, sir, I think 1955 or 1956 is when the market started declining for the crystals.

Mr. COBURN. So it has been in a state of decline then, since about 1955, has it?

Mr. LAWRENCE. Well, approximately that date.

Mr. COBURN. Do you think that the future looks any better than the immediate past?

Mr. LAWRENCE. No, sir, I do not.

Mr. COBURN. Well, then, aren't we just putting off the evil day if we don't dispose of these quartz crystals because we think the market doesn't look good?

Mr. LAWRENCE. Well, no, sir, but I might point out here, Mr. Counsel, that here is another case where we are attempting by considerable expenditure of dollars to bolster the economy of Brazil. These Brazilian quartz crystals are one of their sources of income. I do not think that we could make any large disposals of quartz crystals at any time, I mean, while we will try to do it in small quantities it certainly isn't going to be in a short number of years, otherwise we will harm the economy of Brazil where we have another responsibility.

Mr. COBURN. Mr. Chairman, in preparation for the meeting on Friday I called the State Department to see if they had any interest in quartz crystals and they said they did not.

So I believe that your group may disregard any such aspect as that with reference to moving quartz crystals.

Senator SYMINGTON. Would counsel yield?

Mr. COBURN. Yes.

Senator SYMINGTON. You say all of this comes from Brazil?

Mr. LAWRENCE. Yes, sir.

Senator SYMINGTON. Well, then, if it is known, based on the record that we don't plan to sell any quartz crystal because it is a thin market, the market could really be established by the Brazilian people, Government and industry together at just about any figure they wanted, could it not?

Mr. LAWRENCE. Well, I don't say we will not dispose of them in the future.

Senator SYMINGTON. That isn't my question.

The price could be set in Brazil at almost any figure, could it not?

Mr. LAWRENCE. Yes, sir.

Senator SYMINGTON. And then you could use that figure as the market value and show an even greater profit, which we know, however, you couldn't possibly realize.

Mr. LAWRENCE. That is possibly true, although they are now in competition, of course, with the synthetics which are being manufactured in this country.

Senator SYMINGTON. But despite that fact the price is 50 percent higher than it was when you bought most of it, based on your previous testimony.

Mr. LAWRENCE. That is correct, sir.

Senator SYMINGTON. Shifting over to diamonds; as I understand it the diamonds come from just about one place, too, do they not?

Mr. LAWRENCE. Yes, sir, and they were, up to about 1957, very rigidly controlled as to the quantity we could obtain in this country.

Senator SYMINGTON. In fact, most of these come from one particular mine, isn't that correct?

Mr. LAWRENCE. That is correct, sir.

Senator SYMINGTON. You show profit here of tens of millions of dollars. At the same time you don't want to sell because you will break the market. You could show a profit of a good deal more with only one person setting the price, isn't that correct?

Mr. LAWRENCE. That is correct.

Senator SYMINGTON. Thank you, Mr. Counsel.

Mr. COBURN. I have no further questions.

Senator SYMINGTON. Next witness.

Mr. COBURN. Mr. Bob Ross, please.

Senator SYMINGTON. Will you raise your right hand, please.

Do you swear that the testimony you give this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Ross. I do.

Senator SYMINGTON. Be seated please.

Mr. Counsel.

Mr. COBURN. Mr. Witness, will you state your name and address, please?

TESTIMONY OF BOB ROSS, PROJECT MANAGER, MINERALS AND ORES PROJECT, INDUSTRY BRANCH OF THE PROJECT ADMINISTRATION DIVISION, DEFENSE MATERIALS SERVICE (GSA)

Mr. Ross. Bob Ross, 6510 East Halbert Road, Bethesda, Md.

Mr. COBURN. Are you in any way connected with the Government service?

Mr. Ross. Yes, sir. I am the project manager, minerals and ores project of the Project Administration Division, Defense Materials Service, GSA.

Senator SYMINGTON. Would you mind repeating that title again? [Laughter.]

Mr. Ross. Bob Ross, project manager, minerals and ores project, Industry Branch of the Project Administration Division, Defense Materials Service, GSA. [Laughter.] I left one out before.

Mr. COBURN. Mr. Ross, at my request did you make a study of quantities on hand and other statistical data with reference to both quartz crystals and industrial diamonds of bort grade?

Mr. Ross. Yes, sir.

Mr. COBURN. I think we have covered most of the things that I had intended to ask you through the witness who just preceded you, so I will not go over the subject matter of what I had expected to ask you.

I am going to ask you just these few questions:

Is quartz crystal on the barter list at the present time?

Mr. Ross. It is not now on the barter list, although it has been in the past.

Mr. COBURN. Do you know when it was taken off?

Mr. Ross. I believe the last delivery of quartz crystal was received in 1960.

Mr. COBURN. And am I—perhaps I didn't state that question really accurately.

Do I understand that items that are bartered for are not on a barter list but you simply are authorized to enter into a barter arrangement with some particular country for some material abroad?

Mr. Ross. No, the barter list is established by the Department of Agriculture, and the Department of Agriculture then solicits offers for barter.

Mr. COBURN. I see. So there is a barter list?

Mr. Ross. Yes, there is.

Mr. COBURN. I see.

At one time then quartz crystals were on the barter list?

Mr. Ross. That is correct, sir.

Mr. COBURN. But they were taken off at the time indicated by you?

Mr. Ross. They are not now on the current list.

Mr. COBURN. What about diamonds of bort grade?

Mr. Ross. The same situation applies there. Industrial diamonds, bort, are not now on the barter list although they have been in the past.

Mr. COBURN. Do you remember when it was taken off?

Mr. Ross. Not exactly, sir.

Senator SYMINGTON. Will counsel yield?

Mr. COBURN. Yes, certainly.

Senator SYMINGTON. It couldn't have been as far back as 1960, could it?

Mr. Ross. I don't know, sir.

Senator SYMINGTON. The CCC, according to the records we have as of December 31, had on order a million carats.

Mr. Ross. That is correct. That is a barter arrangement that was entered into when industrial diamonds, crushing bort, were on the barter list.

That last delivery has been received, sir, since December 31, 1961. At that time there was one shipment due.

Senator SYMINGTON. So we can add a million carats——

Mr. Ross. 999,000.

Senator SYMINGTON (continuing). To the excess we already have?

Mr. Ross. Yes, sir.

Senator SYMINGTON. You don't know when it was taken off—you do know about quartz, but you don't know about diamonds?

Mr. Ross. I believe crushing bort was taken off the list at the time the barter contracts were entered into for further barter.

Mr. COBURN. When was that? Excuse me.

Senator SYMINGTON. Would you say that again?

Mr. Ross. The industrial diamonds, crushing bort, were removed from the barter list at the time that the barter contracts were entered into; that is, that no further barter was to be made.

Senator SYMINGTON. Why?

Mr. Ross. I don't know, sir.

Senator SYMINGTON. What did you hear?

Mr. Ross. I didn't hear anything. The list is maintained by the Department of Agriculture.

Senator SYMINGTON. I understand it is a policy decision, but it is in your field, isn't it?

Mr. Ross. Yes, it is.

Senator SYMINGTON. The story is, and I think it a very good story, that you can stockpile an item like industrial diamonds for only a very small fraction of what you would stockpile grain for. But this development in synthetic diamonds may nullify any demand for the natural type.

Mr. COBURN. Mr. Witness, do you know when this last diamond barter was entered into?

Mr. Ross. I believe it was in 1959, sir.

Mr. COBURN. When in 1959?

Mr. Ross. I believe it was the last, the latter part of 1959. I do not have the exact date.

Mr. COBURN. And I believe you said that it was shortly after that that industrial diamonds were taken off the barter list?

Mr. Ross. So far as I know; yes, sir.

Mr. COBURN. So that dates the time that it was taken off, then?

Mr. Ross. Approximately correct.

Mr. COBURN. No further questions, Mr. Chairman.

Senator SYMINGTON. Mr. Counsel, have you a further witness?

Mr. COBURN. We have some other witnesses. I don't know whether you want to adjourn at this time or recess.

Senator SYMINGTON. I think we had better recess until tomorrow morning at 10 o'clock.

(Whereupon, at 12:20 p.m., the committee stood in recess, to reconvene at 10 a.m., Tuesday, May 8, 1962.)

STOCKPILE INVESTIGATION

TUESDAY, MAY 8, 1962

U.S. SENATE,
SUBCOMMITTEE ON THE NATIONAL STOCKPILE
AND NAVAL PETROLEUM RESERVES OF THE
COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The subcommittee (composed of Senators Symington, chairman; Thurmond, Engle, Cannon, Case of South Dakota, and Beall), met, pursuant to recess, in room 235, Old Senate Office Building, at 10 a.m.

Present: Senators Symington (presiding) and Case.

Also present: Richmond C. Coburn, chief counsel to the subcomittee; T. J. May, assistant counsel; J. H. Zimmer, assistant counsel; Edward O. McCue III, assistant counsel; and James J. Gehrig, special assistant to Senator Symington.

Senator SYMINGTON. The hearing will come to order.

Mr. Counsel, who is your first witness?

Mr. COBURN. Mr. William Cordier, please.

Senator SYMINGTON. Mr. Cordier, it is the custom to have sworn testimony. If you will raise your right hand, please.

Do you swear the testimony you will give the subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. CORDIER. I do.

Senator SYMINGTON. Proceed, Mr. Counsel.

Mr. COBURN. Thank you, Mr. Chairman.

Will you state your name and address, please?

TESTIMONY OF WILLIAM K. CORDIER, GENERAL MANAGER, DIAMOND PRODUCT SECTION, GENERAL ELECTRIC CO., DETROIT, MICH.

Mr. CORDIER. Yes, sir.

I am William K. Cordier, general manager of the Diamond Product Section of General Electric's Metallurgical Products Department in Detroit, Mich.

Mr. COBURN. Where do you live in Detroit?

Mr. CORDIER. I live in Madison Heights, Mich, right outside of Detroit.

Mr. COBURN. I believe you have a statement, Mr. Cordier, which you want to read before I ask you any questions, and you provided me with a copy of this more than 24 hours in advance of your present testimony, so it complies with the Senate rules.

And I assume it is all right for him to read the statement, is it, Mr. Chairman?

Senator SYMINGTON. Will you proceed?

Mr. CORDIER. Thank you, Mr. Chairman.

In my present position I am responsible for the conduct of General Electric's manmade diamond business.

The technology which is used in the manufacture of diamond was developed to its present level within the company at the General Electric Research Laboratory in Schenectady, N.Y., where additional basic research activities in the new technology of superpressure high-temperature are still underway.

We, from General Electric, are pleased to cooperate with this subcommittee in supplying information which will aid in your current study of the stockpiling of certain strategic materials.

Mr. Coburn has asked us to come prepared to answer some questions about industrial diamonds.

First, however, I would like to read a brief statement which I have prepared to give you present on the subcommittee a better understanding of what diamond actually is, how it is used in industry, and what General Electric has done since we announced in 1955 our ability to synthesize diamond.

First of all, everyone is acquainted with the glamor and importance of diamond as a rare and valued gem. We are here, of course, to talk about diamond in its other—and probably more important—uses in industry, where it has become a necessary, and even critical, raw material.

Industrial diamond has certain properties which set it apart from other raw materials. The most notable of these properties is its extreme hardness. Diamond is, in fact, approximately five times harder than the category of hard abrasive materials.

This, by the way, is a fact that is not fully appreciated, not even in industry, and references to other substances as "almost as hard as diamond" are really quite inaccurate. Diamond is truly a unique material.

I should differentiate between what is known as diamond bort and other industrial diamond stones. Bort is the lowest classification of industrial diamond in terms of crystal quality.

When diamonds are mined, the most perfect crystals are set aside for gems, and then the balance is segregated into stones of decreasing size or crystal perfection.

The "near gems" are often used as wire drawing dies while the slightly smaller or less perfect stones find uses in tools or drills. Everything that is left is called bort.

