Y4
.Ar5/3:
St 6/2/
pt.7
GOVERNMENT
Storage

1034
/pt.7

Y4
A.r 5/3
St 6/2/pt.7
1962

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

THE HANNA NICKEL CONTRACTS

OCTOBER 4, 5, 9, AND 10, 1962

PART 7

Printed for the use of the Committee on Armed Services

KSU LIBRARIES
A11900 304761

KANSAS STATE UNIVERSITY LIBRARY
JAN 7 1963
MANHATTAN, KANSAS

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

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

THE HANNA NICKEL CONTRACTS

OCTOBER 4, 5, 9, AND 10, 1962

PART 7

Printed for the use of the Committee on Armed Services

U.S. GOVERNMENT PRINTING OFFICE

83502 WASHINGTON : 1962

COMMITTEE ON ARMED SERVICES

RICHARD B. RUSSELL, Georgia, *Chairman*

HARRY FLOOD BYRD, Virginia
JOHN STENNIS, Mississippi
STUART SYMINGTON, Missouri
HENRY M. JACKSON, Washington
SAM J. ERVIN, JR., North Carolina
STROM THURMOND, South Carolina
CLAIR ENGLE, California
E. L. BARTLETT, Alaska
HOWARD W. CANNON, Nevada
ROBERT C. BYRD, West Virginia

LEVERETT SALTONSTALL, Massachusetts
MARGARET CHASE SMITH, Maine
PRESCOTT BUSH, Connecticut
J. GLENN BEALL, Maryland
BARRY GOLDWATER, Arizona
CLIFFORD P. CASE, New Jersey

HARRY L. WINGATE, JR., *Chief Clerk*

SUBCOMMITTEE ON THE NATIONAL STOCKPILE AND NAVAL PETROLEUM RESERVES OF THE COMMITTEE ON ARMED SERVICES

STUART SYMINGTON, Missouri, *Chairman*

STROM THURMOND, South Carolina
CLAIR ENGLE, California
HOWARD W. CANNON, Nevada

J. GLENN BEALL, Maryland
PRESCOTT BUSH, Connecticut

RICHMOND C. COBURN, *Chief Counsel*
TIMOTHY J. MAY, *Assistant Counsel*
JOHN H. ZIMMER, *Assistant Counsel*
EDWARD O. MCCUE III, *Assistant Counsel*

CONTENTS

HEARINGS

HANNA NICKEL CONTRACTS (CONTINUED)

	Page
October 4, 1962	2233–2334
October 5, 1962	2335–2411
October 9, 1962	2413–2452
October 10, 1962	2453–2573

STATEMENTS

Brooks, Louis, Deputy Director, Credit and Finance Division, General Services Administration 2233–2269, 2537–2542
Brown, Robert B., Director, Audit Division, General Services Administration 2533–2537
Henson, Walter, supervisory accountant, General Accounting Office 2543–2573
Humphrey, Gilbert W., vice president, Hanna Mining Co 2453–2491
Larson, Jess, former Administrator, Defense Materials Procurement Agency 2376–2411
Lesser, Henry M., supervisory auditor, General Services Administration 2269–2272
Marting, W. A., president, Hanna Mining Co 2342–2375, 2413–2446
Spang, Lawrence W., secretary, Hanna Mining Co 2272–2340, 2446–2452, 2491–2493
Tippit, Hassel, managing partner, Ernst & Ernst, accountants 2493–2528

COMMUNICATIONS

Boutin, Bernard L., Administrator, GSA: Letter to Hon. Stuart Symington, Senator from Missouri, dated November 26, 1962 2567
Campbell, Joseph, Comptroller General of the United States, to—
Boutin, Bernard L., Administrator, GSA, dated October 5, 1962 2529
Rayburn, Hon. Sam, Speaker of the House of Representatives, dated April 26, 1961 2253
Fish, R. C., president, Hanna Nickel Smelting Co.: Letter to H. F. Holtz, Commissioner, Defense Materials Service, GSA, dated October 9, 1957 2450
Ford, John G., Director, Contract Negotiations Division, DMPA: Letter to G. W. Humphrey, vice president, Hanna Mining Co., dated December 22, 1952 2478
Humphrey, Gilbert W., vice president, Hanna Mining Co.: Letters to—
Defense Materials Procurement Agency, dated August 19, 1952 2465
Ford, John G., Director, Contract Negotiations Branch, DMPA—
November 4, 1952 2472
January 9, 1953 2479
Spang, L. W., secretary, Hanna Mining Co., dated June 23, 1952, containing rough draft of proposal 2290
Levinson, Morris, Assistant General Counsel, DMPA: Memorandum to John G. Ford, dated October 23, 1952 2305
Mollard, Earl S., general manager, Hanna Nickel Smelting Co.: Letters to Larry W. Spang, secretary, Hanna Mining Co.:
June 21, 1957 2523
October 3, 1957 2448

TABLES AND CHARTS

	Page
Hanna Mining Co.:	
Comparison of allocation of expenses (company's basis; other basis)	2544
Expenses as originally charged on company books	2544
Net profit, after taxes, on sales	2547
Net profit, before taxes, on sales	2548
Net profit, after taxes, compared to divisions	2552
Net profit per books, after taxes, as compared with gross income by divisions and subsidiaries	2550
Net profit per books, before taxes, compared to divisions	2551
Net profits per books, before taxes, as compared with gross income by divisions and subsidiaries	2549
Nickel division profits per company books and adjustments proposed	2543
Results of nickel division operations	2558
Schedule of profits realized by the three mining divisions	2546
Leading industries, profit after taxes on sales	2553
By years, 1958–61	2554–2557
Nickel purchased from Hanna, chart	2235
Summary of nickel operations	2498
What Government received from Hanna, chart	2235
What Hanna received from Government, chart	2236

MISCELLANEOUS

Contract differences as of Nov. 4, 1952	2472
Drafts of proposal by Hanna for nickel sales to Government:	
First rough draft dated June 16, 1952	2290
Formal proposal, dated June 27, 1952	2283
Preliminary draft dated June 26, 1952	2297
Proposal of Aug. 19, 1952	2465
Work papers, Ernst & Ernst, auditor, for Hanna company	2501

STOCKPILE INVESTIGATION

THURSDAY, OCTOBER 4, 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, Beall, and Bush) met, pursuant to call, in room 235, Old Senate Office Building, at 10 a.m.

Present: Senators Symington (presiding), Thurmond, Cannon, Beall, and Bush.

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. This hearing will come to order. Mr. Counsel, who is your first witness?

Mr. COBURN. Mr. Louis Brooks, Mr. Chairman.

Senator SYMINGTON. Mr. Brooks?

Mr. BROOKS. Good morning, sir.

Senator SYMINGTON. You have been sworn before, have you not?

Mr. BROOKS. Yes, sir, I have.

Senator SYMINGTON. Will you consider yourself sworn?

Mr. BROOKS. I do.

Senator SYMINGTON. Proceed, Mr. Counsel.

Mr. COBURN. Your name is Louis Brooks?

TESTIMONY OF LOUIS BROOKS, DEPUTY DIRECTOR, CREDIT AND FINANCE DIVISION, GENERAL SERVICES ADMINISTRATION

Mr. BROOKS. Yes, sir.

Mr. COBURN. And you are on the staff of General Services Administration in the Auditing and Finance Division, isn't that correct?

Mr. BROOKS. Credit and Finance Division is the proper name.

Mr. COBURN. Credit and Finance Division?

Mr. BROOKS. Yes.

Mr. COBURN. You are an auditor by your education and experience, are you?

Mr. BROOKS. An accountant I would say.

Mr. COBURN. An accountant, all right.

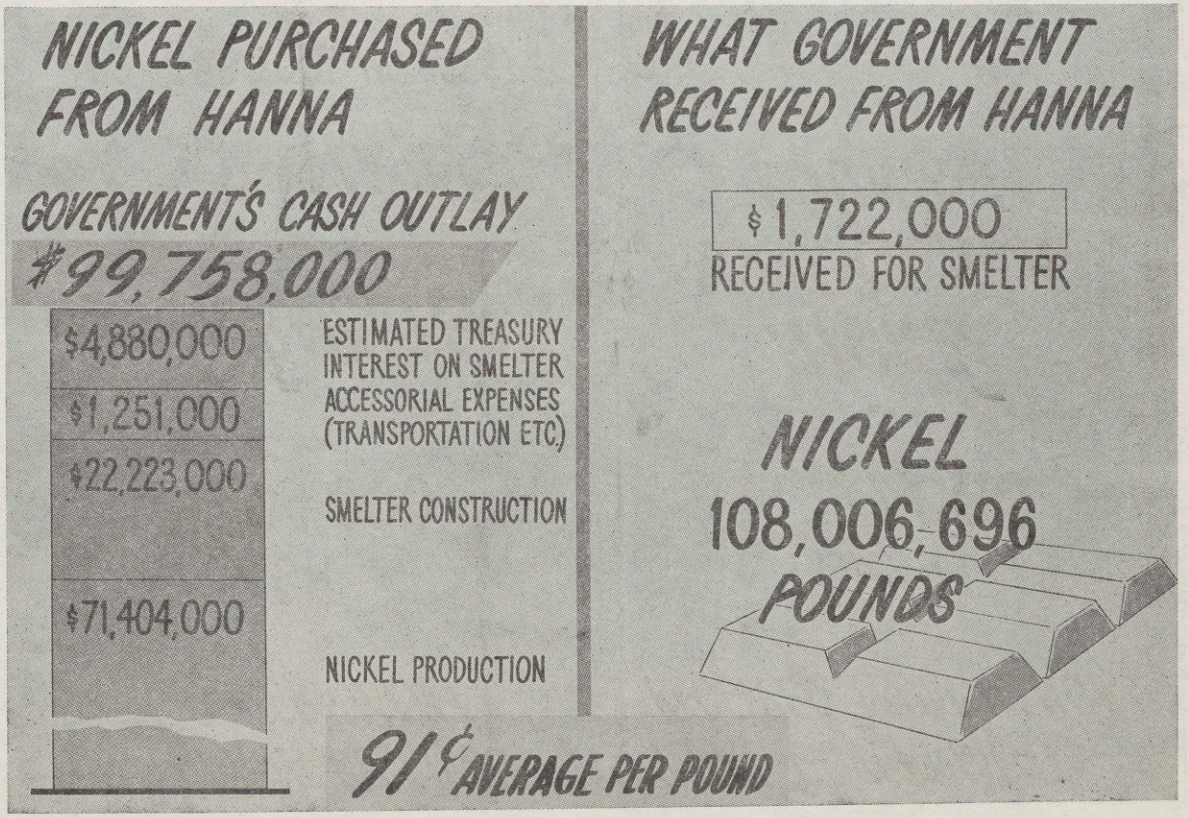
Now, Mr. Brooks, I thought that perhaps it might be helpful to start the hearing off this morning to have you describe to us just exactly what the Government's cash outlay was for the purchase of the nickel that has been received thus far under the contract with the Hanna Nickel Smelting Co. Have you prepared some charts at my request for the purpose of illustrating that testimony?

Mr. BROOKS. Yes, sir, I have.

Mr. COBURN. Are these the charts over here on the easel to my left?

Mr. BROOKS. Yes, sir, those are the charts.

(The charts are as follows:)


NICKEL PURCHASED FROM HANNA
GOVERNMENT'S CASH OUTLAY
$99,758,000
$4,880,000
$1,251,000
$22,223,000
$71,404,000
ESTIMATED TREASURY INTEREST ON SMELTER
ACCESSORIAL EXPENSES (TRANSPORTATION ETC.)
SMELTER CONSTRUCTION
NICKEL PRODUCTION
91¢ AVERAGE PER POUND
WHAT GOVERNMENT RECEIVED FROM HANNA
$1,722,000
RECEIVED FOR SMELTER
NICKEL
108,006,696
POUNDS

WHAT HANNA RECEIVED FROM GOVERNMENT
CASH
$71,404,000
SMELTER
WHICH COST GOVERNMENT
$22,223,000
PLUS $4,880,000 INTEREST
WHAT GOVERNMENT RECEIVED FROM HANNA
CASH
$1,722,000
NICKEL
108,006,696
POUNDS

Mr. COBURN. Mr. Brooks, I am now pointing to the chart which is on the left, my left, of the two of these charts. At the top on one side this chart says "Nickel purchased from Hanna."

Do you mean by that the nickel metal, do you not, that was purchased from the Hanna Nickel Smelting Co.?

Mr. BROOKS. That is correct, yes, sir.

Mr. COBURN. This hasn't anything to do with the nickel ore that was bought from the Hanna Mining Co.?

Mr. BROOKS. No, sir, not at all.

Mr. COBURN. All right. Now then, I want you to testify as to the actual cash that was laid out by the Government in the purchase of the metal that has been delivered so far by the Hanna Nickel Smelting Co.

With that in mind, how many pounds have been delivered so far?

Mr. BROOKS. The total deliveries so far have been 108,007,000 pounds in round numbers.

Mr. COBURN. With 17 million pounds more to be delivered?

Mr. BROOKS. Approximately, yes, sir.

Mr. COBURN. When is the contractor obliged to deliver those 17 million pounds?

Mr. BROOKS. He has until June 30, 1965, to complete the final deliveries.

Mr. COBURN. Now, Mr. Brooks, let's start at the bottom—I think it would be a little clearer if we do—of these items that are contained in this column of figures that goes to show what the Government's cash outlay was for this nickel. At the bottom of this column is the figure of $71,404,000. Will you tell us what that is, please?

Mr. BROOKS. That amount represents the Government's cash outlay to Hanna to reimburse them for their actual cost of production of nickel.

Mr. COBURN. Is this the amount of cash that actually was disbursed by the Government and delivered to the Hanna Nickel Smelting Co.?

Mr. BROOKS. It is.

Mr. COBURN. In connection with the delivery of the 108 million pounds of nickel metal?

Mr. BROOKS. Yes, sir, it is exactly that.

Mr. COBURN. Just exactly that, $71,404,000?

Mr. BROOKS. Right.

Mr. COBURN. Is that right?

Mr. BROOKS. Yes, sir.

Mr. COBURN. Now that $71,404,000 was based on what, Mr. Brooks? How did you arrive at that figure?

Mr. BROOKS. This represents the cost of production under the contract. It covers the labor cost, the cost of materials and supplies used in the process, as well as the ore purchased from the Hanna Mining Co. at the price agreed upon.