This bort is eventually crushed into small particles. These particulars are measured by a size classification known as "mesh size." To give you some understanding of the terminology, a 20-mesh particle is about two or three times the size of a very coarse grain of sand, while a 200-mesh particle, a very much smaller piece, approaches the size of what you would normally refer to as a grain of powder. Particles of bort, natural bort that is, which have been crushed for use range in size from approximately 20-mesh to the very finest of powders.

Remember, I said that bort is the lowest classification of diamond in terms of crystal quality, and is not simply a designation of size. However, almost without exception, relatively low quality diamond or bort is crushed into these smaller sized particles for industrial use.

This crushed bort is then separated into its various mesh sizes and finds a variety of abrasive uses in industry.

Now, while bort is the lowest classification of diamond in terms of quality, it is probably the most important classification of industrial diamond in terms of volume usage. There is more bort consumed in industry in this country than all other categories of industrial diamond combined.

For the last three decades, diamond has been an extremely important raw material in industry. It is an ideal—and sometimes the only economical—abrasive for use in sharpening the hard cutting tools used in modern machining.

There are other applications for industrial diamond, but the single most important and highest volume use is in diamond grinding wheels for sharpening these hard cutting tools.

Diamond grinding wheels are also used to shape other hard materials, such as metal alloys, ceramics and glass.

Fine diamond bort is used for polishing; coarser particles of bort are used in concrete saws; and the larger, more perfect crystals, known in the trade as stones, are used in drills for mining and oil exploration, as cutting tools for special machining, and as dies for drawing fine filament wire.

Modern U.S. industry would indeed be crippled without a substantial supply of industrial diamond.

Over 90 percent of all natural industrial diamond comes from the continent of Africa; 75 percent of all natural diamond bort comes from one single mine in the Congo.

The United States now uses approximately 60 or 65 percent of all the diamond bort consumed throughout the free world, so it is understandable that industrial diamond was declared a critical material and included in the strategic stockpile.

For nearly a century, there has been considerable interest in man's efforts to make diamond in the laboratory. However, until 7 years ago, no synthetic diamond was ever manufactured by a reproducible process.

In 1955, after a number of years of effort, a team of scientists at the General Electric Research Laboratory announced their success in making diamonds by repeatable processes and that the material produced which we have since called manmade diamond was, in fact, diamond—not substitute nor ersatz—but real diamond.

This was, by the way, one of the most signficant scientific developments of the period, and has implications beyond diamond, since there is now a new technology available for scientific exploration—the technology of superpressure, high temperature.

We are proud to say that this most important contribution to our strategic welfare stemmed entirely from privately financed basic research.

General Electric then applied for United States patents on the process and the apparatus used, and proceeded to explore the commercial potential.

The Government recognized the strategic importance of the development by imposing a secrecy order on the patent applications, which was continued until September 1959.

By 1957, a General Electric pilot plant was operating in Detroit and manmade diamond bort became available for sale.

Today, General Electric manmade diamond bort is widely recognized as the best available diamond abrasive and is used in grinding wheels manufactured by all U.S. wheel producers and by a growing number abroad.

We believe diamond bort is going to find greatly increased application now that the fear of limited and uncertain supply is behind us, for it is now clear with our ability to produce manmade diamond, that a continuing supply of domestic bort is assured.

The question, then, arises: Is manmade diamond comparable to natural bort or is it in any way inferior?

Over the past 5 years, crystal properties have been perfected to the extent that in most grinding wheel applications, manmade diamond will consistently out-perform the natural product. Within months, we will have also perfected a larger crystal size which will be usable in concrete saws.

In an emergency, General Electric's bort-producing capability can be expanded, to whatever extent necessary, by the addition of hydraulic presses and attendant equipment, similar to those already in place in Detroit.

Based on the estimated current domestic market for diamond bort, that capacity could become adequate to cover the entire U.S. requirements long before current bort stockpiles would be consumed.

In short, the ability to produce manmade diamond in America eliminates forever the need to depend upon any foreign supplier for any diamond bort.

The same cannot yet be said for applications requiring larger diamond crystals, or stones. Our development programs are well underway, however, and the timetable calls for improvements in crystal size and toughness over the next few years, to the point where manmade industrial diamond stones will satisfy these other needs.

Mr. COBURN. Thank you very much, Mr. Cordier, for your interesting statement.

Did I understand you to say that General Electric first announced that it had succeeded in making synthetically crushing bort in 1955?

Mr. CORDIER. Yes, in February, 1955.

Mr. COBURN. And when did you go into production from the standpoint of providing crushing bort for the national consumption?

Mr. CORDIER. I think it would be most accurate to say, Mr. Coburn, that we sort of eased into production starting in 1957 when we made our commercial announcement.

We were operating then in a pilot plant, and this eventually evolved into a production facility.

Mr. COBURN. But you began selling that commercially about 1957?

Mr. CORDIER. Yes, Mr. Coburn.

Mr. COBURN. I believe you have sold all of your crushing bort commercially and none to the stockpile, isn't that correct?

Mr. CORDIER. That is correct.

Mr. COBURN. Do you know what the requirements for grinding wheels, the national requirements, are manufactured by General Electric at the present time?

Mr. CORDIER. Well, we are now, a substantial factor in the domestic bort market. We would like to be, if possible, excused from revealing exact figures for they are based on our own estimates which we

are not sure are accurate, and that information could be extremely important to competition.

Mr. COBURN. At any rate you are producing a substantial amount of the national requirements for grinding wheels right now?

Mr. CORDIER. Yes, sir.

Mr. COBURN. Are you the only company in the United States that is making crushing bort?

Mr. CORDIER. To the best of our knowledge, yes.

Mr. COBURN. As I understand it from what you have just testified to, Mr. Cordier, in a national emergency, you could increase your production to manufacture the entire national requirement of crushing bort.

Mr. CORDIER. That is correct, Mr. Coburn.

Mr. COBURN. As I understand it, the crushing bort, the very fine material that you make is placed on the outside of grinding wheels, is it not?

Mr. CORDIER. Well, more accurately, it is contained within the matrix of the bond material on the outer portion of grinding wheels, yes.

Mr. COBURN. That is placed on the outside of the wheel?

Mr. CORDIER. Yes.

Mr. COBURN. To a thickness of approximately what?

Mr. CORDIER. Well, Mr. Coburn, this varies. There are quite a variety of different kinds of grinding wheels, but a typical wheel, would have a rim of approximately one-eighth of an inch thick and possibly one-eighth to a quarter of an inch wide.

They range in size from that size up to much, much larger.

Mr. COBURN. Those wheels are used for grinding the very hardest of materials?

Mr. CORDIER. That is correct, Mr. Coburn.

Mr. COBURN. Now, you are developing the synthetic diamond to the point where you are about ready to use it in saws that will saw the hardest of materials.

Is that right?

Mr. CORDIER. Mr. Coburn, the saws I referred to are primarily used for sawing concrete and masonry, and we are about ready to produce a product which will be used in those saws.

Mr. COBURN. But you have not yet produced diamonds of stone size, is that right?

Mr. CORDIER. Mr. Coburn, that isn't quite right, we have produced them of stone size but not of the crystal competence required in the applications for those larger particles.

Mr. COBURN. We have another item in the stockpile which originally was included in diamonds of stone size which is called diamond dies. Do you know what diamond dies are?

Mr. CORDIER. Yes, I do, Mr. Coburn.

Mr. COBURN. They are larger than crushing bort, aren't they?

Mr. CORDIER. Yes, they are.

Mr. COBURN. Are you producing any diamond dies at the present time?

Mr. CORDIER. No, we are not.

Mr. COBURN. Your production is limited at the moment to crushing bort?

Mr. CORDIER. That is correct.

Mr. COBURN. So far as commercial application is concerned?

Mr. CORDIER. That is correct, yes, sir.

Mr. COBURN. How does your crushing bort that you are manufacturing compare pricewise with the natural crushing bort at the present time?

Mr. CORDIER. Well, our price in quantity is $2.74 per carat. I think you know that a carat is a unit of weight, one-fifth of a gram.

The natural diamond price, to the best of my recollection is about $2.80. It is very difficult to make direct comparisons because the offering is sometimes slightly different in sizes of particles sold, and so on.

Mr. COBURN. Would you say that your crushing bort is competitive pricewise with the natural crushing bort?

Mr. CORDIER. At least, yes, sir.

Mr. COBURN. I have no further questions, Mr. Chairman.

Senator SYMINGTON. Senator Case, have you any questions?

Senator CASE. Mr. Chairman, just one question.

Mr. Cordier, do you think that the development of this synthetic product eliminates the necessity for purchasing the natural diamonds of this bort grade?

Mr. CORDIER. Yes, I do, Senator.

Senator CASE. You think it means a complete replacement in industry?

Mr. CORDIER. Of the bort grade?

Senator CASE. Yes.

Mr. CORDIER. Yes, Senator.

Senator SYMINGTON. Thank you, Mr. Cordier.

Your statement is interesting and constructive and I think all of us know more about diamonds than we did before.

Mr. CORDIER. Thank you, Mr. Chairman.

Senator SYMINGTON. We appreciate your coming down.

Mr. CORDIER. Thank you.

Senator SYMINGTON. Next witness, Mr. Counsel.

Mr. COBURN. Mr. Clair Brooks, please.

Senator SYMINGTON. Mr. Brooks, it is the custom of this committee to swear all witnesses; will you raise your right hand?

Do you swear the testimony you will give to the subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BROOKS. I do.

Senator SYMINGTON. Proceed, Mr. Counsel.

Mr. COBURN. Will you state your name and address, Mr. Witness?

TESTIMONY OF W. CLAIR BROOKS, WORKS MANAGER, WESTERN ELECTRIC CO., NORTH ANDOVER, MASS.

Mr. BROOKS. My name is W. Clair Brooks. I am the manager of the Merrimac Valley Works of the Western Electric Co. at North Andover and I reside in Andover, Mass.

Mr. COBURN. Mr. Brooks, does the Western Electric Co. make—synthetically—quartz in your plant?

Mr. BROOKS. We do.

Mr. COBURN. How long have you been making quartz there?

Mr. BROOKS. Well, if I might start at the beginning, the Bell Laboratories started research in the matter of growing quartz back right after World War II about 1946.

Mr. COBURN. Speak up a little bit so everybody will hear you.

Mr. BROOKS. They proceeded with these studies for several years, and also worked in cooperation with the Signal Corps in these studies from 1952 to 1955, and in 1956 this research work had advanced to the point where we were able to start a small pilot operation in our plant to grow the quartz.

In 1960, about the third quarter of 1960, we started regular production.

Mr. COBURN. Do you sell any of the quartz that you produce in your plant to industry?

Mr. BROOKS. We do not.

Mr. COBURN. How is it used?

Mr. BROOKS. It is used as a frequent control device in the electronic communications equipment that we make for the Bell System.

Mr. COBURN. Do you produce sufficient quartz for your entire requirement in that respect?

Mr. BROOKS. Well, this has been the situation—the situation has been changing progressively. We started out in 1960 producing about 10 percent of our requirements.

We are up to something better than 50 percent now, and we expect to be somewhere above 90 percent next year.

Mr. COBURN. You intend to produce all of your requirements in that plant, do you not?

Mr. BROOKS. I would say that is right, sir.

Mr. COBURN. What is your present annual production figure, Mr. Brooks?

Mr. BROOKS. About—our going rate at the present time is around 14,000 pounds.

Mr. COBURN. For this year?

Mr. BROOKS. This is right.

Mr. COBURN. Yes.

Mr. BROOKS. We have either installed or authorized capacity to increase this production to about 20,000 pounds per year which would be the equivalent of 50,000 pounds of natural quartz.

Mr. COBURN. You say then that 20,000 pounds of the synthetic quartz is the equivalent of about 50,000 pounds of natural quartz?

Mr. BROOKS. That is right.

Mr. COBURN. Why is that so?

Mr. BROOKS. Because we are able to obtain a higher yield in finished crystal plates and crystal units.

Mr. COBURN. Well, do I understand it in the use of natural quartz for the same purposes, that there is a good deal of loss from cutting the natural quartz into the right sizes?

Mr. BROOKS. There are two reasons for the higher yield.

First of all, in growing the synthetic quartz we are able to grow it to predetermined sizes and shapes which facilitates our manufacture, and also it is devoid of the natural irregularities or imperfections that you find in the natural stone.

Mr. COBURN. Does your production synthetically of quartz compare favorably with what it costs you to buy natural quartz when you were doing that?

Mr. BROOKS. I would say very favorably.

Mr. COBURN. Let me make sure that we understand the use of the quartz that you are producing there in your plant in Massachusetts. Would you tell us just a little bit about how it is used in the manufacture of the instruments that you have in mind?

Mr. BROOKS. Well, electronic quartz has the necessary characteristics so that a crystal plate cut from a piece of quartz from a selected area with respect to orientation of the stone, and to specific thicknesses and sizes, will vibrate under an electrical charge at a nominal frequency so that quartz is about the best thing that has yet been devised for frequency control, either in transmitters or in the use of filters to filter out the unwanted frequencies in electronic equipment.

Mr. COBURN. During the war, World War II, these quartz crystals were used very commonly by the Army in connection with various types of communication equipment, isn't that correct?

Mr. BROOKS. This is right. The Tank Corps used quartz in their transmitters for their frequency control, and so did the artillery.

Mr. COBURN. And even walkie-talkies had the quartz crystals in them, did they not?

Mr. BROOKS. Yes.

Mr. COBURN. And they had to change the frequency of these pieces of communicating equipment every day, didn't they, to prevent the enemy from tuning in on the communications?

Mr. BROOKS. It is my understanding, and we produced the crystals for both the armored divisions and the artillery, that the armored division had 80 frequencies, the option of 80 frequencies, and they operated on predetermined frequency programs, and the artillery had 120.

Mr. COBURN. And they changed them from day to day?

Mr. BROOKS. That is right.

Mr. COBURN. To prevent the enemy from breaking in on their communications?

Mr. BROOKS. That is right.

Mr. COBURN. And they changed the frequency by changing crystals, didn't they?

Mr. BROOKS. Well, they had pushbutton tuning similar to that that we now have in our present radios and they would plug in 10 crystals at once.

Mr. COBURN. But the number of crystals that were plugged in regulated the frequency that they were operating on at the time?

Mr. BROOKS. The particular crystal.

Mr. COBURN. Yes. So that it meant that during World War II there were a great many of these crystals that were used by the Armed Forces?

Mr. BROOKS. That is right.

Mr. COBURN. Mr. Brooks, do I understand it that thus far you are producing synthetically crystals that are used in the manufacture of low-frequency equipment?

Mr. BROOKS. Well, in our particular case, most of our requirements are for crystals that have application in the lower frequency spectrum, and, therefore, we have concentrated our efforts up to the present time to produce synthetic quartz that would be suitable for such use.

Mr. COBURN. But have you produced any quartz that would be suitable for high frequency use?

Mr. BROOKS. We are doing research and development on that right now and it looks quite promising.

Mr. COBURN. It looks quite promising for your being able to do that?

Mr. BROOKS. That is so.

Mr. COBURN. It is a fact, is it not, that the military, most of their communicating equipment is high frequency stuff?

Mr. BROOKS. That is my understanding.

Mr. COBURN. Now, Mr. Brooks, in the event of an emergency, would your industry be able to dispose—I mean would your industry be able to manufacture sufficient quartz crystals to take care of the entire national requirements so far as low frequency equipment is concerned, in your judgment?

Mr. BROOKS. Well, I don't know that I am an authority in that particular area. But it would be my judgment that, based upon the experience that we have had in the growing of synthetic quartz, and the state of the art, that sufficient capabilities could be provided within a reasonable time, at a reasonable cost, I think some increase in capacity would have to be authorized.

Mr. COBURN. Yes. Well, I have that in mind that by increasing capacity the industry would be able to produce synthetically the Nation's requirements so far as low-frequency equipment is concerned?

Mr. BROOKS. That is right.

Senator CASE. Would counsel object to a question?

Mr. COBURN. As a matter of fact, I am through, Mr. Chairman.

Senator SYMINGTON. Senator Case.

Senator CASE. Following this last question of counsel, you say that you thought sufficient capacity could be developed in time. What time would be required?

Mr. BROOKS. Well, Senator Case, I only have our own experience to draw from, and I would say that based upon this experience that capacity could be provided and developed to the point where it would produce good quartz in about a year. This is based upon the procurement time that is required to get the machinery, to build the buildings, and to develop the processes.

Senator CASE. Does that assume there would be no problem in getting the materials or the equipment for developing the factory and the other things that are required for the production?

Mr. BROOKS. Well, it assumes that they would come from the existing sources, and we have no reason to believe that they wouldn't be available.

Senator CASE. What I had in mind is that during the war we have had such things as the War Production Board, we have had manpower boards, we have had other controls that have come in and it was necessary to get a priority order or requisition in order to get materials for everything from simple construction to more critical construction, and I am wondering if your general answer that industry could do it assumes that you would have access to the materials that would be necessary for the production.

Mr. BROOKS. Well, I would think in a state of emergency we should have access or access should be made available for the necessary materials. It is not too involved.

Senator CASE. Competitively with other requirements for critical materials. You assume that you would have the A–1 priority?

Mr. BROOKS. Well, when you use the term materials, I am thinking merely of the machinery, the tools that are required to produce the quartz which involve some very heavy steel chambers and other incidental items.

Senator CASE. And it would take about a year's time to tool up?

Mr. BROOKS. This would be my judgment.

Senator CASE. Do you think, then, that there should be a stockpile that would carry us through a year?

Mr. BROOKS. Well, I am not sure that I would have an opinion on that. As far as we are concerned for our own use I think we are pretty much self-sufficient. I don't think I can speak for the industry.

Senator CASE. You don't think you could speak for the industry?

Mr. BROOKS. No.

Senator CASE. To what extent does Western Electric supply the requirements for quartz crystal equipment?

Mr. BROOKS. You mean for the industry?

Senator CASE. Well, you said you couldn't speak for the industry. When you speak for Western Electric I was wondering to what extent in speaking for Western Electric you are speaking for the industry?

Mr. BROOKS. Well, we produce the quartz for our own use only. We sell no quartz. Quartz is a raw material and we sell none to anyone else.

Senator CASE. But the equipment that you produce, the equipment that you supply, requires a certain amount of this quartz crystal, synthetic quartz crystal. To what extent does that supply the Nation's needs, in the electronic field?

Mr. BROOKS. Well, this varies quite a bit. I would just have to give you an order-of-magnitude figure, I would say probably 10 to 15 percent.

Senator CASE. That is 10 to 15 percent?

Mr. BROOKS. That is right.

Senator CASE. Are there other companies that are supplying electronic equipment who also have this capability of producing synthetic quartz crystals?

Mr. BROOKS. Oh, yes; we have six licensees that are producing synthetic quartz.

Senator CASE. Are they within this 10 to 15 percent that you talked about?

Mr. BROOKS. No.

Senator CASE. They are outside of that?

Mr. BROOKS. That is correct.

Senator CASE. To what extent could these licensees and your own product take care of the Nation's needs?

Mr. BROOKS. I don't know what their production is at the moment.

Senator CASE. Prior to synthetics, where did the quartz crystals come from?

Mr. BROOKS. Brazil, principally.

Senator CASE. Brazil, principally.

What were the prevailing prices when you began using the synthetics?

Mr. BROOKS. Well, I am not sure that I could quote the prices—when we began using the synthetic, did you say?

Senator CASE. Yes.

Mr. BROOKS. I would say in very broad terms from about $25 to $30 a pound.

Senator CASE. What is the present market price?

Mr. BROOKS. Well, from the publication of the Bureau of Mines of the Department of the Interior about that same level.

Senator CASE. The production of the synthetic, then, you would say is valuable primarily because of the ability to control the purity of the product and the sizing, or is it a matter of economy?

Mr. BROOKS. I would say this: That our—the Bell Laboratories, Western Electric—work in this field to develop the techniques and processes to grow synthetic quartz were motivated by two main things: first of all, to attain an assured source of supply.

When these studies started quartz was in pretty short supply.

And, secondly, to gain cost-reduction advantages, that seemed quite imminent in the development of synthetic quartz.

Senator CASE. Do you think that the synthetic production of quartz crystals will render the United States entirely independent of foreign sources?

Mr. BROOKS. Well, that is pretty hard to say. It could possibly do that in time.

Senator CASE. Will that have any effect upon foreign policy with respect to Brazil?

Mr. BROOKS. I wouldn't think I would be qualified to comment on it.

Senator CASE. Have you had any protest from the State Department in this area?

Mr. BROOKS. No.

Senator CASE. Do companies other than your licensees have the process for making synthetic quartz?

Mr. BROOKS. I assume they do. I am not too familiar with that,

Senator CASE. So in reality you couldn't say to what extent the United States is made independent of natural quartz crystals other than for your own industry and its licensees?

Mr. BROOKS. That is right.

Senator CASE. That is all.

Senator SYMINGTON. Thank you, Mr. Brooks.

Mr. COBURN. Excuse me, may I ask him just one more question, Mr. Chairman?

Do you know the names of your licensees, Mr. Brooks?

Mr. BROOKS. I do.

Mr. COBURN. May I have those, please?

Mr. BROOKS. Clevite Corp.

Mr. COBURN. Yes, please.

Mr. BROOKS. They are at 17000 St. Clair Avenue, Cleveland, Ohio.

Mr. COBURN. I didn't get the name of that company.

Mr. BROOKS. 17000 St. Clair.

Mr. COBURN. No, the name of the company.

Mr. BROOKS. Clevite.

Heller Hope Co., 40 East 49th Street, New York; Inland Chemical Corp., 415 Lexington Avenue, New York; Sawyer Research Products, Inc., Eastlake, Ohio; Thermokinetic Corp., Tucson, Ariz.; Transcom Electronics, Inc., Newport, R.I.

Mr. COBURN. Are those companies all engaged in manufacturing communicating equipment?

Mr. BROOKS. Well, they are licensed to manufacture quartz crystals. I do not believe that they are all manufacturing communications equipment.

I would have to say in addition to these licensees that we are cross licensed with about 50 other electronic manufacturers and some of those could possibly be in this field, too, I am not sure.

Mr. COBURN. I see.

But these people here you think are engaged in making synthetically quartz crystals?

Mr. BROOKS. That is right.

Mr. COBURN. Rather than the electronic equipment?

Mr. BROOKS. That is right.

Mr. COBURN. But you are cross licensed, you say, with about 50 manufacturers of electronic equipment.

Mr. BROOKS. That is right.

Mr. COBURN. As you have developed the synthetic quartz and produced more and more, does your cost of production drop per pound as you produce more quartz?

Mr. BROOKS. Well, we are quite hopeful. Based on our experience thus far, as an example, the growing cycle was 29 days when we started the process.

We have it down to 21 and we are hopeful we will be able to get it down to 16 or 17 days and naturally this reduces costs.

Mr. COBURN. I have no further questions.

Senator CASE. One further question: In terms of dollar volume, what would you say the production of the quartz crystals of Western Electric and the six licensees is per year?

Mr. BROOKS. Well, I could tell you that in our own case we expect to produce 12,000 pounds of quartz this year at an order of magnitude of cost figure of $20 per pound which would be about $240,000. I don't know what our licensees are producing.

Mr. COBURN. I believe you said that 1 pound of the synthetic quartz is the equivalent of about 2½ pounds of natural quartz?