Mr. COBURN. In other words, this is the cost of production by the Hanna Nickel Smelting Co. of this nickel metal?

Mr. BROOKS. That is true, yes, sir.

Mr. COBURN. All right. Now, the next item in the column moving up is $22,223,000. Will you tell us what that is please?

Mr. BROOKS. That figure represents the amount which the Government provided to Hanna in cash to finance the construction of the nickel smelter at Riddle, Oreg.

Mr. COBURN. And the next item of $1,251,000 which is called accessorial expense, transportation, and so on, will you explain what that is?

Mr. BROOKS. That amount is an additional expense to which the Government was put in transportation of the finished nickel from the point of delivery at the smelter to the Government storage point, together with certain other incidental expenses.

Mr. COBURN. That is largely transportation expense from the point of the production to the point of storage in the stockpile?

Mr. BROOKS. That is true, yes, sir.

Mr. COBURN. And now this figure here at the top of this column of $4,880,000, tell us what that is please, sir.

Mr. BROOKS. This amount is an estimate of the interest cost to which the Government was put in financing the construction of the smelter. The amount is based on the average of actual interest rates paid by GSA to the Treasury Department from the period beginning when the first advance was made to Hanna and ending on March 31, 1961, when Hanna took clear title to the smelter.

Mr. COBURN. Let me see if I understand that. This interest is computed on the actual money that was laid out by the Government to the Hanna Nickel Smelting Co. for the construction of the smelter?

Mr. BROOKS. Yes, sir; that is correct.

Mr. COBURN. Not on anything else?

Mr. BROOKS. Only on the smelter.

Mr. COBURN. Only on the construction of the smelter. And it covers the period, does it, if I understand your testimony correctly, it covers the period from the time of the first advance of such money to the Hanna Nickel Smelting Co. down to the time when the Hanna Nickel Smelting Co. acquired the plant from the Government, as it had a right to do under the contract, on March 31, 1961; is that correct?

Mr. BROOKS. That is correct; yes, sir.

Senator CANNON. Mr. Chairman, will counsel yield for a question?

Mr. COBURN. Yes.

Senator CANNON. What was that period of time, Mr. Brooks? When did that period start and when did it end?

Mr. BROOKS. It started in 1953 and ended March 31, 1961.

Senator CANNON. And did you use the rate of interest that the Government pays for its money?

Mr. BROOKS. Yes, sir; we did. These rates vary from month to month, and this is a computed average.

Senator CANNON. Thank you, counsel.

Mr. COBURN. Yes indeed. Now, Mr. Brooks, the Treasury Department charges GSA interest at varying rates, depending on the going rate?

Mr. BROOKS. At the going rate; yes, sir.

Mr. COBURN. At the time that GSA borrows money from the Treasury?

Mr. BROOKS. That is true.

Mr. COBURN. And so that is what this figure is here?

Mr. BROOKS. That is correct.

Mr. COBURN. Now then, will you tell me on what basis do you think this interest item of $4,880,000 should be added to the actual out-of-pocket expense that the Government incurred in the purchase of this nickel?

Mr. BROOKS. Well, there is no question in my mind that the Government's investment in the nickel smelter operation was increased by the amount of interest on money borrowed to provide the financing. This money is raised by the Treasury Department from its public financing operations and they in turn charge that cost to agencies such as ours which borrow from the Treasury to finance operations of this kind.

Mr. COBURN. Excuse me, Mr. Witness, I think I didn't make myself entirely clear as to what I wanted you to develop as to the facts.

Who was it that insisted that the Government put up the money to build the smelter?

Mr. BROOKS. The Hanna company insisted that the Government finance the cost of the smelter.

Mr. COBURN. You understand it to be a fact the Government first wanted the Hanna company to do it?

Mr. BROOKS. Yes, the Government made rather strong proposals in that direction.

Mr. COBURN. And the Hanna company turned that down, said they wouldn't do it, and that the Government would have to put up the money to build the smelter?

Mr. BROOKS. That is true; yes, sir.

Mr. COBURN. And if the Hanna company had built this smelter and had to go out and raise the money in order to build it, they would have had to pay interest wouldn't they?

Mr. BROOKS. They would; yes, sir.

Mr. COBURN. But under the circumstances since the Government had to build this smelter, that is why you think this interest charge against the Government here should be included in the actual out-of-pocket outlay for the purpose of this nickel?

Mr. BROOKS. Yes, sir. I think it is a perfectly valid charge.

Mr. COBURN. All right. Now then, Mr. Brooks, on the other side of this chart over here——

Senator SYMINGTON. We are going to have a vote in about 10 minutes.

Mr. COBURN. On the other side of this chart what is shown here, Mr. Brooks?

Mr. BROOKS. There are two things: Starting at the bottom is a graphic illustration of 108 million pounds of nickel which were received from Hanna in exchange for the cash which the Government put out under the contract, and above that is a figure of $1,722,000 which represents the agreed upon residual payment which Hanna made to the Government to acquire the smelter in April of 1961.

Mr. COBURN. Well then, do I understand you that this chart purports to show on the left-hand side as I look at it what it was that the Government laid out in total for the purchase of this nickel?

Mr. BROOKS. Yes, sir.

Mr. COBURN. Is that right?

Mr. BROOKS. That is correct.

Mr. COBURN. By the way, I neglected to ask you what the total figure was. It is shown to be $99,758,000, is that right?

Mr. BROOKS. That is the sum of the individual items we discussed.

Mr. COBURN. Yes; and on the righthand side as I look at this chart this is what the Government received from the Hanna Nickel Smelting Co.?

Mr. BROOKS. Yes, sir.

Mr. COBURN. 108 million pounds of nickel, and $1,722,000 for this residual payment at the time that the——

Senator BUSH. Will you yield for a question there?

Mr. COBURN. Yes.

Senator BUSH. Did the Government not also receive back the $22 million which it loaned?

Mr. BROOKS. No, sir; no cash payment was ever made to the Government for the advance on the smelter.

Senator BUSH. How did it get back? How was the loan liquidated?

Mr. BROOKS. The loan was liquidated, sir, by a system of credits which were set up in GSA's books from time to time as quantities of nickel were delivered to the Government. The invoice price for that nickel was increased by an amount to cover the so-called amortization of the advance on the smelter construction and at the same time an equivalent deduction in the same amount was made in the books to reflect the credit against the advance.

Senator BUSH. What you are saying is that the Government was fully reimbursed for the $22 million under the terms of the contract, isn't that so?

Mr. BROOKS. The Government shows this reimbursement to have taken place on its books, but I think the point is, as shown by this chart, that no cash changed hands with regard to such a repayment.

Senator BUSH. If the loan was liquidated in the terms of the contract that is the important thing, isn't it?

Mr. BROOKS. It was; yes sir.

Senator BUSH. All right.

Mr. COBURN. Well, Mr. Brooks, perhaps—excuse me.

Senator CANNON. Would counsel yield?

Mr. COBURN. Yes, sir.

Senator CANNON. Mr. Brooks, the loan was not liquidated other than through the figures you show here; is that a fact? In other words, the Government got only from Hanna $1,722,000 in cash and 108,006,696 pounds of metal, of nickel?

Mr. BROOKS. Those were the tangible items received by the Government; yes, sir.

Senator CANNON. So that whether you call it liquidation or whatever it was, the Government paid out $71,404,000 and got back only $1,722,000 in cash and 108,006,000-plus pounds of nickel?

Mr. BROOKS. I think you have understated what the Government paid out, Senator Cannon. The total is $99,758,000.

Senator CANNON. $99,758,000?

Mr. BROOKS. Yes, sir.

Senator CANNON. And that is all that the Government got in exchange for what it paid out?

Mr. BROOKS. In tangible form; yes, sir.

Senator CANNON. When you say in tangible form, did the Government get anything else of value from the company other than what you have set forth on the chart here?

Mr. BROOKS. No, sir. This is all that the Government received.

Senator CANNON. And if you divide the 108 million pounds of nickel by the cost to the Government, it figures 91 cents a pound average, is that correct?

Mr. BROOKS. That is correct, sir.

Senator CANNON. Thank you, counsel.

Mr. COBURN. Mr. Brooks, maybe it would help if I said this.

Although this transaction by which the Government puts up $22,223,000 has from time to time been spoken of as a loan in these hearings, I think, perhaps, that is the thing that has confused everyone, as much as anything else, with reference to the true facts as to what happened.

Although this may have been called a loan, it actually was not a loan, was it?

Mr. BROOKS. In the final——

Mr. COBURN. I am talking about actualities now.

Mr. BROOKS. In the final analysis, I would say it was not a loan. It was a sum of money provided by the Government to finance the smelter construction, although the form of the transaction had the appearances of a loan; yes, sir.

Mr. COBURN. Yes; but I am talking about the actualities of the thing now.

What actually happened was that the Government put up $22,223,000 or spent $22,223,000 to build this smelter?

Mr. BROOKS. That is correct.

Mr. COBURN. And because it was not really a loan, none of that money was ever paid back in cash by the Hanna company. They were not obliged to do it, were they?

Mr. BROOKS. They were not; no, sir.

Mr. COBURN. No.

And although there has been reference made from time to time of the interest at the rate of 5 percent on this amount of money of $22 million having been paid by the Hanna company back to the Government, there never was actually any money paid in interest at all by the Hanna company to the Government, was there?

Mr. BROOKS. That is true. This was a paper transaction only.

Mr. COBURN. Yes; a paper transaction only.

So when you get down to the actualities of the case, the fact is that the Government paid the Hanna company $71,404,000 for the nickel, the metal; $22,223,000 to build the smelter; $1,251,000 for transportation costs and incidental costs relative to the thing after acquiring the nickel metal; and $4,880,000 in interest that it paid the Treasury for this money that it had put it up; is that right?

Mr. BROOKS. That is right; yes, sir.

Mr. COBURN. But now I want to say in all fairness, so we will get this thing absolutely right, this figure of $1,251,000, of course, did not get to the Hanna company, did it?

Mr. BROOKS. No; it did not.

Mr. COBURN. It went to the railroads and various people that performed services for the Government in connection with the handling of this nickel metal.

Nor did the $4,880,000 get to the Hanna company, did it?

Mr. BROOKS. No, sir.

Mr. COBURN. All right.

But, now, on the other side of this transaction, the Government got from the Hanna company 108 million pounds of nickel, did it not?

Mr. BROOKS. Yes, sir.

Mr. COBURN. And it received in cash from the Government $1,722,000 for the acquisition of the smelter?

Mr. BROOKS. Received from Hanna.

Mr. COBURN. Whom did I say?

Mr. BROOKS. The Government.

Mr. COBURN. Oh, I beg your pardon.

Received from Hanna $1,722,000 for the acquisition of the smelter?

Mr. BROOKS. That is true.

Mr. COBURN. And that is the only cash in this entire transaction that the Government received from the Hanna Nickel Smelting Co.; is it not?

Mr. BROOKS. That is true; yes.

Mr. COBURN. All right.

Now, Mr. Brooks——

Senator BUSH. Will you yield?

Mr. COBURN. Yes.

Senator BUSH. Did the Government actually resell a substantial part of this nickel to industry?

Mr. BROOKS. Yes, sir.

Senator BUSH. How much?

Mr. BROOKS. A little over 30 million pounds of the 108 million were resold by the Government.

Senator BUSH. For how much money?

Mr. BROOKS. The Government received $35,792,000.

Senator BUSH. Would that not be a fair offset against the $99 million figure?

Mr. BROOKS. In my opinion, Senator Bush, it would not because this chart purports to represent nickel purchased from Hanna and our cash outlay in connection with those purchases, and the fact that the Government subsequently decided to dispose of some part of that nickel should not have a bearing on the Government's cost of acquisition.

Senator BUSH. It seems to me what you are trying to find out is what this whole thing cost the Government, how much this nickel cost per pound.

I do not think that is a fair presentation.

Mr. COBURN. I do not mean to interrupt, Senator.

Senator BUSH. No; go ahead.

Mr. COBURN. May I say, so you will know what we have in mind here, we are going into that. We are now talking about the purchase price, and that is what we are trying to clarify here so everyone will understand it.

But we will go into this matter of the resale by the Government of a part of this nickel.

Now, then, if I may proceed, Mr. Chairman, this other chart which is on my right over here, let us explain that, Mr. Brooks, if you will.

Senator SYMINGTON. Can you pull that out a little bit so that more people can see it? Would you help there, John? Perhaps you can move it in front of the other chart. That is better.

Mr. COBURN. All right.

Now, I have got another chart here, and, by the way, this was prepared by you, too, at my request, was it?

Mr. BROOKS. It was; yes, sir.

Mr. COBURN. Now, Mr. Brooks, this chart shows on my left "What Hanna Received"—now, I am talking about the Hanna Nickel Smelting Co.—"Received From the Government."

Mr. BROOKS. Yes, sir.

Mr. COBURN. And it shows cash, $71,404,000, does it not?

Mr. BROOKS. Yes, sir.

Mr. COBURN. And then it shows the smelter that the Hanna Nickel Smelting Co. received from the Government, which cost the Government $22,223,000.

Mr. BROOKS. Correct.

Mr. COBURN. Plus $4,880,000 in interest?

Mr. BROOKS. Yes, sir.

Mr. COBURN. This chart really is simply a sort of recapitulation of the first chart we looked at, is that right?

Mr. BROOKS. Yes, sir. It takes those elements from the first chart.

Mr. COBURN. And, of course, on the other side, again, what the Government received from Hanna, which consisted of $1,722,000, is that right?

Mr. BROOKS. That is right.

Mr. COBURN. And 108 million pounds of nickel?

Mr. BROOKS. Yes, sir; that is correct.

Mr. COBURN. Now, Mr. Brooks, there is one thing I neglected to ask you about this first chart, which I went into in some detail, more detail as to the actual cash outlay by the Government and what the Government received from the Hanna Nickel Smelting Co.

There is at the bottom of the chart a figure which says that the average cost, purchase price, now, of this nickel, as 91 cents a pound; is that right?

Mr. BROOKS. That is right; yes, sir.

Mr. COBURN. And that computation is correct, is it?

Mr. BROOKS. I believe it to be, yes, sir.

Mr. COBURN. In making that computation, did you give the Hanna company credit for this $1,722,000 in cash the Government received from the Hanna Nickel Smelting Co. in connection with acquiring the smelter?

Mr. BROOKS. Yes, sir. That has been deducted in arriving at the average cost.

Mr. COBURN. In other words, it was deducted, although it does not appear on this chart here, from the $22,223,000 the Government laid out in order to build the smelter?

Mr. BROOKS. That is true, yes.

Mr. COBURN. Now, of course, these charts we have been talking about here have nothing whatsoever to do with the contract between the Government and the Hanna Mining Co.?

Mr. BROOKS. That is correct. They have nothing to do with it.

Mr. COBURN. That was the contract where the Hanna Mining Co. sold ore, just raw ore, to the U.S. Government at a price of 20 cents a pound or $6 a ton?

Mr. BROOKS. Yes, sir.

Mr. COBURN. Now, Mr. Brooks, Senator Bush asked here a moment ago about whether any of the nickel purchased by the Government from the Hanna Nickel Smelting Co. has been disposed of, and I would like to ask you some questions with reference to that.

In the first place, can you tell us when it was that occurred?

Mr. BROOKS. Yes, sir. These sales took place beginning in 1955 and ending in 1957.

Mr. COBURN. What was the condition with reference to the nickel market that gave rise to those sales?

Mr. BROOKS. During this period there was a rather extreme shortage of nickel supplies in the market, and under direction from the Office of Defense Mobilization, GSA made arrangements to put on the market nickel that it was acquiring from various defense production contracts, among which was the Hanna contract.

Mr. COBURN. So there was a shortage, then, in nickel in the United States at that time?

Mr. BROOKS. Yes, sir.

Mr. COBURN. That gave rise to what is sometimes referred to as a gray market, is that right?

Mr. BROOKS. That is true.

Mr. COBURN. What do you mean by that condition?

Mr. BROOKS. Nickel was selling during this period of shortage at prices very much higher than the official prices at which nickel was quoted in the trade publications.

Mr. COBURN. In other words, as I understand it, the trade publications were publishing the official market price as being very much lower than the price that could be obtained?

Mr. BROOKS. That is true.

Mr. COBURN. By selling nickel directly to users, industrial users, is that right?

Mr. BROOKS. That is right; yes, sir.

Mr. COBURN. And that is what the Government did during this period?

Mr. BROOKS. Yes, sir.

Mr. COBURN. Now, the Government was able to do this because the nickel purchased from the Hanna Nickel Smelting Co. was nickel acquired under the Defense Production Act, is that not correct?

Mr. BROOKS. That is correct; yes, sir.

Mr. COBURN. So the Government was able to buy the nickel and turn around and resell it without coming to Congress for permission, as is the case under the Stock Pile Act?

Mr. BROOKS. It was; yes, sir.

Mr. COBURN. And during the period of time we have been talking about, how many million pounds of nickel were sold by the Hanna Nickel Smelting Co. to industry, or, rather, by the Government to industry? I am talking about nickel, now, that was acquired from Hanna.

Mr. BROOKS. 30,330,000 pounds, in round numbers.

Mr. COBURN. So the actual inventory of Government nickel received from the Hanna Nickel Smelting Co. was reduced from 108 to 77 million, was it not, by these sales?

Mr. BROOKS. Yes, sir.

Mr. COBURN. And what was the sale, the total sales price for the nickel sold?

Mr. BROOKS. The Government received $35,791,000 which resulted in an average price of $1.18 per pound.

Mr. COBURN. What was the profit realized by the U.S. Government on these particular sales relative to the amount that had been paid by the Government to Hanna for the nickel?

Mr. BROOKS. Our profit as recorded in connection with these sales was $4,153,000.

Mr. COBURN. Now, what stopped these sales?

Mr. BROOKS. The supply situation in nickel improved to the point where the gray market disappeared, and, as a result, we were no longer able to obtain prices as high as those at which we had formerly sold the Hanna nickel, and our authorizations from ODM were limited to sales at not less than the Government's cost, so this effectively stopped any further sales of Hanna nickel.

Mr. COBURN. And the gray market situation has not returned since that time, has it?

Mr. BROOKS. No, sir, it has not.

Mr. COBURN. As a matter of fact, the situation during these sales contrasted quite markedly from, we will say, the current situation with reference to the demand for nickel?

Mr. BROOKS. Very much so; yes, sir.

Mr. COBURN. At the present time the steel companies, being the chief users of nickel, are not buying nearly as much nickel as they have in years past, because their consumption is down?

Mr. BROOKS. This is our understanding; yes, sir.

Mr. COBURN. Now, something has been said with reference to a statement filed by Mr. Humphrey, I believe, when he testified in connection with this matter, that the price paid by the Government here for this nickel acquired from the Hanna Nickel Smelting Co. was less than the actual present market price, is that correct, Mr. Brooks?

Mr. BROOKS. I could not agree with that statement, no, sir.

Mr. COBURN. And why not?

Mr. BROOKS. The computation which I have seen emanating from the Hanna company on this matter has made certain deductions which I would not consider valid deductions for the purpose of computing the Government's purchase price of nickel.

They have, for example, deducted the $1.7 million residual payment received at the time the smelter was acquired by Hanna.

They have deducted interest credited on advances of $4.8 million and also $34.5 million in sales proceeds received by the Government.

They also have included a further deduction of $10 million for the remaining 17 million pounds of nickel yet to be acquired under the contract.

Mr. COBURN. And, of course, what that nickel will cost and what it will be worth to the U.S. Government in the stockpile is althogether uncertain and undetermined as yet?

Mr. BROOKS. These are problematical factors.

Mr. COBURN. Yes.

Mr. BROOKS. Yes, sir.

Mr. COBURN. All right.

Now, then, with reference to the price the Government paid the Hanna company for the purchase of this nickel, how does that compare with the price the Government could have purchased the same amount of nickel at the same time from other sources?

Mr. BROOKS. I have made an estimate of such a comparison, which indicates to me, based upon market prices current at the time we took delivery of the 108 million pounds from Hanna, that the premium factor included in the total paid to Hanna is about $24 million.

Mr. COBURN. Do I understand you to say, then, that, according to your computations, the price the U.S. Government paid to the Hanna Nickel Smelting Co. at the time these various purchases were made, total price, exceeded the price that the Government could have bought the like amount of nickel for, at the same time, by about $24 million?

Mr. BROOKS. Assuming a like amount of nickel would have been available at the then current market prices, yes, sir.

Mr. COBURN. That, of course, is due largely, is it not, to the fact that the Government put up the money to build this smelter?

Mr. BROOKS. Yes. We obtained this quantity of nickel through our investment in the smelter.

Senator CANNON. Will counsel yield?

Mr. COBURN. Yes, certainly.

Senator CANNON. What was the then current market price per pound?

Mr. BROOKS. Prices for nickel varied during the period of the Hanna contract. Referring to prices for cathode nickel, from which ferronickel prices are determined, at the time the contract was executed the price of nickel had within a few days risen to 60 cents a pound and stayed at this point until November 24, 1954, when it rose to 64.5 cents; December 6, 1956, it rose to 74 cents; July 1, 1961, it rose again to 81.25 cents per pound; and at present has receded to 79 cents a pound.

Of course, prices for ferronickel are discounted from the cathode price.

Senator CANNON. Is this the same type of nickel that you are comparing to the 91-cent average price per pound on this chart?

Mr. BROOKS. These prices I have given you are not based on the same type of nickel, but I have included a factor to equate the two in my estimate of premium cost.

Senator CANNON. So that when you say the highest price, the highest market price reached 81 cents during that period of time, that was compared to the 91 cents here that the Government paid to Hanna?

Mr. BROOKS. Approximately, yes sir, with discounts for ferronickel considered.

Senator CANNON. And the 81 cents was the highest price factor that developed during the entire period of purchase?

Mr. BROOKS. Yes, sir.

Senator CANNON. Thank you, Mr. Counsel.

Mr. COBURN. I have no more questions of this witness, Mr. Chairman.

Senator SYMINGTON. Senator Thurmond?

Senator THURMOND. You had occasion to study this contract and you have gone into all the ramifications of it, the details of it?

Mr. BROOKS. I have studied a good part of it; yes, sir.

Senator THURMOND. Now, in view of your testimony, in view of your study of the contract, would you give us in as few words as you can your overall summary of the evaluation of this contract?

Mr. BROOKS. Well, in summary, I would say——

Senator THURMOND. Was it to the advantage of the Government or was it not? Were there any improper influences used or any improper actions taken?

Just tell us your true evaluation as you found it.

Mr. BROOKS. I have no knowledge of any improper action or any irregularities taken in connection with this contract.

The only question which may be raised, so far as I know, would lie in the area of the price paid by the Government for the nickel which it received and whether or not this was a fair price.

Senator THURMOND. From your study of the contract and your evaluation of it, the information obtained concerning it, in your opinion, did the Government pay an excessive price for this nickel?

Mr. BROOKS. I think the price——

Senator THURMOND. And, if it did, to what do you attribute that excessive price—poor judgment in entering into that kind of contract or some other reason?

I am not trying to lead you to say that it was a poor contract. I am just trying to indicate to you what I have in mind.

Mr. BROOKS. In my opinion, the price paid was somewhat excessive, and I think the reasons for this stem from the fact that, at the time the contract was made, there was thought to be a very extreme shortage of nickel and the Government had to encourage all efforts possible to place new producers of nickel into business for the purpose of enlarging the available supply.

Senator THURMOND. If you had been in the position of the representatives of the Government who entered into this contract, would you have entered into this type contract?

Mr. BROOKS. If it were my own personal decision; no, sir.

Senator THURMOND. I mean if you had been in the same position they were in, with the same facts confronting them, would you not have entered into this contract, and tell us the reasons why you would or would not have done so?

Mr. BROOKS. I would not have entered into this contract if it were my personal decision because I considered at the time, and I do now, that the price exacted under the terms of the contract was more than a fair one.

Senator THURMOND. Do you feel that they, by the exercise of due care, reasonable care, should have realized that at the time they entered into the contract, or do you feel that they could have realized that and they should have realized that?

Mr. BROOKS. Well, I think it is evident these factors were undoubtedly considered at the time, but, as a matter of judgment, the decision was made that the nickel situation was overriding, and consequently, warranted the payment of the price called for under this contract.

Senator THURMOND. Have you obtained any information that shows any improper action on the part of any Government representative in connection with this contract?

Mr. BROOKS. I have not; no, sir.

Senator THURMOND. Have you obtained any information that shows any improper action on the part of those who obtained the contract, Mr. Humphrey or anyone else who was connected with it, in any way that was improper?

Mr. BROOKS. I have no such knowledge, sir.

Senator THURMOND. Your thinking is that they could have gotten a better contract, as I understand it?

Mr. BROOKS. In my opinion, a more favorable contract to the Government could possibly have been worked out eventually with greater effort.

Senator THURMOND. I believe Mr. Humphrey testified here, if I recollect correctly, that he was not too anxious about the contract anyway.

Now, whether he was or not does not enter into the matter here.

Are there any indications that there was eagerness on the part of the company officials to obtain this contract?

Mr. BROOKS. As I recall——

Senator THURMOND. Or was there more eagerness on the part of the Government representatives to obtain this contract?

Mr. BROOKS. As I recall, the attitude of the company officials at the time was quite the contrary. They did not appear eager at all to obtain the contract.

Senator THURMOND. From the information obtained, did it appear that the Government representatives were anxious to obtain this contract?

I believe it was brought out that they negotiated for about a year or longer?

Mr. BROOKS. Yes, sir; that is true.

Senator THURMOND. And you still think they should have held out longer, is that what you mean, or do you think they should have made other contacts, or just what do you think they should have done?

Mr. BROOKS. What I meant by my remark simply was that if greater effort had been exerted in negotiations over a longer period of time by the Government officials, I think there is a good possibility that more favorable terms could have finally been agreed upon.

Senator THURMOND. I believe the evidence shows they did exert efforts for about a year or longer, and, still, they possibly did not get just what they wanted, but they finally entered into the contract because, as they said, I believe, there was urgent need for the nickel.

And your feeling is that an error was made on the part of the Government representatives in not taking a longer time to negotiate; is that the point?

Mr. BROOKS. I think it would have helped matters; yes, sir.

Senator THURMOND. If they had taken longer than a year?

Mr. BROOKS. I believe it would.

Senator THURMOND. Or whatever period was used. I have forgotten the exact period.

Now, were there any other steps they could have taken that you know of from the investigation you have made, other than taking longer to negotiate? Did they have some leverage if they had taken a longer time by which they could have brought the Hanna company into line better and obtained a better contract?

Mr. BROOKS. Well, I do not know what force of leverage could have been exerted.

Senator THURMOND. If, as you say, it is true they were not anxious to obtain it, on what basis do you feel that by negotiating for longer than the 9 months or a year, or whatever the period was, that they could have brought them around to better terms?

Mr. BROOKS. This is simply my personal opinion, Senator.

Senator THURMOND. That is exactly what I want, your personal opinion from your study of this contract and the research you have made.

Mr. BROOKS. That is my opinion.

Senator THURMOND. You are an unbiased person speaking here. In other words, you have no interest anyway, do you?

Mr. BROOKS. I have no interest in the company, if that is what you mean, no, sir.

Senator THURMOND. That is what I say. You have no interest either way on either side, have you?

Mr. BROOKS. I am an employee of the Government. I have the Government's interest——

Senator THURMOND. You are purely an objective witness, just trying to give us the benefits of your opinions?

Mr. BROOKS. I try to be, yes, sir.

Senator THURMOND. And the facts that you obtained?

Mr. BROOKS. I try to be.

Senator THURMOND. All we want is the truth of this matter.

We want to know if any influences were exerted that were improper on the part of anybody to get this contract. If none were exerted, if the Hanna company was indifferent about it, if the Government representatives went on and procured this contract that turned out to be what you feel is not the best contract they could have gotten, then what prompted that? Was it poor judgment or some other reason?

Mr. BROOKS. As I said before, I think the overriding reason was the continuing shortage of nickel, which was evidently regarded to be a very critical situation, and very prompt action had to be taken to obtain additional nickel supplies.

Senator THURMOND. Was there any other place in this country where the Government could have obtained that nickel?

Mr. BROOKS. Not to my knowledge; no, sir.

Senator THURMOND. This is the only place where they could have obtained it?

Mr. BROOKS. Yes, sir.

Senator THURMOND. Could they have obtained it outside of this country?

Mr. BROOKS. Steps were taken contemporaneously with this contract to encourage additional expansion of nickel production outside this country, so that there were evidently other sources available.

Senator THURMOND. In other words, if they had taken a little more time, they might have been able to have negotiated with parties outside of this country to have obtained this nickel without entering into this contract?