Mr. BROOKS. That is right.

Senator SYMINGTON. Thank you, Mr. Brooks.

We appreciate your coming down and for your interesting testimony.

Next witness.

Mr. COBURN. Prof. Chester B. Slawson, please.

Senator SYMINGTON. Mr. Slawson, will you raise your right hand?

Do you swear the testimony you give this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SLAWSON. That is right.

Senator SYMINGTON. Professor, as I understand it, you and I were in the same battery in World War I; is that right?

Mr. SLAWSON. In 1918, and I don't believe I have seen you since.

Senator SYMINGTON. I don't believe I have seen you since. [Laughter.]

I have a picture of the battery in my office. When this hearing is over you come around and point me out and I will point you out.

Senator CASE. You mean there has been some change in physical appearance?

Senator SYMINGTON. I know there has been in mine.

Mr. SLAWSON. You were a much slenderer young man than you are now. You were about 17 or 18.

Mr. COBURN. Will you state your name and address, please, sir?

TESTIMONY OF C. B. SLAWSON, PROFESSOR, DEPARTMENT OF GEOLOGY AND MINERALOGY, UNIVERSITY OF MICHIGAN, ANN ARBOR, MICH.

Mr. SLAWSON. C. B. Slawson, 2201 Winslow Drive, Ann Arbor, Mich.

Mr. COBURN. Are you in anywise connected with the University of Michigan?

Mr. SLAWSON. I am professor of mineralogy at the University of Michigan.

Mr. COBURN. How long have you been there?

Mr. SLAWSON. Since 1925.

Mr. COBURN. On the staff at the university?

Mr. SLAWSON. I have been on the staff. I got my doctor's degree in June and began teaching that fall.

Mr. COBURN. Now, is there any particular element that we have in the stockpile, or item, I should say, in the stockpile in which you have specialized for many years?

Mr. SLAWSON. Industrial diamonds.

During World War II, I was the supervisor of industrial diamond research products for the National Academy of Sciences and since then I have devoted most of my time to industrial diamonds and gem diamonds also.

Mr. COBURN. Recently; that is, 1957, were you chairman of the panel of the National Academy of Sciences that was entrusted by the Defense Department with the responsibility of studying the synthetic diamonds made by General Electric Co. to see if they met the specifications of the Defense Department?

Mr. SLAWSON. I believe that panel was established in 1956. We did most of the work in 1957, and the final report came out August 30 of 1957.

Mr. COBURN. Were you chairman of that panel?

Mr. SLAWSON. Yes, I was chairman of that panel.

Mr. COBURN. And you say you made your report in 1957?

Mr. SLAWSON. Yes.

Mr. COBURN. Professor Slawson, I would like to read the closing paragraph in this report that you filed in 1957, and if this is correct, and if I am incorrect in reading it why kindly check me.

As I read your report, the closing paragraph was as follows:

> I am even ready to go further on the basis of my present knowledge of the status of synthetic diamond research and state the technique for the manufacture of synthetic diamond of the size normally used in bonded diamond grinding wheels has reached the point where our Government should consider the advisability of making itself independent of foreign sources and of the reserves we now have in our stockpile. At some point someone must be willing to make as blunt a statement as that and I am today convinced that that statement is sound.

Was that the closing paragraph of your committee's report?

Mr. SLAWSON. That was, I believe.

Mr. COBURN. Now, Dr. Slawson, will you tell us whether the price of the diamonds that are——

Mr. SLAWSON. Did you say price?

Mr. COBURN. Yes, price. Whether the price, selling price, of the synthetic diamonds produced by General Electric is competitive with the present market price of natural crushing bort?

Mr. SLAWSON. It is competitive, and I heard Mr. Cordier this morning say they were selling for $2.74. The latest figure I had was $2.94. But natural diamonds sell for around $2.80, because it is a quoted figure for a pound in London and that is approximately $2.80 here in this country.

So either, whether it is $2.74 or $2.94, it is competitive.

Mr. COBURN. Do you consider the synthetic crushing bort produced by them as being superior so far as use is concerned, more efficient so far as use is concerned, to the natural crushing bort?

Mr. SLAWSON. It is identical to the natural, but for uses a little more efficient because you can't crush large crystals of diamond to the sizes that your sales department are selling.

You can crush it and always get some slivers and some flats and fines so that the total volume that you can get which is commercially available is not as large when you crush it as when you buy it already made, and General Electric fortunately makes it in the size in which the largest demand on the market falls.

Senator SYMINGTON. Would the counsel yield?

Mr. COBURN Yes.

Senator SYMINGTON. What we are talking about is characteristic of most synthetic developments.

Once we understand what we want, and can do it synthetically, we can almost always make it better because we get out what we put in.

Isn't that a fair statement? For example, synthetic rubber, electrolytic steel as against acid or open hearth steel; once you understand how to make it synthetically the chances are you get it closer to a product you need than with a natural product, with all of the impurities in the latter you don't want. Is that a correct statement?

Mr. SLAWSON. In general, that is true.

The synthetic is more pure than the natural and once you have control of your process, you can make it to specifications where the market demand lies.

Senator SYMINGTON. You said it better than I did.

Senator CASE. Mr. Chairman, of course, I think that statement is axiomatic. It is true, however, that in using the natural product, you can by screening, use of screens or jigs for your different screens, control the size and sort from the natural product, isn't that correct?

Mr. SLAWSON You can, but I don't believe you can get enough of the very fine material that goes into these grinding wheels that consist of fine grain diamond.

There isn't enough produced of that size so you have to go to the larger sizes and it has to be crushed, and it is—it originally was sold as whole crystals but it is sold in this country as fragmented bort, partially crushed.

Senator CASE. Are you speaking of the whole range of abrasives, garnets, rubies, as well as what you would call diamonds?

Mr. SLAWSON. Well, we don't make garnets synthetically but we do rubies, and the synthetic rubies are about 99.9 percent pure aluminum oxide, close to that with a little chromium in it to make them red colored, while the natural material if it is above 98 percent pure is considered to be very good.

That is speaking of gem stones, too.

You look at natural rubies with a microscope and you can see crystals of iron oxide and you can see crystals of titanium oxide in the material.

Now, you look at the synthetic material, and you don't see any of these.

Senator CASE. You don't because you don't put it in there when you make them?

Mr. SLAWSON. You don't put it in.

If you are making sapphire, which is colorless, you use pure aluminum oxide.

If you are making ruby, you add up to five-tenths of a percent of chromium oxide, which gives it its red tint, and it depends upon how much of that remains.

Of course, it is a relative difference. Some of the aluminum volatilizes and the chromium doesn't volatilize to the same percentage, so you have to do it by an empirical method.

You can't say that, "Well, I will put so much chromium oxide in the batch and end up with so much chromium oxide in my synthetic ruby," all you can do is get a synthetic ruby.

Senator SYMINGTON. I didn't mean to lead us into too technical a discussion.

Specifically, my point was when you first find out how the process works, created synthetically, you have better control over the impurities in the product you want to get?

Mr. SLAWSON. In general, you can make a better product.

Senator CASE. I just want to pursue this a bit further for its possible impact upon the natural industry.

What about hardness? You have a scale of hardness on which you rate industrial diamond, don't you?

Mr. SLAWSON. There is a scale of hardness. The scale of hardness runs from 1 to 10, but 10 doesn't mean it is two times as hard as 5, and diamond is the hardest known substance in that scale.

There is no way of telling how much harder No. 10 in a scale of hardness diamond is above aluminum oxide, No. 9. There have been many attempts——

Senator CASE. What about the comparative hardness of the natural ruby or diamond and the synthetic?

Mr. SLAWSON. It is identical.

Senator CASE. It is identical?

Mr. SLAWSON. I tested some, it is in that report, and I used research methods and I tilted it over. I did the work myself with my own hands. I tilted an octahedron over, a natural octahedron over, and the statement is generally to 3°, you can get within 3°, of the horizontal of the octahedral planet. Using a synthetic I got within 1° and 23 minutes. That wasn't because I thought that it was the synthetic was

any harder. It was only that I was using research methods which cannot be used in industry.

Senator CASE. Is it your opinion, and I put it purely as an opinion, because you are not in the industrial end of it, is it your opinion that the synthetic production of industrial diamond will replace the use of the natural stones?

Mr. SLAWSON. I am sure with crushing bort that it can be done, because we can do that today but for large stone——

Senator CASE. You say it can be done?

Mr. SLAWSON. I don't know.

Senator CASE. I was wanting your opinion not as to whether it would be done but when you take into consideration the comparative costs, demand and so forth.

Mr. SLAWSON. Oh, I think that statement is true, that for crushing bort only.

But what the future holds for the larger crystals, no one can predict. Their costs may be too high to make them competitive for such things as what is called drill bort, which is really——

Senator CASE. And it is possible that since you can save or sort the larger natural crystals pretty well through control of your jigs or your screens, that the larger crystals, at least for some time, may be provided by the natural supply rather than by synthetics?

Mr. SLAWSON. Yes, I think we will use natural crystals for wheel dressers and drill bort for some time, but I think the stockpile is probably adequate to take care of that during even a 5-year war.

Senator CASE. Thank you.

Senator SYMINGTON. Mr. Counsel?

Mr. COBURN. I have no further questions.

Senator SYMINGTON. Doctor, I hope to have the pleasure of talking with you on something beside diamond later.

Senator CASE. I think we ought to get another picture while you are here, before and after. [Laughter.]

Mr. SLAWSON. The Senator was only 17 or 18 years old. He was the youngest man, I know, in the battery at the time.

Mr. COBURN. Our next witness, Mr. Chairman, is Mr. James D. Cooper.

Senator SYMINGTON. Mr. Cooper, will you raise your right hand? Do you swear the testimony you will give this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. COOPER. I do.

Mr. COBURN. Will you state your name and address, please, sir?

TESTIMONY OF JAMES D. COOPER, COMMODITY SPECIALIST, DIVISION OF MINERALS (BRANCH OF NONMETALLIC MINERALS), DEPARTMENT OF THE INTERIOR

Mr. COOPER. James D. Cooper——

Mr. COBURN. Speak up now.

Mr. COOPER. James D. Cooper, 2101 Woodbury Street, West Hyattsville.

Mr. COBURN. Are you in any wise connected with the Government?

Mr. COOPER. With the Bureau of Mines. I am a commodity specialist——

Mr. COBURN. I can't hear you.

Mr. COOPER. I am a commodity specialist with the branch of nonmetallic minerals in the Division of Minerals.

Mr. COBURN. In the Department of the Interior?

Mr. COOPER. Department of Interior, Bureau of Mines.

Mr. COBURN. How long have you been a commodity specialist?

Mr. COOPER. About 3 years, sir.

Mr. COBURN. Among the commodities that you are entrusted with responsibility is quartz crystals included among them?

Mr. COOPER. Yes.

Mr. COBURN. And diamonds, too?

Mr. COOPER. Yes, sir.

Mr. COBURN. At my request did you prepare a list of the consumption, the annual consumption of industrial diamonds of the crushing bort grade in the United States from 1954, at which time the maximum objective in that item was established, to the present time?

Mr. COOPER. Yes, sir. I prepared such a list from information from BDSA.

Mr. COBURN. And you have a copy of that list with you?

Mr. COOPER. Yes, sir.

Mr. COBURN. Mr. Chairman, I would like to incorporate in the record this list that has been prepared by Mr. Cooper and I will read it at this time.

Senator SYMINGTON. If you will.

Mr. COBURN. Diamonds crushing bort grade, U.S. consumption, not including purchases for the stockpile, 1954, 7,800,000 carats; 1955, 4,500,000 carats; 1956, 6,800,000 carats; 1957, 6,500,000 carats; 1958, 6,300,000 carats; 1959, 7,500,000 carats; 1960, 8,000,000 carats; 1961, 7,500,000 carats.

Now, Mr. Cooper, did you also prepare a similar table giving the national consumption of quartz crystals for each year from 1950 when the highest objective on quartz crystals was established, to date?

Mr. COOPER. Yes, sir.

Mr. COBURN. Mr. Chairman, I would like to incorporate in the record this table, too, and to read it at this time.

Senator SYMINGTON. Without objection.

Mr. COBURN. Quartz crystals, U.S. consumption, not including purchases for stockpile: 1950, 114,300 pounds; 1951, 282,300 pounds; 1952, 502,500 pounds; 1953, 399,200 pounds; 1954, 154,300 pounds; 1955, 143,000 pounds; 1956, 162,000 pounds; 1957, 182,000 pounds; 1958, 158,000 pounds; 1959, 201,000 pounds; 1960, 230,000 pounds; 1962, 216,000 pounds.

In view of the fact that the highest maximum objective of quartz crystals in 1950 was 11,200,000 pounds, that objective was 56 times the annual consumption for quartz crystals in 1961, was it not?

Mr. COOPER. I presume your arithmetic is correct, sir.

Mr. COBURN. Yes.

Mr. COOPER. Could I ask a question?

Senator CASE. Mr. Chairman, just one question.

Mr. Cooper, over these tables which the counsel has read, both are the tables which you prepared?

Mr. COOPER. I prepared the consumption of electronic quartz crystal from information supplied by the cutters to the Bureau of Mines.

The diamond information was obtained from BDSA, that is Commerce, I believe.

Senator SYMINGTON. What does BDSA mean?

Mr. COOPER. Business and Defense Services Administration, I believe.

Senator SYMINGTON. Thank you.

Senator CASE. And these are the tables which the counsel has read?

Mr. COOPER. That is correct, with one, I would like to check one figure, if I could.

Mr. COBURN. Certainly. I want it correct.

Mr. COOPER. Quartz crystal for 1959, I have a figure of 210,000.

Mr. COBURN. Do you? We will change the list, my list read 201,000.

Senator SYMINGTON. So did mine. We will change that to your figure.

Mr. COBURN. I have no further questions, Mr. Chairman.

Senator SYMINGTON. Senator Case?

Senator CASE. Mr. Cooper, in this table on quartz crystals that counsel read, it is noteworthy that in 1952 the requirement apparently was 502,500 pounds, and in 1953, 399,200, in other words, 500,000 in 1952, and roundly 400,000 in 1953.

Now, that would be from 2 to 2½ time the rate of the consumption in the last 3 years.

To what was that larger requirement in 1952 and 1953 due?

Mr. COOPER. Greater cutting efficiency, and more—well, let's say more units cut per pound of quartz for various reasons.

Senator CASE. Do you know why the demand was greater in those years?

Mr. COOPER. You mean for the raw material itself?

Senator CASE. Well, for these figures. These figures show they are 2 to 2½ time as much in those 2 years than currently being consumed.

Why was that high consumption?

Mr. COOPER. Well, the high consumption probably doesn't tell the full story.

We are now producing more finished crystal units than we were at that time because we get more units per pound of quartz.

Senator CASE. So that you think it is a refinement in the product that doesn't require as many pounds?

Mr. COOPER. They are using smaller units, they have better cutting efficiency in the plants——

Senator CASE. Does it have any relationship to a change in the use of synthetics as opposed to the natural product?

Mr. COOPER. It is a little bit hard to tell, because the synthetics are just coming in in a fairly substantial quantity in the last year. But I don't believe that that was the primary reason up to this time.

Senator CASE. Do you know with respect to diamonds why the year 1955 showed a consumption of only 4½ million, whereas the figure in all of the years cited were 6½ million or more ranging up to as high as 8 million carats in 1960?

Mr. COOPER. No, sir, I don't.

Senator CASE. You say you have been in this particular division for the past 3 years?

Mr. COOPER. That is right.

Senator CASE. What was your work before that?

Mr. COOPER. I was working in the field on mineral examinations. I also worked on the Defense Minerals Exploration Administration for about 3 years before I came to Washington.

Senator CASE. What areas of mineral exploration did you work in, what minerals?

Mr. COOPER. In manganese principally before I went into DMEA. But all of the minerals on the list which DMEA participated in, I worked on in one way or another.

Senator CASE. Both metalics and nonmetalics?

Mr. COOPER. Yes, sir.

Senator CASE. Are you currently familiar with the mica production of the country?

Mr. COOPER. No, sir.

Senator CASE. Does your work as a specialist now have anything to do with mica?

Mr. COOPER. No, sir.

Senator CASE. Do you know the various grades of mica, and what is strategic grade and what is not?

Mr. COOPER. I have a working knowledge of it, yes.

Senator CASE. What are the characteristics of a strategic grade of mica?

Mr. COOPER. Well, then I am afraid I can't answer that, sir. I know it is the sheet mica.

Senator CASE. But you don't know whether stained or heavy stained or ruby mica?

Mr. COOPER. I am not sure just what the staining has to do with the quality of it.

Senator CASE. Who, in your area in the Bureau of Mines is familiar with the requirements for strategic grade mica?

Mr. COOPER. The commodity specialist in the Branch of Non-Metallic Minerals is Mr. Milford Skow.

Senator CASE. Has the chairman or counsel made any plan to call Mr. Skow?

Senator SYMINGTON. No, but we would be glad to if you would like him called.

Senator CASE. I would like to have him come up sometime to see if he has any information.

Senator SYMINGTON. All right.

Senator CASE. In connection with the procurement mica, an objective was set, as with many of these other things, but the question has been asked of me and I have not been able to give the answer, as to whether or not the procurement of so many pounds or tons yields the objective in the mica of strategic grade, and I would like at the appropriate time to talk with someone who can answer as to whether or not we are getting the goals in strategic grade mica or whether we have simply been buying pounds and tons without relationship to the goal and strategic grade.

Senator SYMINGTON. Counsel, will you see to that?

Mr. COBURN. We will look into that.

Senator SYMINGTON. Mr. Brooks, with a pencil here—our average use of quartz crystals in the last 5 years has been averaged about 194,000 pounds per year.

As I understand it the original estimate of the stockpile was over 11 million pounds, and we actually have on hand today over 5 million pounds.

Do you know any reason for that?

Mr. COOPER. No, sir.

Senator SYMINGTON. Thank you.

Do you have any further questions?

Mr. COBURN. I just wanted to clarify the record in this way:

Mr. Cooper, in view of the fact that our average annual consumption of quartz crystals at the present time in the United States is about 200,000 pounds, and in view of the fact that we have in the stockpile at the present time 5,044,000 pounds of quartz crystals, the amount that we have in the stockpile is approximately 25 times the annual consumption of quartz crystals, is it not?

Mr. COOPER. I believe that would be right.

Senator CASE. Mr. Chairman, could I ask one question of him and then one question of the chairman?

Mr. Cooper, working for DMEA you were brought into fairly close contact with people in industry, were you not, or miners or producers?

Mr. COOPER. I was in the Office of the Executive Officer and worked in that office most of the time. We met, of course, practically all of the people who had contracts with DMEA in the region that I was working in then.

Senator CASE. Did you help to process applications for loans for exploration?

Mr. COOPER. I reviewed them, yes, sir.

Senator CASE. You reviewed them?

Mr. COOPER. Yes, sir.

Senator CASE. During what years were you working on them?

Mr. COOPER. From 1955 to 1958, I believe, would be about right.

Senator CASE. During that time, did you approve applications for loans for exploration for quartz crystals?

Mr. COOPER. No, sir.

Senator CASE. Did you have any applications at that time?

Mr. COOPER. No, sir.

Senator CASE. Where were the quartz crystals produced; all from foreign sources?

Mr. COOPER. I believe so.

To my knowledge there was no DMEA contract on that but I am not sure about that.

Senator CASE. What ore bodies or what minerals were the goal of those who were seeking exploration loans at the time you were working on them?

Mr. COOPER. In the region that I was working in, which was in the Western States, out of the Denver office, the principal mineral was uranium. There was also lead, zinc, and copper as important minerals.

Senator CASE. Were we approving loans at that time for exploration for lead, zinc, and copper?

Mr. COOPER. I believe so; yes.

Senator CASE. Between 1955 and 1958?

Mr. COOPER. Yes, sir.

Senator CASE. That is all, and thank you.

Mr. Chairman, yesterday in your opening statement you made some reference to a statement on the floor of the Senate by Senator Williams, and presented an excerpt from one of the letters which he placed in the Record. I would like to ask that the entire statement of Senator Williams, together with the letters and documents which he put in the Congressional Record, be made a part of the record of this hearing.

Senator SYMINGTON. Without objection.

(The statement referred to follows:)

STOCKPILING

Mr. WILLIAMS of Delaware. Mr. President, in the past few days the former Director of the Office of Defense Mobilization, Mr. Arthur S. Flemming, has been testifying before the Symington committee in connection with the Government's action in 1955, at which time it made approximately 8,000 tons of copper available to industry.

This copper was made available partly by sales from the inventory that had been accumulated under the Defense Production Act and partly by diversion from deliveries that were scheduled to be placed in that inventory.

At the time this decision was made, copper was selling in the open market at prices considerably higher than that for which the Government had bought it. The Symington committee has criticized this action on the basis that this decision allowed these companies to gain an unwarranted windfall profit, and they have taken the position that the Government should have insisted upon delivery of its contracts at the prices for which it had been bought and that the Government in turn should have sold the copper in the open market and collected its profit thereon.

On that point I am in complete agreement with the Symington committee, and on May 27, 1955, and again on June 23, 1955, I took this same position when, in a speech delivered in the Senate, I denounced this same transaction as having given to these companies unwarranted windfall profits. My remarks at that time may be found on pages 7192–7193 and pages 9060–9061 of the permanent Record.

However, in these hearings I note that since this incident happened 7 years ago, Mr. Flemming, as well as some of the Senators, has had difficulty in recollecting the procedure by which this was handled and just who was responsible for the decisions. Therefore, in an effort to help clarify this situation, I shall incorporate in the Record here today a series of correspondence, most of which was exchanged between my office and the executive departments in 1955, concerning this entire transaction involving the diversion of copper from our stockpile. The first correspondence in connection with this decision is two letters dated February 25, 1955, both signed by Mr. Arthur S. Flemming as Director of the Office of Defense Mobilization, one addressed to the Honorable Sinclair Weeks, as Secretary of Commerce, and the second letter addressed to Mr. Edmund F. Mansure, Director of General Services Administration. These are the original letters in which GSA was authorized: first, to sell copper to U.S. industry from the defense production inventories; and, second, deliveries scheduled for March under the Defense Production Act could be canceled with the consent of the supplier and with the approval of the Department of Commerce.

I ask that both letters be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

FEBRUARY 25, 1955.

Hon. SINCLAIR WEEKS,
Secretary of Commerce,
Washington, D.C.

DEAR MR. SECRETARY: In view of the evidence you have presented of a copper shortage which threatens the copper-consuming industries with curtailment of operations and consequent unemployment and in accordance with advice of the Defense Mobilization Board, I am approving the release of copper now in the Defense Production Act inventory and copper to be delivered to this inventory through March 1955.

Accordingly, I am authorizing the General Services Administration (1) to sell to U.S. industry, copper currently accumulated in the Defense Production Act inventory including such copper as may be delivered through March 1955, and (2) to cancel deliveries for March under the Defense Production Act, wherever satisfactory arrangements can be made by your Department for the diversion of the copper to U.S. industry. The Department of Commerce will evaluate the applications for this copper on the basis of need and will certify to General Services Administration on the basis of hardship, the concerns to which the copper is to be sold or diverted and the amounts to be made available in each case.

The total quantity of copper that may be released and diverted to industry from these sources is estimated at about 8,000 short tons.

This authorization does not permit any copper to be withdrawn from the national stockpile nor any diversions from delivery directly to the stockpile.

I enclose a copy of my letter to Mr. Mansure.