Mr. BROOKS. Well, that is a possibility. Negotiations were undertaken with companies outside the country which called for rather substantial additional supplies of nickel. I suppose it is possible that the degree of expansion might have been raised to higher levels than it was in those areas.

Senator THURMOND. Now, if that had been done, would that have delayed the procurement of nickel beyond the period when the Government said it had to have it?

Mr. BROOKS. I suppose it probably would under the circumstances at the time. The shortage was regarded as very critical, and the

important thing was to get immediate nickel supplies as quickly as possible, so that any delay in obtaining additional supplies would have been considered as a serious matter.

Senator THURMOND. Any delay—what did you say?

Mr. BROOKS. In obtaining nickel supplies.

Senator THURMOND. Would what?

Mr. BROOKS. Would have been considered as a serious matter.

Senator THURMOND. If any delay would have been considered as a serious matter, then how do you reconcile that with your statement that they should have negotiated longer?

Mr. BROOKS. As I said, it is only my own personal opinion that further negotiations might have resulted in more favorable terms.

Senator THURMOND. Even though the appropriate Government agencies concerned felt there was an urgency and they had to have it sooner than it could have been obtained if these negotiations had been continued?

Mr. BROOKS. It would have, no doubt, delayed, to some extent, obtaining the supplies of nickel which were wanted.

Senator THURMOND. Now, in giving us the opinion which you gave us a few minutes ago, that your feeling was the negotiations should have gone on longer and they might have gotten a better contract, in giving us that opinion, did you take into consideration the urgency of the Government agents, as expressed by them, as to the immediate need for nickel?

Mr. BROOKS. I am certainly aware of it; yes, sir.

Senator THURMOND. What I mean, did you take that into consideration when you gave us your opinion a few moments ago that the negotiations should have gone on longer?

Mr. BROOKS. Yes, sir, I did take that into consideration.

Senator THURMOND. And even though they claimed there was an immediate need for nickel, it is your feeling that the negotiations should have gone on longer?

Mr. BROOKS. I believe a delay which might have occurred through prolonging these negotiations might not have unduly delayed obtaining the additional supplies of nickel.

Senator THURMOND. Now, if this was the only source for nickel in the United States, what leverage or on what basis do you think they would have been able to obtain a better contract?

Mr. BROOKS. I think that if the position of the Government had been expressed more strongly in opposition to various factors under negotiation in the contract, this may have resulted in some further advantage being gained from the company representatives. To what extent, of course, is very problematical.

Senator THURMOND. Rather than extending the negotiations, if the Hanna company was not too interested in entering into the contract, as they claimed they were not, what do you think would have prompted them to agree to a better contract if they had extended it further?

Mr. BROOKS. I do not think the Hanna company was as completely reluctant or unwilling to enter into this nickel production operation as they may have appeared.

It obviously had certain material advantages to Hanna which were quite attractive, and I believe that the force of those attractions would have continued to influence their interest in the negotiations.

Senator THURMOND. In other words, you think Hanna wanted the contract?

Mr. BROOKS. I believe they actually did, although, as I said, their attitude appeared to be to the contrary.

Senator THURMOND. Did you have occasion to go into some of their other business negotiations? Did they make a larger percentage on this contract than their general contracts?

Mr. BROOKS. I have not gone into that.

Senator THURMOND. How is that?

Mr. BROOKS. I have not gone into that matter, Senator.

Senator THURMOND. You have not compared what they made on this with other contracts?

Mr. BROOKS. No, sir.

Senator THURMOND. What percentage did you determine they made upon the investment here?

Mr. BROOKS. At the time the contract was made we had no positive ideas of what the percentage of profit would be because we were not granted access to mining costs.

We had estimates furnished to us which indicated that the rate of profit on the mining operation would be very substantial.

Senator THURMOND. Well, "substantial." I was trying to find from you your opinion as to the percentage of investment, if you made a determination on that point.

Mr. BROOKS. As I recall, the estimates furnished indicated that the anticipated rate of profit on the mining operation would be in the magnitude of 90 percent of costs.

We regarded this as a very high figure and made extensive efforts to obtain a reduction without success.

Senator THURMOND. Do you feel the Government agents made every effort they should have before they executed this contract to get the best contract they could get, or that they just should have extended the negotiations longer? Is that your thinking?

Or do you think they should have exerted stronger efforts or pursued other means prior to the time they did enter into the contract to obtain a better contract?

Mr. BROOKS. I think the efforts which were exerted were certainly very sincere and very strong on the part of Government officials, and I believe the terms obtained were unquestionably the best which could have been obtained under the circumstances and during this period of negotiations.

I know of no other factors which were not considered at the time or forces which would have been exerted during that period to improve matters.

Senator THURMOND. From your study of the record—and I presume you have been through the correspondence prior to the contract being entered into, have you not?

Mr. BROOKS. Not recently, no, sir.

Senator THURMOND. Did you go through the correspondence that took place prior to the execution of the contract?

Mr. BROOKS. I have in years past, yes, sir.

Senator THURMOND. In years past or whenever you did it, did you run across anything that aroused your suspicions in any way that there might be something going on that was not on the level and would not protect the Government's interests?

Mr. BROOKS. No, sir, not at all.

Senator THURMOND. You did not find anything in the correspondence or any memorandums, any notes of any kind, that would cause you to believe there was anything occurring that was not in the best interests of the Government?

Mr. BROOKS. No, sir, nothing in the nature of any impropriety or irregularity.

Senator THURMOND. As I understand it, then, the essence of your testimony is that the records show nothing that revealed any actions on the part of the Government officials or the Hanna company that were improper, but, in your judgment, if they had held out a little longer, the Hanna company did want the contract in spite of the fact there were differences about it, and the Government might have gotten a better contract.

Is that, in essence, what you are telling me, sir?

Mr. BROOKS. I would agree with that statement, yes, sir.

Senator THURMOND. Thank you, Mr. Chairman.

Senator SYMINGTON. Thank you, Senator.

Mr. Brooks, I have before me here a report to the Congress of the United States forwarded to the General Services Administration, contract DMP–49, 50, and 51, with the Hanna Mining Co., Hanna Nickel Smelting Co., and the M. A. Hanna Co., by the Comptroller General of the United States, dated April 26, 1961.

In the letter to Speaker Rayburn, the Comptroller General, Mr. Joseph Campbell, sums up his thoughts and those of the people in his organization with respect to this contract.

First he says:

The terms of the contracts resulted in limited financial risks on the part of the Hanna companies.

Would you agree to that?

Mr. BROOKS. Yes, sir, I would.

Senator SYMINGTON. Later in the body of the letter he uses the words, "there was virtually no risk."

Would you agree to that?

Mr. BROOKS. I would, yes, sir.

Senator SYMINGTON. The second point he makes is:

The sale of ore to the Government at fixed prices without provision for price redetermination does not appear to be appropriate for these contracts.

Would you agree to that?

Mr. BROOKS. Yes, sir, I would.

Senator SYMINGTON. Third, he says:

The terms of one of the contracts permit Hanna to acquire clear title to a smelter constructed with Government funds of over $22 million by paying the Government the estimated salvage value of the facilities (about $1,700,000). There now are indications that the smelter may have a commercial value after the contract is completed

Is that as you understand it?

Mr. BROOKS. That is my understanding, Senator, yes, sir.

Senator SYMINGTON. He then continues:

and we suggest that the Administrator of General Services enter into negotiations with Hanna to attempt to provide for additional payments to the Government if commercial operations are continued at the termination of the smelting contract.

Do you know if there has been any effort along those lines?

Mr. BROOKS. I think efforts were made along those lines without success, yes, sir.

Senator SYMINGTON. Mr. Counsel, can we have the details of that before the close of the hearings, of any efforts made along those lines?

Mr. COBURN. Yes.

Senator SYMINGTON. Now, the letter from the Comptroller says:

In addition, the contract with the Hanna Mining Co., under which most of Hanna's profits on the entire project are earned and which contains a negotiated fixed price, does not contain an adequate examination of records clause.

Is that correct, to the best of your knowledge?

Mr. BROOKS. It is, yes, sir.

Senator SYMINGTON. It continues:

Therefore, we were unable to review the contractor's records in order to evaluate the cost and profit factors making up the fixed price.

Is that correct?

Mr. BROOKS. It is, yes, sir.

Senator SYMINGTON. It continues:

There is no legal requirement that contracts negotiated under the authority of the Defense Production Act of 1950, as amended, contain a clause permitting the Comptroller General to have access to pertinent records of the contractor. Accordingly, the Congress may wish to consider amending the Defense Production Act of 1950 to provide that contracts negotiated pursuant to that act contain an examination of records clause.

Based on your long experience in the Government, would you agree that the Congress should consider that all these contracts should have in them the right of audit to see what the profits were?

Mr. BROOKS. I do, yes, sir.

Senator SYMINGTON. If the committee agrees, I would like this letter that I have read from, in part, to be included at this point in the record, a letter from the Comptroller General of the United States to the Honorable Sam Rayburn, Speaker of the House of Representatives, April 26, 1961.

(The letter referred to follows:)

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, April 26, 1961.

B–133357.

Hon. SAM RAYBURN,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: Herewith is our report on the audit of General Services Administration (GSA) contracts DMP–49, 50, and 51 with the Hanna Mining Co., Hanna Nickel Smelting Co., and the M. A. Hanna Co., respectively, of Cleveland, Ohio. The Hanna contracts were executed in 1953 under the Defense Production Act of 1950 (50 U.S.C. App. 2061) to expand the productive capacity and supply of nickel because of the then prevailing shortage.

Our review indicated that the terms of the contracts were consistent with the applicable legislation and that the purpose of the contracts has been fulfilled. Hanna succeeded in expanding the productive capacity and supply for nickel by (1) developing the only significant domestic source of nickel, (2) producing substantial quantities of nickel during a period when there was a shortage of that metal, and (3) distributing nickel to industrial consumers. On the other hand, the contracts presented Hanna the opportunity to (1) utilize nickel deposits which it has controlled since 1943 and on which it had spent over $440,000 prior to the GSA contracts, (2) recover these prior costs through contract operations, (3) develop and prove a process for the production of ferronickel at no cost to itself, (4) acquire facilities established solely for the production of ferronickel under the contract at a nominal cost to itself, (5) develop a commercial market

for its product, and (6) become the only significant producer of nickel in the United States using domestic ores.

Several matters of interest in connection with the negotiation and administration of these contracts are discussed in this report. They are:

1. The terms of the contracts resulted in limited financial risks on the part of the Hanna companies.

2. The sale of ore to the Government at fixed prices without provision for price redetermination does not appear to be appropriate for these contracts.

3. The terms of one of the contracts permit Hanna to acquire clear title to a smelter constructed with Government funds of over $22 million by paying the Government the estimated salvage value of the facilities (about $1,700,000). There now are indications that the smelter may have a commercial value after the contract is completed, and we suggest that the Administrator of General Services enter into negotiations with Hanna to attempt to provide for additional payments to the Government if commercial operations are continued at the termination of the smelting contract. GSA has informed us that Hanna has given no indication of any willingness to make a payment beyond its contract obligation. Hanna takes the position that any additional value would be its compensation for operating the smelter at no profit.

4. We believe that GSA's practice of not selling ferronickel at prices based on the market price of nickel, because such prices would be less than it pays for the material, has contributed to the cessation of sales of ferronickel to industry. We are recommending that the Administrator of General Services confer with the Office of Civil and Defense Mobilization (OCDM) regarding the changed nickel supply conditions which might make it advisable for GSA to dispose of the ferronickel inventory. GSA has informed us that it is in the Government's interest not to sell ferronickel from Government inventories since such action might interfere with a possible takeover of the plant by Hanna. OCDM has apprised us that it has offered other types of nickel for sale but not all the nickel offered has been sold and that there is no reason to believe that industry would have shown any preference for ferronickel.

In addition, the contract with the Hanna Mining Co., under which most of Hanna's profits on the entire project are earned and which contains a negotiated fixed price, does not contain an adequate examination of records clause. Therefore, we were unable to review the contractor's records in order to evaluate the cost and profit factors making up the fixed price. There is no legal requirements that contracts negotiated under the authority of the Defense Production Act of 1950, as amended, contain a clause permitting the Comptroller General to have access to pertinent records of the contractor. Accordingly, the Congress may wish to consider amending the Defense Production Act of 1950 to provide that contracts negotiated pursuant to that act contain an examination of records clause.

This report is also being sent today to the President of the Senate. Copies are being sent to the President of the United States; the Administrator of General Services; and the Director, Office of Civil and Defense Mobilization.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

Senator SYMINGTON. Senator Bush?

Senator BUSH. Mr. Chairman, I want to refer again to the hearings of August 13, 14, 15, and 16 of this committee, and on page 1937 I want to remind the committee and the witness of a memorandum which appeared there, an office memorandum to John G. Ford, Director of Contract Negotiations Division.

The date of that memorandum is July 9, 1952.

It is written by Tom Lyon, Director, Domestic Expansion Division.

Subject: DMPA—2507—Report of essentiality on the development of the Riddle, Oreg., nickel deposit by the Hanna Coal & Ore Corp., purchase agreement and advance on purchase.

Attached is a formal proposal by the Hanna Coal—

this is July 9, 1952, and this is apropos, I might say, of the length of time that was given to the working out of this contract.

Attached is a formal proposal by the Hanna Coal & Ore Corp., for developing the subject nickel deposit in Oregon, together with report of essentiality which is in the form of a memorandum from Mr. M. B. Gentry, consultant to the Iron and Nickel Ores Branch.

While the proposal appears complicated, they are the only conditions under which a nickel industry can be established. The costs of construction and the costs of operation of a plant of this magnitude are practically impossible to forecast, as there is no experience with plants of this nature.

Let me say, parenthetically, this reminds me of the fact that the Hanna people insisted that a pilot plant should first be tried out for this process, and that the Government insisted on waiving that provision because of the emergency which existed at that time.

The 2-percent sales commission mentioned on page 5 of their proposal is out of line with other sales commissions on other commodities. The company, however, is willing to adjust this commission to whatever commission is considered reasonable and now established in other industries.

This is the first attempt at domestic production of nickel which is now and will be in short supply in the future. Every effort should be made to formulate a contract under the conditions of the proposal, or a contract should be formulated similar in nature that will be acceptable to the Hanna Coal & Ore Corp.

Signed "Tom Lyon" and signed "Howard I. Young, Deputy Administrator."