Sincerely yours,

ARTHUR S. FLEMMING, *Director.*

FEBRUARY 25, 1955.

Hon. EDMUND F. MANSURE,
Administrator, General Services Administration,
Washington, D.C.

DEAR MR. MANSURE: In order to help relieve the current shortage of copper, the General Services Administration is hereby authorized to sell to U.S. consuming industry at U.S. market prices plus handling and transportation charges the current inventory of copper accumulated under the Defense Production Act including copper to be delivered under this authority through March 1955. In addition, deliveries scheduled for the month of March under the Defense Production Act contracts may be canceled with the consent of the supplier and approval of the Department of Commerce.

This copper shall be made available to consuming industries in the United States and only under specific instructions from the Department of Commerce.

The authorization does not permit any copper to be withdrawn from the national stockpile nor any diversion from delivery directly to the stockpile.

Enclosed is a copy of my letter to the Secretary of Commerce asking that his agency provide necessary guidance in the distribution of the copper.

Sincerely yours,

ARTHUR S. FLEMMING, *Director.*

Mr. WILLIAMS of Delaware. On March 1, 1955, upon reading the announcement in the press concerning the disposal of this copper, I directed a letter to Mr. Flemming asking for more complete details on this order.

At this point I ask that my inquiry of March 1, 1955, addressed to Mr. Flemming be printed in the Record along with two replies—one dated March 17, 1955, signed by W. S. Floyd, Assistant Director of ODM, and the other dated March 31, 1955, signed by Charles F. Honeywell of the Department of Commerce. To Mr. Honeywell's letter is attached a list of the companies to whom the copper was sold and their addresses.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

MARCH 1, 1955.

Mr. ARTHUR S. FLEMMING,
Director, Office of Defense Mobilization,
Washington, D.C.

DEAR MR. FLEMMING: I noticed an article in the Wall Street Journal of February 28, 1955, to the effect that the Office of Defense Mobilization is selling 8,000 tons of copper from the stockpile to industry. In this connection will you please furnish me the following information:

1. The price at which this copper is being sold and the names and addresses of the buyers.
2. The cost of this copper to the U.S. Government.
a. Was it bought domestically or imported?
3. The prevailing world market price for this same grade of copper as of today.

4. Does this sale of copper represent an overaccumulation on the part of the Office of Defense Mobilization or will you be resuming buying at a later date?

5. Are there any conditions attached to the sale which would prevent the purchasers from raising the domestic price prior to the sale of the finished product?

Yours sincerely,

JOHN J. WILLIAMS.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
Washington, D.C., March 17, 1955.

Hon. JOHN J. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: Mr. Flemming has asked me to reply to your letter of March 1 regarding the 8,000 tons of copper that the Government is making available to industry to prevent curtailment of operations resulting from the copper shortage. None of the copper being released to industry is coming from the stockpile nor is any copper under contract for delivery to the stockpile being diverted to industry. The copper is being made available from the inventory accumulated under the Defense Production Act and by diversion from deliveries to this inventory in March. The attached press release gives the details on ODM's authorization for releasing this copper. The answers to your specific questions are as follows:

1. The price at which this copper is being sold and the names and addresses of the buyers.

Answer. All of the copper being released is being sold at current market prices. With differentials for shapes, these are as follows: Wire bars, 32.8 cents per pound; cathodes, 32.675 cents per pound; lake ingot, 32.925 cents per pound. All freight is for buyers' account.

Inasmuch as the sales to industry are being carried out by the General Services Administration under specific instructions from the Business and Defense Services Administration, Department of Commerce, I am referring a copy of your letter to that agency for an answer to your request for the names and addresses of the buyers.

2. The cost of this copper to the U.S. Government.

Answer. The copper presently in inventory, amounting to about 6,000 tons, was acquired at prices ranging from 28.66 cents per pound to 32.33 cents. Of the total, about 3,000 tons were acquired at 28.66 cents, 1,050 tons at 28.73 cents, 220 tons at 30.13 cents, 1,265 tons at 31.18 cents, about 100 tons at 31.35 cents, 150 tons at 32.33 cents, and 235 tons at 30 cents, the market price at the time of delivery.

2.a. Was it bought domestically or imported?

Answer. About 3,200 tons of the total were acquired from Canadian sources and 235 tons from Rhodesia.

3. The prevailing world market price for this same grade of copper today.

Answer. There is no prevailing world market price for copper. The price ranges from 33 cents per pound in the United States to about 42 cents in London. Prices in other markets vary between these limits.

4. Does this sale of copper represent an overaccumulation on the part of the Office of Defense Mobilization or will you be resuming buying at a later date?

Answer. The copper does not represent an overaccumulation for National Defense since the stockpile to which the copper would have been transferred for safekeeping is incomplete. This copper which is being sold at market prices, plus incidental costs, will have to be replaced at market prices plus incidental costs.

5. Are there any conditions attached to the sale which would prevent the purchasers from raising the domestic price prior to the sale of the finished product?

Answer. The copper is being sold outright only to U.S. consumers of refined copper. Prices at brass mills and wire mills, the principal consumers of refined copper, are currently being quoted on the basis of 33 cents per pound for refined copper.

Sincerely yours,

W. S. FLOYD,
Assistant Director of ODM for Materials.

DEPARTMENT OF COMMERCE,
BUSINESS AND DEFENSE SERVICES ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., March 31, 1955.

Hon. JOHN J. WILLIAMS,
U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: Reference is made to your letter of March 1, 1955, addressed to Mr. Arthur S. Flemming, Director, Office of Defense Mobilization, wherein you requested information relative to the sale of 8,000 tons of Government-owned refined copper to the U.S. copper-consuming industry.

You no doubt have already received this information from ODM in their letter to you dated March 17. A copy was referred to the Business and Defense Services Administration with the request to complete the information you requested under item 1. Accordingly, we are attaching an up-to-date list of the company names, addresses, and amounts of copper recommended to General Services Administration to be sold to each. With the possible exception of two or three companies, it is understood that all sales have been consummated.

The difference between the 5,888 tons recommended to GSA for sale to industry and the 8,000 tons available for March is in transit and is, therefore, not available for distribution at this time.

Sincerely yours,

CHARLES F. HONEYWELL, *Administrator.*

COMPANIES PURCHASING GOVERNMENT-OWNED REFINED COPPER

Circle Wire & Cable Corp., 5500 Maspeth Avenue, Maspeth, Long Island, N.Y., 300,000 pounds.

Essex Wire Corp., 1601 Wall Street, Fort Wayne, Ind., 600,000 pounds.

General Cable Corp., 420 Lexington Avenue, New York, N.Y., 1,200,000 pounds.

National Electric Products Corp., Pittsburgh, Pa., 500,000 pounds.

Southwire Corp., Carrollton, Ga., 100,000 pounds.

Triangle Conduit & Cable Co. Inc., Triangle and Jersey Avenues, New Brunswick, N.J., 650,000 pounds.

Bridgeport Rolling Mills Co., Post Office Box 818, Bridgeport, Conn., 40,000 pounds.

Reading Tube Corp., Post Office Box 126, Reading Pa., 200,000 pounds.

Volco Brass & Copper Co., Kenilworth, N.J., 200,000 pounds.

Mueller Brass Co., Port Huron, Mich., 400,000 pounds.

Garfield Wire Division of the Overlakes Corp., 142 Monroe Street, Garfield, N.J., 80,000 pounds.

Plume & Atwood Manufacturing Co., Waterbury, Conn., 100,000 pounds.

Bridgeport Brass Co., Waterbury, Conn., 100,000 pounds.

Revere Copper & Brass, Inc., 230 Park Avenue, New York City, 1 million pounds.

Olin Mathieson Chemical Corp., East Alton, Ill., 496,951 pounds.

Spencer Wire Corp., 555 Lehigh Avenue, Union, N.J., 160,000 pounds.

The Electric Auto-Lite Co., Toledo, Ohio, 200,000 pounds.

Cornish Wire Co., Inc., 50 Church Street, New York, N.Y., 100,000 pounds.

Royal Electric Co., Inc., Pawtucket, R.I., 100,000 pounds.

Western Electric Co., Inc., 195 Broadway, New York, N.Y., 200,000 pounds.

John A. Roebling's Sons Corp., Trenton, N.J., 200,000 pounds.

Jordan Metal Products, Inc., Jordan, N.Y., 80,000 pounds.

Specialloy, Inc., 4025 South Keeler Avenue, Chicago, Ill., 40,000 pounds.

The Miller Co., Meriden, Conn., 100,000 pounds.

Laribee Wire & Equipment Corp., 2 Main Street, Camden, N.Y., 80,000 pounds.

Riverside Metal Co., Riverside, N.J., 40,000 pounds.

United States Rubber Co., 1230 Avenue of the Americas, New York, N.Y., 400,000 pounds.

Camden Wire Co., Inc., Camden, N.Y., 70,000 pounds.

Rome Cable Corp., Rome, N.Y., 100,000 pounds.

Plastic Wire & Cable Corp., Jewett City, Conn., 60,000 pounds.

American Insulated Wire Corp., Central Avenue and Freeman Street, Pawtucket, R.I., 200,000 pounds.

Rego Insulated Wire Co., 830 Monroe Street, Hoboken, N.J., 40,000 pounds.

Sipi Metals Corp., 1720 Elston Avenue, Chicago, Ill., 40,000 pounds.

The Acme Wire Co., New Haven, Conn., 160,000 pounds.
The Okonite Co., Passaic, N.J., 150,000 pounds.
Scovill Manufacturing Co., Waterbury, Conn., 100,000 pounds.
Titan Metal Manufacturing Co., Bellefonte, Pa., 90,000 pounds.
Nonotuck Manufacturing Co., Holyoke, Mass., 40,000 pounds.
U.S. Metal Products Co., Post Office Box 1067, Erie, Pa., 40,000 pounds.
The Beryllium Corp., Reading, Pa., 40,000 pounds.
North American Copper Co., Marine Terminal, Wilmington, Del., 100,000 pounds.
The Crescent Co., Inc., Pawtucket, R.I., 80,000 pounds.
The Ansonia Wire & Cable Co., Post Office Box 233, Ansonia, Conn., 50,000 pounds.
Sandusky Foundry & Machine Co., West Market Street, Sandusky, Ohio, 40,000 pounds.
Owl Wire & Cable, Inc., Post Office Box 186, Eastwood Station, Syracuse, N.Y., 80,000 pounds.
Lewin-Mathes Co., 1111 Chouteau Avenue, St. Louis, Mo., 150,000 pounds.
Crescent Insulated Wire & Cable Co., Inc., Trenton, N.J., 40,000 pounds.
Wisconsin Centrifugal Foundry, Inc., Waukesha, Wis., 40,000 pounds.
Dover Wire Co., 1 Trenton Avenue, Clifton, N.J., 40,000 pounds.
Collyer Insulated Wire Co., Inc., Pawtucket, R.I., 50,000 pounds.
Waterbury Rolling Mills, Inc., Waterbury, Conn., 40,000 pounds.
General Electric Co., 570 Lexington Avenue, New York, N.Y., 100,000 pounds.
Kenmore Metals, Jersey City, N.J., 40,000 pounds.
Central Cable Corp., Jersey Shore, Pa., 200,000 pounds.
Narragansett Wire Co., 541 Pawtucket Avenue, Pawtucket, R.I., 50,000 pounds.
Phelps Dodge Copper Products Corp., 40 Wall Street, New York, N.Y., 600,000 pounds.
Nehring Electrical Works, De Kalb, Ill., 200,000 pounds.
Clendenin Bros., Inc., 4309 Erdman Avenue, Baltimore, Md., 40,000 pounds.
Barth Smelting Corp., 99–129 Chapel Street, Newark, N.J., 40,000 pounds.
Copperweld Steel Co., Frick Building, Pittsburgh, Pa., 60,000 pounds.
Colonial Wire & Cable Co., Inc., 480 Forest Avenue, Locust Valley, Long Island, N.Y., 50,000 pounds.
The Brush Beryllium, 4301 Perkins Avenue, Cleveland, Ohio, 40,000 pounds.
Warren Wire Co., Pownal, Vt., pending.
Talco Metal Products, Inc., 1841 North Second Street, Philadelphia, Pa., 30,000 pounds.
Falcon Foundry Co., Lowellville, Ohio, 20,000 pounds.
Federated Metals Division, American Smelting & Refining Co., 120 Broadway, New York, N.Y., 40,000 pounds.
Columbia Cable & Electric Corp., 255 Chestnut Street, Brooklyn, N.Y., 40,000 pounds.
Southern Electrical Corp., Chattanooga, Tenn., 40,000 pounds.
Ettco Wire & Cable Corp., 46–50 Metropolitan Avenue, Brooklyn, N.Y., 40,000 pounds.
Whitaker Cable Corp., North Kansas City, Mo., 40,000 pounds.
Total, 5,888 tons.