There is a postscript on this memorandum, handwritten. It says: "Dear Jess: Please push this all possible."

In other words, Mr. Young, who was Deputy Administrator at that time, asked Jess Larson, the Administrator, to "push this all possible."

Now, 10 years later, in hearings before the Banking Committee July 5 and 6, 1962, the present head of the OEP, Mr. McDermott, made this statement before the Banking Committee of the Senate.

This is on page 29 of the hearings of June 5 and 6 of the Senate Banking Committee.

On the other hand, programs for the encouragement of exploration and development for the conduct of research in the development of synthetics and substitute materials or subsidizing the domestic production of materials from high-cost sources and for the installation of equipment, facilities, and processes to improve industrial capacity under section 303 of the law were not expected to earn their own way.

This is written 10 years later, by this man McDermott.

They have not done so, although substantial national assets have resulted, such as the increased productive capacity of the economy and a substantial inventory of materials.

Mr. Witness, I do not see how you can say, in view of this memorandum, written July 9, more than 6 months—or 6 months before this contract was finally signed—that more time should have been given to it, in view of the pressing nature of the situation as described by Mr. Howard Young, the Deputy Administrator at that time, and his comment to Mr. Jess Larson.

I think it very significant, Mr. Chairman, that 10 years later the present head of this organization apparently sees the picture much as it was seen at that time, 10 years previously, and the emergency, the exigencies of the situation, certainly had a great deal to do with the execution of that contract.

So I think, apropos of Senator Thurmond's questioning, these two points of view 10 years apart should be kept in mind by anyone judging the propriety of this contract on the part of those who made it

for the Government, which, incidentally, they have not yet testified before this committee, but I hope and expect that they will very shortly.

I think, in forming any judgments about this contract, that one must keep in mind the fact that we were at war in Korea at that time, and the Government was very anxious to develop a nickel deposit in this country to help take care of a very critical situation, one which you, yourself, have said was a critical situation.

Therefore, I do not think, Mr. Chairman, that the witness's protestations that more time should be taken with this contract are at all appropriate, and have really no valid basis in judging the importance or validity or the propriety of this contract.

I have no further questions at this time.

Senator SYMINGTON. Would the Senator like to put into the record the memorandum in its entirety at this point?

Senator BUSH. I think I read every word of it, but it is already in the record and reference has been made. I do not think I need to put in the record the other reference unless the chairman wishes.

Senator SYMINGTON. No; the Senator is right. It is already in the record.

Senator BUSH. I have read from the Banking Committee record what I think is appropriate here, but there is the record for anyone who wants to see it.

Senator SYMINGTON. Senator Cannon?

Senator CANNON. Thank you, Mr. Chairman.

Mr. Brooks, who was the Director of the Financial Analysis for DMPA and OCDM at the time these contracts were negotiated?

Mr. BROOKS. That was Mr. Johnston Russell, sir.

Senator CANNON. And are you familiar with Mr. Russell's memorandums criticizing the nature of this contract, proposed contract, with Hanna?

Mr. BROOKS. I believe I am, yes, sir.

Senator CANNON. Was any consideration given, if you know, to his criticism of the proposed contract before the final entry into the contract?

Mr. BROOKS. Well, certainly, the officials carrying on the negotiations were well aware of his criticisms, and, I am sure, must have considered them.

Senator CANNON. What specifically did his criticisms relate to, do you recall?

Mr. BROOKS. As I recall, I think they related to a number of factors such as the price of the ore, questioning the reasonableness of the price. He questioned, as I remember, the segregation of the operation into a mining corporation and a smelting corporation.

I believe he also questioned the reasonableness of liquidated damage provisions which were eventually made a part of the contract, and probably a number of other points that I do not recall offhand.

Senator CANNON. Did Mr. Russell, as a part of his criticism, estimate the probable loss for the contract alone would exceed $60 million to the Government?

Mr. BROOKS. I believe he did, yes, sir.

Senator CANNON. Now, in your statement you indicated that you thought the contract was not a good one, and that the price of the nickel was excessive; that you would not have entered into the contract because the price exacted was more than fair.

I believe you have already stated that you feel, if additional time had been taken a better contract could have been negotiated?

Mr. BROOKS. That is my opinion, yes, sir.

Senator CANNON. Now, did you base that, in part, on the fact that all of these contracts which had undergone negotiations for a considerable period of time finally just happened to all get signed on the same day? Was that a part of your consideration?

Mr. BROOKS. No, sir, it was not.

Senator CANNON. Well, would that be a valid consideration?

Would that make you wonder why the contracts were signed when these negotiations had been going on for how long a period?

Mr. BROOKS. Oh, at least 6 or 7 months.

Senator CANNON. Well, it had been going on longer than that, had it not?

Mr. BROOKS. I have forgotten the date when the first proposal was made, but sometime during the year of 1952.

Senator CANNON. It was before July 1 of 1952, was it not?

Mr. BROOKS. It probably was, yes.

Senator CANNON. And the contracts, I believe, were all signed for all of these various companies on January 16, 1953?

Mr. BROOKS. Yes.

Senator CANNON. Would that fact alone raise any question in your mind as to why the contracts were all signed at that particular time?

Mr. BROOKS. There is no doubt that the negotiations were brought at that point to a very abrupt termination. All the parties conducting the negotiations for the Government were not fully satisfied with the terms which had been negotiated up to that point and were looking for an eventual opportunity to carry on further negotiations.

However, these negotiations at that point were abruptly terminated and the contracts were signed.

Senator CANNON. Were you present in the other hearings? Did you listen in on all the hearings, Mr. Brooks?

Mr. BROOKS. I think I did, yes, sir.

Senator CANNON. And you are aware of the fact that the record discloses that these contracts were all signed on a Friday, January 16, 1953, are you?

Mr. BROOKS. Yes, sir.

Senator CANNON. And you are also aware of the fact that the record discloses that Mr. Humphrey appeared before the Senate committee on the 19th, which was the following Monday?

Mr. BROOKS. Yes, sir.

Senator CANNON. And that he testified before the committee that if the contracts had not been signed prior to his being sworn in, which was on Tuesday, January 20, that he would not have let them be entered into; is that right?

Mr. BROOKS. I heard him say that, yes, sir.

Senator CANNON. Does that indicate to you that there may have been an extreme pressure from some source to get these contracts all signed on the particular day they were signed?

Mr. BROOKS. It would lead to that inference, yes, sir.

Senator CANNON. Now, when you said that you had no knowledge of any improper action in connection with the negotiation of these

contracts, were you referring to any legally improper action in your statement there? In other words, any violation of law so far as you know?

Mr. BROOKS. Either of law or ethics, either one.

Senator CANNON. Now, let me ask you if you think that the fact that this contract contained no provision for an audit, was a rather unusual condition?

Mr. BROOKS. It was unusual, yes, sir.

Senator CANNON. And it was a provision that was carried in other Government contracts, was it not?

Mr. BROOKS. Most contracts made at this time did carry such a provision, that is true.

Senator CANNON. Then would that not raise a question in your mind as to whether or not the action of entering into the contract was improper?

Mr. BROOKS. Well, we certainly opposed the exclusion of that provision. However, I would hesitate to characterize it as improper.

Senator CANNON. All right.

Now, the contract, I think you said, had no provision for redetermination or renegotiation; is that correct?

Mr. BROOKS. That is correct.

Senator CANNON. And was that not an unusual omission, compared to other contracts entered into at that time?

Mr. BROOKS. Yes, I think it would have been contrary to our normal principles.

Senator CANNON. Would that not raise a question in your mind as to whether or not there was any improper action in connection with entering into such a contract, for the failure to take into consideration the interests of the Government in that respect?

Senator SYMINGTON. After you answer this question, that is a live quorum before a vote. The Senator will have the floor when we return.

Mr. BROOKS. Again, I think this is a matter of negotiation between the parties, not a question of anyone's acting in any improper way, to my knowledge, sir.

Senator SYMINGTON. Mr. Brooks, if you will hold yourself available, we will be back as soon as possible.

(Whereupon, a short recess was taken, after which the hearing was continued.)

Senator SYMINGTON. The hearing will come to order.

I am told by our majority leader there will not be another vote for probably 2 hours.

Senator Cannon, I believe you were in the process of interrogating the witness. Will you continue?

Senator CANNON. Thank you, Mr. Chairman.

Mr. Brooks, I believe in your testimony you indicated that an improper cost estimate was furnished in the negotiations.

Do I recall your testimony correctly in that regard?

Mr. BROOKS. I do not believe you do, Senator. That is probably testimony of one of the other witnesses.

Senator CANNON. I see.

Are you familiar with the cost estimates that were furnished to the Government?

Mr. BROOKS. Generally, yes.

Senator CANNON. And are you also familiar with the fact that the cost estimates are not reconcilable with the actual costs of the company?

Mr. BROOKS. I heard this from the previous testimony.

Senator CANNON. That is not within your own knowledge?

Mr. BROOKS. It is not; no, sir.

Senator CANNON. Did you testify that in your opinion the profit on investment capital was too high?

Mr. BROOKS. I said a little while ago that based on the estimates which we were furnished during the negotiations, in our opinion the anticipated profits were more than reasonable on the invested capital.

Senator CANNON. Do you recall what those profits were?

Mr. BROOKS. As I recall, based on the original estimates they appeared to be in the magnitude of 90 percent of costs, and would have recovered the initial capital investment in a very short time, a matter of a year or two.

Senator CANNON. Those facts were within your knowledge during the period of negotiation?

Mr. BROOKS. Yes, sir.

Senator CANNON. Now, state whether or not, in your opinion, if such a high ratio of profit on investment, would indicate at least a lack of proper diligence on the part of someone in connection with the negotiation of this contract?

Mr. BROOKS. No, sir; I don't believe it would indicate a lack of due diligence. Certainly every effort was made to go behind these figures and examine them as closely as possible, and to improve the final price negotiated under the contract.

Senator CANNON. I think you testified concerning your opinion as to whether or not the company really wanted to enter into this contract but I am not sure what you said in that respect.

Would you state again whether or not in your opinion the company really wanted to enter into this contract? There has been some dispute on this point.

Mr. BROOKS. What I said on that score was, I believe, that their true opinion and desire was, in fact, to commence this nickel operation under the contract but that their attitude during the negotiations was, at least on the surface, to the contrary.

Senator CANNON. In other words, that may have been a matter of bargaining position?

Mr. BROOKS. This is what I believe.

Senator CANNON. When was the first nickel actually delivered to the Government under the contract?

Mr. BROOKS. During the year 1955. I don't have the exact date here.

Senator CANNON. So that the negotiations started in the first half of the year in 1952, and first deliveries were made during the year of 1955. That would not indicate such a degree of urgency that more time could not have been taken to negotiate this contract if it were really needed.

Mr. BROOKS. Well, additional time of a matter of several weeks, I don't think in the long run would have made an important difference in the commencement date of the production of nickel.

Senator CANNON. But you feel it would have made an important difference in protecting the interests of the Government?

Mr. BROOKS. That is my opinion; yes, sir.

Senator CANNON. Now, Mr. Brooks, in view of the fact that there was no provision for an audit which you state was unusual, there was no provision for redetermination or renegotiation, that an incorrect cost estimate was furnished as indicated by the testimony and that the company made an extremely high profit on invested capital, will you state whether or not in your opinion this was an unconscionable contract as far as the Government was concerned?

Mr. BROOKS. I would find it difficult to characterize it as "unconscionable." There is no question in my mind that the price eventually charged was more than we considered reasonable under the circumstances.

The description of "unconscionable" has certain other inferences in my mind which I am not sure I could accept.

Senator CANNON. Let me put it this way: Would you state whether or not in your opinion this contract was in the best interests of the Government as it was finally negotiated?

Mr. BROOKS. I do not believe it was.

Senator CANNON. Thank you, Mr. Chairman.

Senator SYMINGTON. Senator Beall, do you have any questions?

Senator BEALL. I have no questions.

Senator SYMINGTON. Mr. Counsel?

Mr. COBURN. Mr. Brooks, in reference to this item of interest of $4,880,000 on the chart that is totaled, which shows the total Government cash outlay for the purchase of this particular nickel, would you mind telling us how it was that you computed that interest?

Mr. BROOKS. I will go through that again; yes, sir.

The amount of $4,880,000 is first an estimate. The estimate is based on the average rates of interest charged GSA by the Treasury Department on funds borrowed during the period in which advances were made by GSA to Hanna up to the point where Hanna acquired the smelter in April of 1961.

These average Treasury rates have been applied to the amounts advanced over this period of several years, producing an estimated cost of $4,880,000 in interest charged to GSA by the Treasury on the amount invested in the construction of the smelter.

Mr. COBURN. Is it possible to determine the interest paid by the Treasury, we will say, during the same period of time, and relate that interest to the advances that were made by the Government in the construction of this smelter?

Mr. BROOKS. I think this would produce the same result, because the rate at which Treasury charges GSA is the rate determined from the going rate on securities of a similar nature marketed by the Treasury Department from month to month.

Mr. COBURN. The rate charged GSA by the Treasury Department is the going rate charged the U.S. Government for borrowing money by lenders, is that right?

Mr. BROOKS. Yes.

Mr. COBURN. By a borrower or purchaser of Government bonds?

Mr. BROOKS. Yes, sir.

Mr. COBURN. I want to make sure we understand—by the way, I think I should ask you this: while you were an accountant in the Finance Division of GSA, you did participate in many of these negotiations which led to the Hanna contracts, did you not?

Mr. BROOKS. I did, yes, sir.

Mr. COBURN. You were not an official negotiator but you were present during the negotiations as an adviser to the negotiator?

Mr. BROOKS. That is putting it correctly, yes, sir.

Mr. COBUBN. Mr. Brooks, during the course of these negotiations, did the Hanna people largely negotiate on the basis of a take-it-or-leave-it basis?

Mr. BROOKS. Yes. This was an expression which they came out with very often during the negotiations.

Mr. COBURN. I am not putting words in your mouth when I say that because I have noticed that in a number of memorandums placed in the files by the GSA people they put it on the basis that Hanna negotiated on a take-it-or-leave-it basis.

Mr. BROOKS. This was very true, yes, sir.

Mr. COBURN. Was that your impression in the matter?

Mr. BROOKS. Very much so, yes, sir.

Mr. COBURN. Now, with reference to the supply of nickel then available, it is true, of course, that this nickel involved in these Hanna contracts was the only nickel of any size at all, any consequence at all, in the United States, is that correct?

Mr. BROOKS. Yes, sir, that is true.

Mr. COBURN. And as a matter of fact, that is still the situation, is it not?

Mr. BROOKS. Yes, sir.

Mr. COBURN. But there were very large supplies of nickel, or at least very large production of nickel relative to the amount that was produced under these contracts that were to be found elsewhere, is that right?

Mr. BROOKS. That is right.

Mr. COBURN. That was to be found elsewhere, correct?

Mr. BROOKS. Correct.

Mr. COBURN. Who was the big producer of nickel during the period of this contract when it was negotiated?

Mr. BROOKS. The largest single producer then and today is the International Nickel Co.

Mr. COBURN. Of Canada?

Mr. BROOKS. Of Canada, yes, sir.

Mr. COBURN. Their mines are located just across the river, most of their mines, from Niagara, are they not?

Mr. BROOKS. Yes, their older properties are. Their newer properties are in Manitoba.

Mr. COBURN. But their older properties that they have been mining for many years are located just across the American line, is that right?

Mr. BROOKS. Not too far, yes, sir.

Mr. COBURN. And International Nickel at the time this contract was made dominated the field so far as nickel production is concerned, is that correct?

Mr. BROOKS. I think that would be putting it correctly, yes, sir.

Mr. COBURN. Produced much more than half of the nickel produced in the entire world, did they not?

Mr. BROOKS. I believe they did, yes.

Mr. COBURN. So that this contract actually, so far as producing nickel is concerned, was a small contract relative to the world production that came largely from International Nickel?

Mr. BROOKS. Yes. I think the annual production from these facilities would have been something on the order of 5 percent of the total world supply at the time.

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

Senator SYMINGTON. Mr. Brooks, on page 2187 I asked a question of Mr. Humphrey:

> If you did not want to sign the contract, and the people who were working on the contract for the Government did not want to sign the contract, why was the contract ever signed?

And he replied:

> Well, I can answer that very quickly. We are in the mining business, and have made a success at it, and the GSO—

he meant GSA—

> or whatever the name is, is not, and they do not know anything about it.

To me that doesn't answer the question. Based on some of the questions asked you this morning, including the question from Senator Cannon, about the Johnston Russell memorandum, which as I remember was dated October 7, 1952, I ask you the same question: If the Hanna company was reluctant to sign it, and the GSA, the Government was reluctant, why do you think it was made?

Mr. BROOKS. I think the contract was undoubtedly made in the light of the appearance of an extreme shortage of nickel and the necessity considered overriding for a rapid expansion of additional nickel supplies.

This, in other words, overcame what other objections there may have been with respect to the specific terms of the contract as negotiated.

Senator SYMINGTON. The desire of the Government was, was it not, to obtain a contract at a fair profit to the contractor?

Mr. BROOKS. Yes, indeed.

Senator SYMINGTON. And that profit, generally profit in our system, is related to risk, is it not?

Mr. BROOKS. It is, yes, sir.

Senator SYMINGTON. Now, the General Accounting Office people have furnished me with profits in three divisions of the Hanna Mining Co. In the Minnesota division, for years 1954 through 1960 the profits on sales of $228 million were $21,098,000 or 10 percent on cost.

In the Michigan division profits were $5,672,000 on 51 million sales, or 12 percent on cost.

And in the nickel division, the only division doing business with the Government, the profits were $15,063,000 on $26 million in sales, or 135 percent on cost.

Would you comment as regards that amount of profit on this type and character of Government contract?

Mr. BROOKS. Well, the disparity is very obvious, and I would regard the rates of profit which you have mentioned for the other divisions as being fair and reasonable, and certainly point up the unreasonableness of the rate of profit on the nickel mining division.

Senator SYMINGTON. Those were the three divisions engaged in mining in the Hanna Mining Co.

I have given you those tables, and I have another table here which gives the percent of profit on capital invested for the nickel division.

These are based on the full Hanna investment of $3,600,000. In previous testimony it was suggested it should be approximately $3.3 million, since about $400 million has been invested prior to contract award in the smelter property and not in the mine property.

The term "capital investment" here means the total amount of cash or equivalent invested in the venture by the Hanna companies.

This is not the same as ordinarily called invested capital because we do not include capital stock and surplus, and retained earnings.

Therefore, the invested capital for the nickel division for the years 1954 through 1960 would be substantially greater as of December 31, 1960.

But based only on capital investment, taking those profits into consideration, it nevertheless shows 419 percent profit on "capital investment."

What do you think about that figure?

Mr. BROOKS. In my mind that would be clearly unreasonable.

Senator SYMINGTON. I mention that we are looking into this matter at the recommendation of the Comptroller General, as read into the record, in his report to the Congress. Unfortunately, based on the terms of the contract, it was not possible to review the profit. There never has been, to the best of my knowledge, any accusation of impropriety, at least to this time. All we would like to do is find out what the profits were, and decide in our mind whether they could be considered unconscionable.

Senator Thurmond?

Senator THURMOND. I have no further questions.

Senator SYMINGTON. Senator Bush?

Senator BUSH. Well, Mr. Chairman, in Mr. Humphrey's testimony he made it very clear and he put into the record at page 2108 a summary of facts relating to the Hanna nickel contracts and on $98.2 million of total cost of 108 million pounds of nickel, he showed in this statement a net profit to the Hanna company for the entire transaction was $7.5 million. So that doesn't sound to me like 400 percent.

I think it is only fair for the committee in judging this situation should have in mind that it wasn't just the investment of company capital which is involved here, it was undertaking a very unusual venture. It was a rendering of very unusual service which at that time when we were at war, and preparing for a long defense operation which unhappily we still are carrying as a very heavy burden. A very unusual contract had to be made and was made by the Government at that time.

I think it is easy to sit up and talk about unconscionable profits if you relate profit to items with which they have no relation in my opinion in a matter of this kind.

So I would like to make it clear that I don't think anything has been shown yet that would justify the use of the term "unconscionable" in a deal which worked out to the advantage of the Government, and there are still some unfulfilled items in connection with this.

Is there not still a remaining 17 million pounds of nickel, Mr. Brooks, to be delivered under this contract?

Mr. BROOKS. Yes, sir, there is.

Senator BUSH. What price is that to be delivered at?

Mr. BROOKS. At not more than 58.77 cents per pound.

Senator BUSH. Or cost, whichever is lower?

Mr. BROOKS. Or cost, whichever is lower, yes, sir.

Senator BUSH. Does that sound like a reasonable price?

Mr. BROOKS. I think that is a reasonable price at this time; yes, sir.

Senator BUSH. When we are judging a contract and cost to the Government should not the whole contract be taken into account? The delivery of this 17 million pounds of nickel at 58 cents a pound should be taken into account, too?

Mr. BROOKS. In making a judgment of the entire contract, yes, sir.

Senator BUSH. Thank you.

Senator CANNON. Thank you, Mr. Chairman.

Mr. Brooks, directing your attention to an office memo of July 23, 1952 (printed on p. 1943), it appears that a meeting was held on July 21 with Hanna and DMPA representatives at which you were present, and subparagraph C states:

> Price of ore to be paid Hanna Mining Co. It was pointed out to Hanna that the price of $6 per ton indicated an annual profit after taxes of 28 percent on invested capital and that a price of $4 per ton would be more in line with general mining operations.
>
> Hanna's representatives stoutly defended their price, claiming that it was required to cover other unprofitable operations.

What other unprofitable operations was Hanna trying to write off against this other contract?

Mr. BROOKS. I don't know specifically, but I think the reference probably is to including as a part of the price computation under this contract some factor for the risk which it might take on other unrelated operations that might prove to be unprofitable.

Senator CANNON. Well, in your opinion, would it be in the best interests of the Government to enter into a contract where a company was permitted to charge a price that would be applicable against other unrelated unprofitable operations of the company?

Mr. BROOKS. We certainly did not consider that a properly applicable factor.

Senator CANNON. But that factor still remained in the contract as it was finally signed?

Mr. BROOKS. Well, the price certainly did not change.

Senator CANNON. Yes.

Now, also in that same memorandum, it stated:

> DMP's position was stated that before considering an advance against production it was Government policy to require prospective contractors to first exhaust their own financial resources. Hanna declined to do this because they needed all such resources for purposes other than the Riddle property. They stated they were heavily extended in Labrador.

and a notation says—

> It is my opinion if the Government wants the nickel they will have to advance the money.

Is that a correct statement of the position that was discussed and taken at that meeting?

Mr. BROOKS. Yes, I believe it is.

Senator CANNON. You were present when Mr. Humphrey testified?

Mr. BROOKS. Yes, sir.

Senator CANNON. Can you reconcile that with Mr. Humphrey's statement on the witness stand where he said:

> Nor we did not need $25 million from the Government. We could write a check for it ourselves. We did not need $25 million. The Government did not. We could get it from them or from anybody else. That is small potatoes for the business that we were conducting and we were planning to do it.

Did you hear his testimony in that respect?

Mr. BROOKS. Yes, sir, I did.

Senator CANNON. Can you reconcile those two statements, Mr. Humphrey's statement with the memorandum based on your meeting with the Hanna company officials?

Mr. BROOKS. No, sir; I can't reconcile them. I could only presume that the reference in the memorandum accurately represents the position, expressed by the Hanna people at the time.

Certainly they had facilities available to them to finance this operation, and just as certainly they did not wish to extend themselves in that respect.

Senator CANNON. In other words, if they did have any finances available themselves they at least represented to the Government negotiators that they needed all of their resources for purposes other than this particular Riddle property development.

Mr. BROOKS. This is apparently the position they took in the negotiations.

Senator CANNON. Mr. Brooks, in view of the testimony that you have given as to the unusual provisions of this contract and the provisions that you stated were not in the best interests of the Government, why do you think the negotiations were cut short and the contract signed on January 16, 1953?

Mr. BROOKS. This resulted simply from the fact that instructions were relayed from the top that negotiations were at this point to be terminated and the contract was to be signed.

Senator CANNON. Well now, what instructions were relayed and by whom?

Mr. BROOKS. I can't recall at this time just what individuals relayed these instructions, but I do have a definite recollection that such instructions were given.

Senator CANNON. That this contract was to be terminated and executed promptly, is that what you are saying?

Mr. BROOKS. Negotiations.

Senator CANNON. Negotiations to be terminated and the contract executed promptly.

Mr. BROOKS. Yes, sir.

Senator CANNON. There is no question but what the contract was executed promptly although not on this particular day. But you don't recall who issued those instructions?

Mr. BROOKS. I do not; no, sir.

Senator CANNON. Were they in writing or verbal?

Mr. BROOKS. I am sure they were just verbal.

Senator CANNON. But your testimony is these were instructions by someone higher than you in authority in the Government?

Mr. BROOKS. Yes, sir.

Senator CANNON. And do you have any recollection as to any reasons given for the termination of negotiations and the execution of these extremely favorable contracts with the Hanna company?

Mr. BROOKS. I don't recall any reasons being given; no, sir.

Senator CANNON. Do you recall who was present when those instructions were given?

Mr. BROOKS. Not specifically; no, sir.

Senator CANNON. Do you recall whether or not this was on January 16 or if not, what date the instructions were received by you?

Mr. BROOKS. Not precisely, but it was certainly very close to January 16, not more than a day or two preceding that.

Senator CANNON. Not more than a day or two prior to that time?

Mr. BROOKS. Correct.

Senator CANNON. And were the instructions given to other people as well as to yourself?

Mr. BROOKS. Yes, sir.

Senator CANNON. Who were some of the other people to which those instructions were given, if you know?

Mr. BROOKS. Well, the person directly responsible for the conduct of the negotiations was Mr. John Ford. His representative in the negotiations was Mr. Melville Robinson. We worked in an advisory capacity to his office and it is very possible that our means of being apprised of these instructions would have been through those gentlemen.

Senator CANNON. But you don't recall any reasons having been given or who actually issued the instructions as far as you are concerned?

Mr. BROOKS. I do not, no, sir.

Senator CANNON. And all of these various signatures were obtained on all of the various contracts on January 16, 1953, presumably?

Mr. BROOKS. That is true.

Senator CANNON. Are you sure that some of the signatures weren't actually affixed to those contracts after January 16, the date stated on the contract?

Mr. BROOKS. I am not sure; no, sir. I would have no knowledge of that.

Senator CANNON. Were you present at the signing of the contracts or any of them?

Mr. BROOKS. No, sir; I was not present when they were signed.

Senator CANNON. Thank you, Mr. Chairman.

Senator SYMINGTON. Senator Beall.

Senator BEALL. Mr. Brooks, was the contract entered into promptly because the Hanna company wanted to go into at that time in haste or did the the Government need the material and insist on it being executed?

Mr. BROOKS. Well, there is no question that the Government was very much desirous of getting this additional supply of nickel as quickly as possible.

Senator BEALL. And they wanted to sign the contract at once?

Mr. BROOKS. Yes, sir; they did.

Senator BEALL. Did they make any suggestion about delay or anything of that kind?

Mr. BROOKS. No, sir. I think the attitude clearly was that there was no further time for any additional negotiations and that they were to be terminated promptly and the contracts executed.

Senator BEALL. Thank you.

Senator SYMINGTON. Mr. Counsel.

Mr. COBURN. Mr. Chairman, I think there is one place where we ought to clarify the record here with reference to some recent questions that were asked. Mr. Brooks, you have been asked some questions with reference to the profits of the Hanna Mining Co. and Hanna Smelting Co., too, perhaps, with reference to invested capital and then Senator Bush said that in view of the fact that the Government received $98 million, or rather the Government paid $98 million for the nickel metal and the Hanna Nickel Smelting Co. received $98 million according to the Hanna statement and according to Mr. Humphrey's statement previously read in the record, received a net profit of only $7½ million that did not sound like any 400 percent profit.

Actually this has nothing to do now with profits based on capital expenditures, does it?

Mr. BROOKS. No, sir. It does not.

Mr. COBURN. The capital expenditures of the Hanna Nickel Smelting Co. constituted only $1,700,000, is that correct, that is all they put into the contract so far as capital expenditures were concerned?

Mr. BROOKS. Into the smelter?

Mr. COBURN. Yes; into the smelter or the contract they had with the Government, into the smelter, if you please.

Mr. BROOKS. Yes; although they did finance the costs of the facilities needed at the mine.

Mr. COBURN. I am not talking about that now; only about the Hanna Nickel Smelting Co. The Hanna Nickel Smelting Co. made a capital investment of only $1,722,000, did they not?