Mr. WILLIAMS of Delaware. On May 24, 1955, I directed a further inquiry to the Comptroller General, Mr. Campbell, requesting more detailed information concerning this decision of the Government to sell or divert copper from its stockpile. I particularly requested the Comptroller General to furnish an estimate of the profits which would have accrued to the Government had they accepted delivery and then sold this copper to the domestic industry. I asked for his comment as to the propriety of the manner in which this had been handled.

On May 26, 1955,I received his reply. With this were enclosed copies of two letters—one dated April 18, 1955, and one dated May 6, 1955—both signed by Mr. Philip Charam, Audit Manager of the General Accounting Office, and addressed to Mr. A. J. Walsh, Commissioner of the Emergency Procurement Service of the General Services Administration.

Both of these letters commented directly upon the Government's cancellation of delivery requirements of copper that had been due under certain DPA contracts.

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The first letter discussed the cancellation of contracts with the Miami Copper Co., the Copper Range Co., and the Howe Sound Co. I quote the concluding paragraph of Mr. Charam's letter in connection with the manner in which the contracts with these three companies had been handled.

"We are of the opinion that this situation, which is clearly disadvantageous to the Government, can be administratively rectified by your office. We will appreciate your prompt consideration of this matter and your advice as to any corrective action taken."

In the second letter, dated May 6, Mr. Charam criticized the handling of contract No. DMP–83 with the Banner Mining Co., of Tucson, Ariz. He ends the letter with this statement:

"On the basis of the facts available to us, we consider that amendment No. 2"—amendment No. 2 was an amendment to the original Banner Mining Co. contract—"was decidedly advantageous to the contractor and disadvantageous to the Government. We would appreciate receiving your explanation as to the basis upon which it was determined that the execution of the contract amendment No. 2 was in the best interest of the Government."

Both letters were signed by Philip Charam, Audit Manager of the General Accounting Office.

Mr. President, at this point I ask unanimous consent that my letter to the Comptroller General and his reply thereto, along with the enclosures, may be printed in the Record at this point.

There being no objection, the letters were ordered to be printed in the Record, as follows:

MAY 24, 1955.

Mr. JOSEPH CAMPBELL,
Comptroller General of the United States, General Accounting Office Building, Washington, D.C.

DEAR MR. CAMPBELL: Do you have a report on the activities of the Defense Production Administration with reference to the stockpiling of copper? If so, I would appreciate receiving a copy.

Also, if the DPA has canceled or assigned any contracts with the understanding that the tonnage be sold to domestic consumers please furnish whatever information you have regarding the DPA purchase price and the domestic market at the time of cancellation, along with a breakdown of the name of the companies and the tonnage involved.

Do you have an estimate of the loss of profits which would have accrued to the Government had they accepted delivery and then sold it to the domestic consumers? I would appreciate receiving this report along with any other information you may have pertinent to the stockpiling program of copper.

Yours sincerely,

JOHN J. WILLIAMS.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., May 26, 1955.

Hon. JOHN J. WILLIAMS,
U.S. Senate.

DEAR SENATOR WILLIAMS: Reference is made to your letter dated May 24, 1955, requesting to be advised if the General Accounting Office has a report on the activities of the Defense Production Administration with reference to the stockpiling of copper. We have not prepared a report of the activities which you mention. However, we have had communications with the General Services Administration on the subject. For your information we are enclosing a copy of a letter dated May 6, 1955, from the General Accounting Office to the Commissioner, Emergency Procurement Service, General Services Administration, dealing with a contract with Banner Mining Co., Tucson, Ariz., providing for the development of properties and delivery by May 1, 1957, of some 12 million pounds of refined copper to the Government at a fixed above-the-market price of 31 cents per pound. To date no reply has been received from this letter.

Also, we are enclosing copy of a letter dated April 18, 1955, concerning the diversion of copper deliveries from the Government to consuming industries, pursuant to authorization by the Director of Office of Defense Mobilization dated April 1, 1955. There is also enclosed a copy of reply of the Comptroller, General Services Administration, dated May 3, 1955.

It is believed that the questions raised in your letter of May 24, 1955, are answered in the copies of correspondence that are enclosed.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

GENERAL ACCOUNTING OFFICE,
Washington, D.C., April 18, 1955.

Mr. A. J. WALSH,
Commissioner, Emergency Procurement Service, General Services Administration.

DEAR MR. WALSH: In our review of the Defense Production Activity of GSA, we have noted that GSA has been authorized by the Director of the Office of Defense Mobilization, pursuant to letter dated April 1, 1955, to sell to the copper-consuming industries any copper delivered to the DPA inventory during the second calendar quarter of 1955, at the direction of the Department of Commerce. Sales in this category are directed to be made at the U.S. market prices plus handling and transportation charges. It appears that the principal deliveries of copper to the DPA inventory during such period will be made pursuant to the terms of two Canadian contracts and will cost DPA either 27 cents or 30 cents per pound. Assuming that the current market price of 36 cents per pound remains steady, sales of such copper would yield a substantial profit to DPA.

Pursuant to this same ODM authorization we note that you have offered to cancel delivery requirements of copper due under certain DPA contracts during the second calendar quarter of 1955, provided the quantities so canceled are sold by the producers to U.S. consumers designated by the Government. Your office made proposals of cancellation, by telegrams dated April 8, 1955, to the following: Miami Copper Co., contract No. DMP–57; Copper Range Co., contract No. DMP–89; Howe Sound Co., contract No. DMP–92.

Under terms of the above contracts, the producers are required to deliver copper to DPA at prices ranging from 27.35 cents to 32 cents per pound, which are below the current market price of 36 cents. Therefore, in contrast with the prospective profits to be made by DPA through sales from its inventory, the proposed cancellations would result in substantial windfalls to the three contractors and would deny such profits to the Government. We do not consider that any such windfalls and loss of profits to the Government were contemplated under the ODM directive.

We estimate the total profits which could be lost by GSA in this manner to be approximately $400,000, assuming that the current market price remains steady.

We are of the opinion that this situation, which is clearly disadvantageous to the Government, can be administratively rectified by your office. We will appreciate your prompt consideration of this matter and your advice as to any corrective action taken.

Sincerely yours,

PHILIP CHARAM,
Audit Manager.

GENERAL ACCOUNTING OFFICE,
Washington, D.C., May 6, 1955.

Mr. A. J. WALSH,
Commissioner, Emergency Procurement Service,
General Services Administration.

DEAR MR. WALSH: In our audit of defense production activities of GSA we have reviewed contract No. DMP–83 with Banner Mining Co., Tucson, Ariz. This contract, executed May 26, 1953, provided for development of mining properties and delivery by May 1, 1957, of 12,960,000 pounds of refined copper to the Government at a fixed above-the-market price of 31 cents per pound. The contract also authorized advances to be repaid from production.

By letter dated January 10, 1955, the contractor requested authority to sell not more than 6 million pounds of copper on the open market, with the understanding that this quantity would be ultimately delivered to the Government by May 1, 1957. He further proposed that repayment of the advances would continue during the period of diversion, that a minor concession in pricing would

be granted to the Government, and that the contractor would reserve the right to make deliveries to the Government instead of to industry at any time that market prices were at such a level as to make such deliveries more profitable to him. In other words, the contractor proposed that floor price protection be continued, but that he be permitted to profit through sales to industry in the event of a rise in the market.

On January 21, 1955, your office informed the contractor that his proposal did not provide sufficient consideration for the Government, and proposed a reduction of ¾ cent per pound in the price of certain shapes of copper and of ⅜ cent per pound in cathodes, for the remaining quantity to be delivered. These conditions were accepted by the contractor and amendment No. 2 was executed on March 4, 1955, effective January 25, 1955.

At the time that amendment No. 2 was executed the market price of copper had risen to 33 cents per pound, so that it should have been apparent that the contractor would make a windfall. Moreover, although the present market price of 36 cents could not have been forecast, there were strong indications of a continued rise which would have enabled GSA to more than offset the costs of supporting the contract price of 31 cents in the past.

Through waiver of its rights to receive immediate deliveries of copper at the fixed contract price of 31 cents, the Government has obtained price concessions under which it could save about $30,000 on future deliveries of about 9,900,000 pounds of copper. On the other hand, had deliveries been made in accordance with the original contract terms, this copper could have been sold at a profit which we estimate at $250,000, assuming that the present market price remains steady. In addition, through deferment of deliveries GSA has assumed a risk that there might be a pronounced drop in the market at the time of future deliveries, which would result in payment of substantial subsidies.

On the basis of the facts available to us, we consider that amendment No. 2 was decidedly advantageous to the contractor and disadvantageous to the Government. We would appreciate receiving your explanation as to the basis upon which it was determined that the execution of contract amendment No. 2 was in the best interest of the Government.

Sincerely yours,

PHILIP CHARAM, *Audit Manager.*

Mr. WILLIAMS of Delaware. Mr. President, upon receipt of this information, on May 27, 1955, as appears in the Congressional Record at pages 7192 and 7193, I outlined the details of these transactions and denounced the results of the Government's decision as having in effect given an unwarranted windfall profit to the three companies mentioned in the first letter.

At that time I took the same position the Symington committee is taking today; namely, that the Government should have taken delivery of the copper and then sold it direct to industry and taken the profit for the Government. I saw no reason why the Government should not have had the profit resulting from the market rise. Had there been a loss the Government would have had to take it.

At this point I ask unanimous consent that there may be printed in the Record an article published in the Wall Street Journal of March 29, 1955, which was during the period when the copper was released by the Government. This article shows that the domestic price of copper was being boosted by 3 cents a pound.

This rise came on top of an already very strong market.

(There being no objection, the article was ordered to be printed in the Record, as follows:)

"PRICE TAGS—PHELPS DODGE AND ANACONDA BOOST COPPER BY 3 CENTS A POUND TO 36 CENTS—KENNECOTT STILL TO ACT; QUOTATION IS HIGHEST IN UNITED STATES SINCE WORLD WAR I

"NEW YORK.—Two major copper producers raised the price of copper by 3 cents a pound to 36 cents, effective with shipments today.

"Phelps Dodge Corp., the Nation's second largest producer of the metal, initiated the advance. It was quickly followed by Anaconda Sales Co., selling subsidiary of Anaconda Copper Mining Co.

"Some custom smelter firms also followed the upturn, but Kennecott Copper Corp., the largest producer of the metal, so far has not taken any action on its price.

"The current increase of 3 cents is the second such advance this year. The previous 3-cent increase to the 33-cent level was put into effect at the end of January. The price had held at 30 cents a pound since April 1953.

"Industry men say the current U.S. price of 36 cents a pound is the highest quotation for domestic copper since World War I. At one time during that period the price for the metal was 36 cents a pound or a bit higher.

"The latest advance in price had been predicted by trade sources for the past few weeks as domestic demand increased, supply tightened, and prices in London and the world markets soared to levels far above the U.S. quotation.

"Last week, the price on the London Metal Exchange hit a record of 46 cents a pound, 13 cents above the 33-cent U.S. price. The markets abroad for several months have been consistently above the American price, and these higher quotations have been attracting much foreign copper to these consumers and away from U.S. users.

"The Central Bank of Chile has been selling Chilean copper to the higher paying European markets for as much as 40 to 42 cents a pound, while selling to U.S. consumers at the domestic price.

"The Chilean Government's dissatisfaction with the 30-cent price for copper, it is understood, was responsible for the rise to 33 cents earlier this year. Similarly, it has been reported, Chile wanted to get more for its copper sold to the United States because of the steadily widening gap between American and European copper prices. The 36-cent price has been most mentioned as Chile's immediate goal.

"A year ago at this time, copper was in oversupply. Large U.S. copper producers cut production by about 20 percent as consumers stayed out of the market. Chile had an estimated surplus of 180,000 tons, the result of holding out for an approximate 36½-cent price in the world market.

"The change to a more balanced supply began when the U.S. Government around mid-1954 took 100,000 tons of the Chilean surplus for the stockpile at 30 cents a pound. Chile disposed of the remainder in the foreign market.

"Subsequently, a series of strikes at major copper mines in the United States and Chile that started in August last year and continued into October, created a severe shortage. This caused the U.S. Government to release about 41,000 tons to industry in the final 3 months last year.

"On January 3, 1955, a strike at the big northern Rhodesian mines in Africa shut them down for more than a month. This accentuated the world shortage, and added incentive to soaring prices for the metal in London."

Mr. WILLIAMS of Delaware. Mr. President, on May 27, 1955, I directed a further inquiry to Mr. A. J. Walsh, Commissioner of the Emergency Procurement Service of the General Services Administration, asking for complete details on the handling of the General Services contract No. DMP–83 with the Banner Mining Co., of Tucson, Ariz.

On June 10, 1955, I received a reply from General Services Administration signed by Mr. Walsh furnishing the information requested, and I ask unanimous consent that this correspondence be printed at this point in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

MAY 27, 1955.

Mr. A. J. WALSH,
Commissioner, Emergency Procurement Service, General Services Administration, Washington, D.C.

DEAR MR. WALSH: With reference to the defense production activities of the General Services Administration, contract No. DMP–83 with the Banner Mining Co., Tucson, Ariz., dated May 26, 1953, providing for the delivery of 12,900,000 pounds of refined copper by May 1, 1957, at a fixed price of 31 cents per pound, will you please furnish me the following information:

1. The prevailing market price of similar copper on the date of the contract.
2. The total amount of copper delivered under the contract, along with dates.

3. The total amount of advanced payments or loans (or guaranteed loans) made to this company either through your agency or through any other Government agency for the purpose of development and mining expenses.

4. A copy of the financial statement of the company as of the date the contract was negotiated or the loans were made.

5. Has this company been released from the delivery of any copper due the Government under the terms of the contract?

(*a*) If so, how much was released and what was the prevailing market price on the date of the release?

Yours sincerely,

JOHN J. WILLIAMS.

GENERAL SERVICES ADMINISTRATION,
EMERGENCY PROCUREMENT SERVICE,
Washington, D.C., June 10, 1955.

Re contract No. DMP–83, Banner Mining Co.

Hon. JOHN J. WILLIAMS,
U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: In accordance with your request of May 27, 1955, the following information is furnished relative to this contract:

1. The prevailing market price of similar copper on the date of the contract, May 26, 1953, was 29.65 cents per pound, frieght on board refinery, subject to a discount on cathodes of one-eighth cent per pound.

2. The total amount of copper delivered to the Government under the contract up to this time, with dates of delivery, is listed on the enclosed sheet.

3. The total amount of advance payments against production made to this company by DMPA for development and mining expenses was $473,665. We have no knowledge of any other Government advances or loans except an exploration loan made by DMEA on June 30, 1951, which, reportedly, totaled $55,529.81.

4. Enclosed are copies of two balance sheets of Banner Mining Co., one dated September 30, 1952, which accompanied the application for the contract, and the other, dated September 30, 1953. The first advance of moneys under this contract was authorized on January 13, 1954.

5. (*a*) As a result of negotiations, Banner Minning Co., on January 21, 1955, was authorized, commencing January 16, 1955 (this dated later was changed to Jan. 25, 1955) to deliver up to 6 million pounds of copper to its commercial customers, provided that the total amount of copper deliverable to the Government of 12,960,000 pounds and the termination date of the contract remained unchanged; provided further that the remaining copper deliverable to the Government after January 25, 1955, be reduced in price one-fourth cent per pound, plus an additional one-eighth cent per pound on cathodes; and again further that the 3½ cents per pound of copper repayment of the advance be made on all copper sold.

(*b*) The market price of copper on January 21, 1955, was 29.7 cents per pound, freight on board refinery, subject to a discount on cathodes of one-eighth cent per pound.

If you desire any further information relating to this contract, we shall be glad to furnish it to you.

Very truly yours,

A. J. WALSH, *Commissioner.*

Mr. WILLIAMS of Delaware. After reviewing this additional information, on June 23, 1955, as appears in the Congressional Record on pages 9060 and 9061, I summarized this transaction and denounced the decisions of the General Services Administration and the Office of Defense Mobilization and pointed out that in return for what in effect was a $30,000 concession, the Banner Mining Co. had been extended an approximate $250,000 windfall profit.

I noted that the Comptroller General had also criticized the manner in which this contract had been handled.

I quote from his report:

"On the basis of the facts available to us, we consider that amendment No. 2 was decidedly advantageous to the contractor and disadvantageous to the Government."

On March 7, 1956, I directed another letter to Mr. Flemming, Director of the Office of Defense Mobilization, asking for additional information concerning any other deferments which may have been granted in the delivery dates of certain contracts under which they had been purchasing copper for the stockpiling program.

The letter was sent for the purpose of finding out whether or not this practice was being continued. In his reply under date of April 12, 1956, Mr. Flemming pointed out:

"All deferments of deliveries of copper to the Government have been authorized at the request of the Department of Commerce and after consultation with the Defense Mobilization Board."

I quote further from Mr. Flemming's letter:

"Following your criticism last spring of the cancellation of certain copper contracts, with which criticism we agreed, we took steps to correct the situation and have avoided any repetition of such actions."

Thus, in this letter Mr. Flemming stated that following my criticism of the earlier procedures they had taken steps to correct the situation and that they had avoided any repetition of such actions.

I ask unanimous consent that this correspondence be printed in the Record. I note that with Mr. Flemming's letter a list is attached showing deferrals and cancellations of deliveries of copper to the stockpile and Defense Production Act inventory.

There being no objection, the material was ordered to be printed in the Record, as follows:

MARCH 7, 1956.

Mr. ARTHUR S. FLEMMING,
Director, Office of Defense Mobilization,
Washington, D.C.

DEAR MR. FLEMMING: It is my understanding that as a result of the increased price on copper your agency granted several deferments in the delivery dates of certain contracts under which you were purchasing copper for the stockpiling program.

Will you please furnish a list of such deferments including the amount of tonnage involved and the original price along with any revisions, either upward or downward, on price or tonnage.

Yours sincerely,

JOHN J. WILLIAMS.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
OFFICE OF THE DIRECTOR,
Washington, D.C., April 2, 1956.

Hon. JOHN J. WILLIAMS,
U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: This is in reply to your letter of March 7 in regard to deferment of delivery dates of copper contracts under the stockpile program.

All deferments of deliveries of copper to the Government have been authorized at the request of the Department of Commerce and after consultation with the Defense Mobilization Board. They have been based on Department of Commerce estimates that the available supply of copper would be inadequate to meet U.S. industry demands. They have been prompted by the shortage in copper available to U.S. industry rather than price rises.

Deferments have been authorized at various times since the fourth quarter of 1954 and are summarized in the attached table. You will note that there have been no outright cancellations since the second quarter of 1955. Following your criticism last spring of the cancellation of certain copper contracts, with which criticism we agreed, we took steps to correct the situation and have avoided any repetition of such actions.

Please let me know if we can be of any further assistance.

Sincerely yours,

ARTHUR S. FLEMMING, *Director.*

Deferrals and cancellations of deliveries of copper to stockpile and Defense Production Act inventory, Oct. 15, 1954, to Dec. 31, 1955

[In short tons]

Contract No.	Contracting company	Contract price per pound	1954 4th quarter	1955 1st quarter	1955 2d quarter	1955 3d quarter	1955 4th quarter	1956 1st quarter estimate
	Stockpile contracts: Deferrals:							
GS-OOP-								
3870	British Metals	[1] 0.30	3,350		7,050			
3889	Consolidated Coppermines.	[1] .32	900					
3785	do	[1] .32	1,200					
3906	Granby Consolidated	[1] .30	2,000		750			
7201	International Metals & Minerals.	[1] .30	600					
7244	do	[1] .30	600					
7202	American Metals	[1] .30	4,000					
10332	Miami Copper	[2]	3,897		2,721		2,245	190
3909	Calumet & Hecla	[3] .315	3,965					2,250
461	Sherritt Gordon	[2]						625
	Total		20,512		10,521		2,245	3,065
	Defense Production Act contracts: Deferrals:							
DMP 80	International Nickel.	[4] [5] .27					800	
83	Banner Mining	[1] .3075					1,250	1,000
89	Copper Range	.31			139	599	398	
92	Howe Sound	.315			300	440		
94	Appalachian Sulphide.	.306				1,000	1,000	
	Total				439	2,039	3,448	1,000
	Cancellations: [6]							
DMP 57	Miami Copper	[4] .2735	689		961			
89	Copper Range	.31			325			
92	Howe Sound	.315	1,337		613			
	Total		1,826		1,899			

[1] Less ⅛ cent per pound if cathodes.
[2] Market.
[3] Subject to renegotiation.
[4] Plus escalation.
[5] Canadian currency rates.
[6] See attached notes pertaining to cancellations.

"NOTES PERTAINING TO CANCELLATIONS

"Fourth quarter, 1954—DMP–57, Miami Copper:

"Inasmuch as this contract covered the entire production from one low-grade mine operated by Miami Copper Co., the deferrals were added to the end of the delivery schedule. However, the contract permitted Miami to cancel if costs exceeded the contract price. Miami canceled the balance of this contract, including deferrals as of August 31, 1955. The escalated contract price of this contract at the time of its cancellation was 29.339 cents per pound.

"DMP–92, Howe Sound:

"Inasmuch as the contract price (31.5 cents) was higher than the market price (30 cents) at that time, the fourth quarter deferrals were canceled on January 12, 1955.

"Second quarter, 1955—DMP–57, Miami Copper; DMP–89, Copper Range; DMP–92, Howe Sound:

"Cancellation of the diversions to industry from Defense Production Act contracts in the second quarter of 1955 was authorized. However, this authorization was withdrawn on May 27, 1955. The diversions during April and May were canceled. The diversions during June were deferred. The market price during the second quarter 1955 was 36 cents per pound."

Mr. WILLIAMS of Delaware. Mr. President, I recognize that incorporating this series of correspondence in the Record is somewhat of a duplication in that all of it has been summarized and much of it has been incorporated in my earlier remarks in the Congressional Records of May 27, 1955, and June 23, 1955; however, since attention is again being focused upon this transaction and since some of the representatives of both the legislative and executive branches are having difficulty in remembering some of the details, I felt that it may help all interested parties in developing a clearer understanding of this entire transaction if this correspondence were all incorporated in the Record at this time.

Mr. COBURN. We have no further witnesses this morning, Mr. Chairman.

Senator SYMINGTON. Thank you, Mr. Cooper. We appreciate your coming.

This hearing will adjourn subject to the call of the Chair.

(Whereupon, at 11:10 a.m., the committee stood in recess, subject to the call of the Chair.)

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