Mr. BROOKS. That is correct; yes, sir.

Mr. COBURN. And the Hanna Mining Co. made a capital investment of only $3,600,000?

Mr. BROOKS. I believe that is correct.

Mr. COBURN. That has been in testimony before. That was their total capital investment, right?

Mr. BROOKS. I believe so, yes, sir.

Mr. COBURN. Now this $98 million figure that was referred to in Senator Bush's question is Hanna's statement of the amount that the Hanna Nickel Smelting Co. received in the sale of nickel metal to the Government, isn't that correct?

Mr. BROOKS. Yes, sir; that is.

Mr. COBURN. That is their total sales. But of course the Hanna Nickel Smelting Co. was not supposed to make any money out of their contract at all, isn't that right?

Mr. BROOKS. That is right, yes, sir.

Mr. COBURN. The profits were to be restricted to the Hanna Mining Co., is that right?

Mr. BROOKS. That is right.

Mr. COBURN. And the evidence has shown and is not disputed that the sales, total sales made by the Hanna Mining Co., in the sale of ore to the Government, totaled $26 million, is that right?

Mr. BROOKS. Would you repeat that, please?

Mr. COBURN. I say the total sales of the Hanna Mining Co. for ore to the Government was $26 million.

Mr. BROOKS. That would be approximately correct, yes, sir.

Mr. COBURN. So that the profits realized by the Hanna Mining Co. with reference to sales would have to be whatever that figure is, related to $26 million?

Mr. BROOKS. It would, in my opinion, yes, sir.

Mr. COBURN. Well there isn't any question about that, is there?

Mr. BROOKS. I do not believe there is.

Mr. COBURN. It isn't a matter of diverse opinion, I suppose, is it?

Mr. BROOKS. I don't think so.

Mr. COBURN. No. Thank you.

Senator SYMINGTON. Senator Beall.

Senator BEALL. Mr. Brooks, don't companies very often in mining and prospecting lose lots of money in prospecting?

Mr. BROOKS. I believe they do, yes, sir.

Senator BEALL. Isn't it natural when they hit paydirt they would have that company absorb some of those losses, wouldn't that be the natural business thing to do?

Mr. BROOKS. I believe so, yes, sir.

Senator CANNON. Will you yield to me; company or Government?

Senator BEALL. I mean the company that operates, any company that is prospecting when it hits paydirt to make the purchaser assume the losses that they have accumulated.

Senator SYMINGTON. If the Senator will yield, this property has a rather interesting history, as I understand it. It is owned by a group of people in San Francisco, and another company had the property and did considerable work and investigation. Then that company abandoned it and the Hanna people later obtained a lease on the property, which they of course now have. I believe the lease is for 25 cents a ton, with the owners.

I don't think it was just a question of "paydirt," rather of working it out with a government at war which needed the nickel.

Senator Cannon?

Senator CANNON. Mr. Brooks, I don't want to belabor this point but I am trying to find out, if possible, why these negotiations were all of a sudden terminated and the contract signed. I would like to ask you whether or not you are aware of any concessions that the Hanna company gave as far as the Government was concerned immediately prior to January 16, when you say you got your instructions to terminate negotiations and enter into the contract.

Mr. BROOKS. I am not.

Senator CANNON. You are not aware of any concessions the Hanna company gave up at that time?

Mr. BROOKS. No, sir.

Senator CANNON. So that as far as you are concerned there was no added inducements for a rapid termination of these contracts and their execution?

Mr. BROOKS. There was not.

Senator CANNON. Now, Mr. Brooks, there is in the record on page 1928, a memorandum dated January 16, 1953, the same date the contracts bear, and it is entitled "Mr. A. H. Greene, General Counsel; John G. Ford, Director, Contract Negotiations Division, Hanna Coal

& Ore Co. and Hanna Nickel Smelting Co.," and I am reading from the exhibit:

> Please prepare final drafts of contracts to cover the mining contract, smelter contract, management contract, and sales and guarantee contract in accordance with drafts now in your possession as finally amended during conferences held this week between representatives of the contractor and DMPA.

Signed "John G. Ford."

Now, Mr. Ford was, I believe, the gentleman you said was charged with this responsibility.

Mr. BROOKS. Yes, sir.

Senator CANNON. Now, do you know of any amendments that were made during that particular week of January 16 insofar as these contracts are concerned?

Mr. BROOKS. I can't recall any major modifications, no, sir.

Senator CANNON. Now, knowing Government operations as you do, will you state whether or not, in your opinion, it would have been possible for this memorandum to have been issued on January 16, 1953, instructing the General Counsel to prepare final draft of contracts to cover the mining contract, smelter contract, management contract, and sales and guarantee contract in accordance with the drafts to have prepared those final contracts and had them executed by the number of people who apparently executed these contracts all on the same day, January 16, 1953?

Mr. BROOKS. I don't believe this would have been physically possible without some preparatory work underway for a matter of some days prior to January 16.

Senator CANNON. When did you first see the executed contracts, if you know?

Mr. BROOKS. I can't recall, sir.

Senator CANNON. Well, would you say it was after January 19 or 20, 1953?

Mr. BROOKS. I could only guess that it probably was.

Senator CANNON. Thank you, Mr. Chairman.

Senator SYMINGTON. Senator Bush?

Senator BUSH. No questions.

Senator SYMINGTON. Mr. Counsel?

Mr. COBURN. No further questions, Mr. Chairman.

Senator SYMINGTON. Thank you, Mr. Brooks.

We appreciate your courtesy in coming before the committee with your testimony.

Mr. BROOKS. Thank you, Mr. Chairman.

Senator SYMINGTON. The next witness.

Mr. COBURN. I would like to call Mr. Henry M. Lesser, Mr. Chairman.

Senator SYMINGTON. Mr. Lesser, have you been sworn?

STATEMENT OF HENRY M. LESSER, SUPERVISORY AUDITOR, GENERAL SERVICES ADMINISTRATION

Mr. LESSER. Yes, sir.

Senator SYMINGTON. Will you consider yourself sworn?

Mr. LESSER. Yes, sir.

Mr. COBURN. Mr. Lesser, you have testified previously in the hearings with reference to the Hanna contracts, have you not?

Mr. LESSER. Yes, I have.

Mr. COBURN. And I believe when you were here before you identified yourself as a supervisory auditor for the General Services Administration?

Mr. LESSER. That is right.

Mr. COBUBN. As supervisory auditor did you review the work of the field auditor for GSA with reference to the annual audits that were made by GSA of the Hanna contracts?

Mr. LESSER. Yes, sir.

Mr. COBURN. You did not actually do the fieldwork yourself, did you?

Mr. LESSER. No, I did not.

Mr. COBURN. That was done by another man?

Mr. LESSER. That is right.

Mr. COBURN. Who was he, by the way?

Mr. LESSER. Mr. D. A. N. Pattarson.

Mr. COBURN. He was the field auditor for GSA who reviewed these Hanna contracts?

Mr. LESSER. From our Chicago office, yes, sir.

Mr. COBURN. Yes.

Now, at the time you testified previously, I believe—and if I am incorrect, I hope you will correct me—you stated that the GSA relied largely upon the audits and the audit work of Ernst & Ernst which was the auditing concern that did the Hanna work, to determine whether the contracts had been performed or whether any other factor existed that might be a ground of interest with reference to the Government with reference to the performance of these contracts, is that right?

Mr. LESSER. That is right, sir.

Mr. COBURN. But you relied largely on the Ernst & Ernst work in that connection?

Mr. LESSER. Yes, sir.

Mr. COBURN. And did not undertake to make a detailed audit yourself?

Mr. LESSER. That is right.

Mr. COBURN. All right.

I believe you also said, except for the year 1960, that in checking the work papers of Ernst & Ernst that these work papers did not raise the question as to whether items similar to those in dispute between the Government and Hanna had been expensed instead of being capitalized; is that correct?

Mr. LESSER. That is right.

Mr. COBURN. You had found since you testified before that you were in error in that respect and want to correct your testimony, do you not?

Mr. LESSER. Yes, sir.

Mr. COBURN. Now, tell us what the fact is with reference to the Ernst & Ernst work papers as to whether they showed, whether these items in dispute were expensed or not?

Mr. LESSER. The Ernst & Ernst work papers have been reviewed since the time of my testimony. For the years 1956, 1957, 1958, and

1959 in addition to the original 1960 that we mentioned, the question of expensing of capitalizable items was raised in their papers.

Mr. COBURN. These were papers, of course, that were seen by Mr. Pattarson and not by you?

Mr. LESSER. That is correct, sir.

Mr. COBURN. And you want to correct your testimony in that respect?

Mr. LESSER. That was the information I had at the time and subsequently I found it to be in error.

Mr. COBURN. As I understand it, besides the work papers of Ernst & Ernst which were made available to GSA in this connection, Ernst & Ernst also made a final, or an annual report, did they not?

Mr. LESSER. Yes, sir.

Mr. COBURN. Now, the annual report did not disclose these items which had been expensed because they were consolidated in other items, is that a true statement of the matter?

Mr. LESSER. Yes, sir, it was an extremely abbreviated report that we got.

Mr. COBURN. Yes. So that looking at the annual report of Ernst & Ernst you could not tell whether these items were expensed and whether they should have been expensed?

Mr. LESSER. Not by looking at the report, no, sir.

Mr. COBURN. But the work papers did?

Mr. LESSER. Yes, sir; they did show it.

Mr. COBURN. I think that is all, Mr. Chairman.

Senator SYMINGTON. Senator Bush—Senator Beall.

Senator BEALL. I have no questions.

Senator SYMINGTON. Senator Cannon.

Senator CANNON. Mr. Lesser, I am not sure that I understand what you are saying here now.

Are you saying that the 1960 audit which you made, which showed that the company improperly expensed $210,605 which resulted in a 1.9 cents cost per pound more to the Government was not proper—that your original testimony on that was not proper?

Mr. LESSER. No, sir, we are not saying that that is not proper.

The question was raised at the time of my previous testimony as to whether or not such information had been available in Ernst & Ernst work papers in years previous to 1960. My information at that time was that it had not been available to us. I have since found out that it was in their work papers.

Senator CANNON. Well, now, were there items improperly expensed in years prior to 1960?

Mr. LESSER. There are items that were charged to expense that we feel should have been capitalized.

Senator CANNON. And have you made any demand on the company then along the lines of your demand covering the year 1960?

Mr. LESSER. Covering the year 1960, yes, sir, we have.

Senator CANNON. Yes. But have you made any demand covering the period prior to the year 1960?

Mr. LESSER. Not to this present time. We have been reviewing those papers and also the records at Riddle, Oreg., preparatory to doing that.

Senator CANNON. Does your review indicate that the Government also will have a demand against the company for years prior to 1960 because of improper expensing or improper capitalization of items?

Mr. LESSER. Senator, since I haven't been personally involved in that, I would not be able to answer it.

Senator CANNON. But at least you are reviewing that matter at the present time.

Mr. LESSER. It is being reviewed. Not by me personally.

Senator CANNON. And it is your opinion that the demand as set forth dated March 14, 1962, to the company, based on your 1960 audit, is correct as previously indicated in the record here?

Mr. LESSER. We are sure that is still correct; yes, sir.

Senator CANNON. Thank you, Mr. Chairman.

Senator SYMINGTON. Any further questions?

Thank you, Mr. Lesser. As I understand it you wanted to come up and correct some testimony, did you not?

Mr. LESSER. That is correct, Senator.

Senator SYMINGTON. We appreciate it.

May I say to members of the committee we can proceed until 20 minutes of 1, if that is convenient, and then recess until 2:30.

Mr. Counsel, your next witness.

Mr. COBURN. Mr. Lawrence Spang.

Senator SYMINGTON. Mr. Spang, as you know, it is the custom of this subcommittee to swear all witnesses. Will you raise your right hand? Do you swear the testimony you give to the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SPANG. I do.

Senator SYMINGTON. Be seated please.

Proceed, Mr. Counsel.

TESTIMONY OF LAWRENCE W. SPANG, SECRETARY, HANNA MINING CO.

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

Mr. SPANG. Lawrence W. Spang, 24149 Cedar Road, Cleveland.

Mr. COBURN. Are you in any wise connected with the Hanna Mining Co.?

Mr. SPANG. Yes, sir; I am.

Mr. COBURN. In what respect?

Mr. SPANG. I am secretary of the Hanna Mining Co.

Mr. COBURN. How long have you been?

Mr. SPANG. I have held that position for approximately 10 years.

Mr. COBURN. Prior to that time were you an employee of the Hanna Mining Co.?

Mr. SPANG. I have been an employee of the M. A. Hanna Co. since 1950. And an officer of the M. A. Hanna Co. since——

Mr. COBURN. May I perhaps shorten this by saying, was it in 1950 that you first came with what we might call the Hanna organization?

Mr. SPANG. Yes, sir.

Mr. COBURN. All right.

Now, are you an officer of the, or in any wise connected with the Hanna Nickel Smelting Co.?

Mr. SPANG. I am, sir.

Mr. COBURN. What position do you hold?

Mr. SPANG. I am secretary of that company also.

Mr. COBURN. How long have you been?

Mr. SPANG. Since it was organized in 1952.

Mr. COBURN. 1953, was it not?

Mr. SPANG. Early 1953.

Mr. COBURN. In January 1953?

Mr. SPANG. Yes, sir.

Mr. COBURN. Organized just at the time that the contract with the Government was entered into?

Mr. SPANG. For that purpose; yes, sir.

Mr. COBURN. Now, are you in any wise connected with the M. A. Hanna Co.?

Mr. SPANG. I am not any longer. Not at the present time; no, sir.

Mr. COBURN. You don't hold any office in the M. A. Hanna Co.?

Mr. SPANG. I don't hold any office in the M. A. Hanna Co.

Mr. COBURN. Nor are you employed by the M. A. Hanna Co.?

Mr. SPANG. I am not employed by the M. A. Hanna Co.

Mr. COBURN. Now, Mr. Spang, I would like to ask you some questions with reference to some of the events, at least, that preceded the making of this contract by the mining company and the smelting company and for that matter the M. A. Hanna Co., of these contracts with the Government, which occurred on January 16, 1953, did it not?

Mr. SPANG. Yes, sir.

Mr. COBURN. Prior to that time, Mr. Spang, did the Hanna Mining Co. consider the possibility of opening this mine, developing this mine out in Riddle, Oreg., and also constructing a smelter to smelt the ore that was mined there?

Mr. SPANG. I think they had been doing some work on that for some time; yes, sir.

Mr. COBURN. For some years prior to that?

Mr. SPANG. Some years. That work I think was initiated shortly after they acquired the property in 1948.

Mr. COBURN. It was the mining company of course that acquired the property, right?

Mr. SPANG. Well, through a subsidiary company is my recollection; that is right.

Mr. COBURN. The mining company acquired a mining lease, did they, on this property?

Mr. SPANG. I think it was the Hanna Development Co., which was a wholly owned subsidiary of the mining company, acquired a lease on the property; yes, sir.

Mr. COBURN. A lease to mine the property?

Mr. SPANG. A lease to mine the property.

Mr. COBURN. A mineral lease?

Mr. SPANG. An ordinary mineral lease; yes, sir.

Mr. COBURN. Did the Hanna Mining Co. assign the lease to the smelting company?

Mr. SPANG. My recollection is that it was a sublease.

Mr. COBURN. During the time you were an officer of the Hanna Mining Co., the company was considering and studying the development of this mining property, was it not?

Mr. SPANG. Through one degree or another. I mean every property we acquire is for the purpose of prospective development and of course you start doing some work on it.

Mr. COBURN. So far as the development of the property to mine the ore is concerned?

Mr. SPANG. Yes, sir; yes, sir.

Mr. COBURN. And you also consider the question of constructing a smelter to smelt the ore into nickel, nickel smelting, is that right?

Mr. SPANG. I suppose that was in the thoughts of the people who were doing the research work on it. The ultimate development might include the smelting operation as well as just a mining operation.

Mr. COBURN. Well, as a matter of fact, you were very actively engaged in determining whether the ore out there at Riddle could be smelted into ferronickel, isn't that right?

Mr. SPANG. I think there was work being done on that; yes, sir. I think, if I may, I think I should probably explain that I had very little contact with that phase of our operations. I mean I was dealing with other matters. I really first came into this property after the proposal had been submitted to the Government—about that time.

I am not well informed on the nature of the work that was being conducted before that time. I think that was probably——

Mr. COBURN. You were secretary of the company from 1950, were you?

Mr. SPANG. Yes, sir.

Mr. COBURN. And I assume you attended board meetings?

Mr. SPANG. Yes, sir, I attended board meetings.

Mr. COBURN. Kept the minutes, did you not?

Mr. SPANG. Yes, sir, kept the minutes.

Mr. COBURN. So you were acquainted with the general operations of the mining company?

Mr. SPANG. Yes, sir, but there are all kinds of research and development work that doesn't come to my attention until later.

Mr. COBURN. I am not going to ask you about the details of the mining and development work because that is a highly technical field.

Mr. SPANG. Certainly.

Mr. COBURN. Well, I understand you you wouldn't undertake to say you were an expert and I won't undertake to hold you to it.

Mr. SPANG. Thank you.

Mr. COBURN. But I do want you to tell us what you know about the operation of the mining company.

As I understand it from a report that is printed in the record on page 1991 by Mr. Vedensky, dated May 2, 1952, he made a detailed report with reference to the feasibility of converting the ore that could be produced at Riddle by the mining company into nickel metal, correct?

Mr. SPANG. Yes, sir.

Mr. COBURN. Mr. Vedensky, I think, perhaps at the time of the report, was a specialist or an expert on the subject of mineralogy that was applied at the Hanna Co., right?

Mr. SPANG. Yes, sir, he is a metallurgist.

Mr. COBURN. A metallurgist. But now he is an officer of the company is he not?

Mr. SPANG. Yes, sir.

Mr. COBURN. A vice president of the company?

Mr. SPANG. Yes, sir.

Mr. COBURN. And he tells, in this report, of two different methods of converting the ore into nickel metal, does he not?

Mr. SPANG. I don't know that I am familiar with the report, sir.

Mr. COBURN. Well, maybe you are not familiar with the report, but let me ask you about the facts of the matter. Isn't it a fact that the Hanna Mining Co. considered two different processes for refining this ore, one the leaching process, and the other an electrocarbon or electric furnace process?

Mr. SPANG. That was my understanding; yes, sir.

Mr. COBURN. You had a leaching process pilot plant up at Hibbing, Minn., did you not?

Mr. SPANG. Some kind of pilot plant work was being done there, right.

Mr. COBURN. And that was operated by the Hanna Mining Co.?

Mr. SPANG. That was operated, I guess, by the M. A. Hanna Co., I shouldn't be guessing, by the M. A. Hanna Co. for all of the companies.

Mr. COBURN. At any rate, by somebody in the Hanna organization?

Mr. SPANG. Yes, sir.

Mr. COBURN. This leaching process is one method of converting nickel ore into metal, is it not?

Mr. SPANG. I understand so, sir.

Mr. COBURN. It was the process that was actually used down in Cuba was it not, in the nickel production down there?

Mr. SPANG. I believe that is right.

Mr. COBURN. What?

Mr. SPANG. Yes, I believe that is right.

Mr. COBURN. On the other hand, out at Oregon, at a place called Albany, Oreg., I believe, there was another pilot plant out there that was used to determine whether you could convert this nickel ore into nickel metal by an electric furnace method, isn't that correct?

Mr. SPANG. That is my understanding that some test work was done there at the Government laboratory.

Mr. COBURN. That pilot plant actually was run by the Bureau of Mines, wasn't it?

Mr. SPANG. Yes, sir.

Mr. COBURN. Of the U.S. Government?

Mr. SPANG. Yes, sir.

Mr. COBURN. But for the benefit of the Hanna Mining Co. to determine whether their ore could be feasibly converted into metal?

Mr. SPANG. I don't know whether they contributed any facility or not. I know it is a Bureau of Mines station out there. What the arrangement was, what we contributed in the line of facility, I don't know anything about that.

Mr. COBURN. At any rate, there was a pilot plant?

Mr. SPANG. There was a pilot plant; yes, sir.

Mr. COBURN. Employed out there prior to the making of this contract for the purpose of determining whether this ore could be converted into metal?

Mr. SPANG. Yes, sir.

Mr. COBURN. I believe that Mr. Vedensky, in his report, says:

> There is nothing new about electric smelting of nickel, nickel ore, that this has been done on a smaller scale in Brazil, New Caledonia, and Japan. Our main difference with these projects is that we proposed to do it on a much larger scale.

Is that correct?

Mr. SPANG. That is right.

Mr. COBURN. So the use of the electric furnace process was nothing new. It had already been proven, had it not, so far as the nickel business was concerned?

Mr. SPANG. On a very small scale which is quite different from a commercial operation. I think if you will refer to some of the memorandums that were passed out here at the last session, there is a very good one in there from Mr. Gentry that explains there are substantial differences that can exist between a pilot plant and a commercial sized operation.

Mr. COBURN. Yes, I recall that memorandum. I say it is a fact that it had been proven in other places that the nickel ore could be smelted by the electric furnace method.

Mr. SPANG. Now, Mr. Coburn, I don't know what had been proven, all I know is some work had been done in that field. You were kind enough to suggest I was not a metallurgist but work had been done and proven in that field.

Mr. COBURN. But Mr. Vedensky's report was optimistic about using the electric furnace method.

Mr. SPANG. Yes, I think he felt very optimistic about the possibilities.

Mr. COBURN. Now, furthermore, in connection with your ability to dispose of the nickel metal after it had been smelted, you also had a careful survey made with reference to that before this contract was entered into, did you not?

Mr. SPANG. I understand such a survey was made, yes, sir, I am not familiar with the contents.

Mr. COBURN. So everyone will understand the problem in this connection, it was intended by the Hanna organization to produce out at Riddle, what is called ferronickel; isn't that correct?

Mr. SPANG. Ferronickel, yes, sir.

Mr. COBURN. Not the kind of nickel that is called electrolytic nickel, it is a different grade?

Mr. SPANG. Yes, sir, it is a purer nickel.

Mr. COBURN. Pardon?

Mr. SPANG. It is a purer nickel. The electrolytic is.

Mr. COBURN. Electrolytic is a purer nickel?

Mr. SPANG. Yes, sir.

Mr. COBURN. And the ferronickel had not previously been sold broadly in the United States, had it?

Mr. SPANG. That is my understanding.

Mr. COBURN. But it had in Europe?

Mr. SPANG. I think that is my understanding also, yes, sir.

Mr. COBURN. So it had been widely sold in Europe and successfully sold there?

Mr. SPANG. I don't know anything about that.

Mr. COBURN. Well, you knew that it was widely sold in Europe.

Mr. SPANG. I knew that there had been some ferronickel sold and marketed in France primarily.

Mr. COBURN. All right.

Now, you had an organization called Battelle Memorial Institute make a survey of steel companies that are big users of nickel in this country and perhaps other people, too, I don't know, to determine whether you could sell this ferronickel after it was produced at Riddle, did you not?

Mr. SPANG. Yes, such a report was made, I am not familiar with the contents.

Mr. COBURN. You are not familiar what?

Mr. SPANG. I am not familiar with the contents of the report.

Mr. COBURN. But there was such a survey made, was there not?

Mr. SPANG. I believe there was such a survey made, yes, sir. I don't even know the date it was made or what year it was made, but there was such a survey made.

Mr. COBURN. I can tell you the date.

Mr. SPANG. At some stage of their investigation of the process there was——

Mr. COBURN. The date was March 28, 1952, that this was delivered by Battelle to the Hanna Mining Co.?

Mr. SPANG. All right, I will accept that.

Mr. COBURN. And it was a quite favorable report, was it not?

Mr. SPANG. I said I am not familiar with the contents.

Mr. COBURN. Well, let me read you one part of it and see if you are familiar with this, because this matter must have come up for consideration in the Hanna Mining Co., did it not?

Mr. SPANG. I have no doubt that it did. It did not come under my consideration.

Mr. COBURN. Wouldn't it come before the board of directors?

Mr. SPANG. I don't recall that it was ever discussed before the board of directors, no, sir.

Now, Mr. Vedensky is completely familiar with these matters and he is here. I don't know anything about it. I am sorry but I don't.

Mr. COBURN. I am not trying to keep any witnesses off the stand, but I am trying to keep these hearings within bounds so far as time is concerned.

Mr. SPANG. I am perfectly willing to tell you anything I know about anything, Mr. Coburn.

Mr. COBURN. We want somebody on the witness stand to know something about some aspects of this, so I am hoping to put together as many things as I can, and I am looking forward to your cooperating with me.

Mr. SPANG. I will be as helpful as I can.

Mr. COBURN. The report says on page 4:

> The maximum potential market of the 25 percent grade meeting quality specifications would be upward of 45 million pounds of contained nickel, assuming that the requirements for the industry followed the same pattern as those contacted in the survey. The ultimate market for the 42 percent grade based on the same conditions would be upward of 75 million pounds. For obvious reasons it is unlikely that ferronickel could obtain the entire market. However, assuming that a satisfactory price differential with respect to commercially pure nickel could be maintained, the demand for nickel by the iron and steel

industry continues upward, sales possibilities in the range of 10 to 20 million pounds of contained nickel would seem reasonable.

(The complete report is in the files of the subcommittee.)

Mr. COBURN. Do you remember that part of the report?

Mr. SPANG. No, sir.

Mr. COBURN. You don't remember it?

Mr. SPANG. No, sir.

Mr. COBURN. Well, isn't it a fact that the report shows that contacts were made with various steel companies and they reported that they would be interested in buying ferronickel?

Mr. SPANG. I think I remember that; yes, sir.

Mr. COBURN. And in fact, they were willing enough to buy ferronickel but they said they didn't even care whether you established a pilot plant first or not. They were willing to take it. Isn't that correct?

Mr. SPANG. I don't know as to that.

Mr. COBURN. You don't know about that?

Mr. SPANG. If they could get products they wanted, I supposed there was no difference, it didn't make any difference whether we had a pilot plant or not.

Mr. COBURN. My only point is, Mr. Spang, the American industry, the users of nickel were quite willing apparently to use ferronickel as well as electrolytic nickel.

Mr. SPANG. If it could be produced, yes.

Mr. COBURN. And this range mentioned in the Battelle report, that is the range with reference to sales possibilities of 10 to 20 million pounds of contained nickel is pretty much the range of your production out at Riddle, is it not?

Mr. SPANG. Yes, sir.

Mr. COBURN. Now, Mr. Spang, when it came to negotiating with the Government with reference to the contracts that we have been holding hearings on, did you participate in those negotiations?

Mr. SPANG. Yes, sir; I did.

Mr. COBURN. From the very first.

Mr. SPANG. Well, I don't know what you call the first. We submitted a proposal, as the record shows, around July of 1952, and that is when the negotiations really got going. There was considerable discussion before that, as the record also shows, that led up to the proposal being submitted.

I had very little to do with those.

Mr. COBURN. Well, there has been a letter introduced in the record already from Mr. H. L. Pierce of the M. A. Hanna Co. to Mr. Howard I. Young dated January 16, 1952, with reference to your possibility of producing nickel at Riddle.

Are you familiar with that letter?

Mr. SPANG. I think I am; yes, sir.

Mr. COBURN. And, of course, you were in the company, the Hanna Mining Co., secretary of it at that time?

Mr. SPANG. Oh, yes, sir.

Mr. COBURN. Now, Mr. Pierce, by the way, was an officer, was he, of the M. A. Hanna Co.?

Mr. SPANG. He was an officer of the mining company, not the M. A. Hanna Co. He was a vice president of the mining company.

Mr. COBURN. I notice he signs this letter here for the M. A. Hanna Co.

How would that happen then?

Mr. SPANG. I suppose there was a mixup in stationery, secretary or something, but I don't recall that he was an officer of the M. A. Hanna Co.

Mr. COBURN. Well, he doesn't sign it as an officer but he does sign it for the M. A. Hanna Co.

Mr. SPANG. All right, sir.

Mr. COBURN. I don't know that makes too much difference.

Mr. SPANG. He was an employee of the M. A. Hanna Co.

Mr. COBURN. What is that?

Mr. SPANG. He was an employee of the M. A. Hanna Co.

Mr. COBURN. All right.

Now, the record has shown heretofore that on January 4, 1952, the Government announced a nickel expansion program under the Defense Production Act.

Mr. SPANG. Yes, sir.

Mr. COBURN. And this letter from Mr. Pierce to Mr. Young, dated January 16, 1952, on page 2177 of the record, follows very closely upon that announcement, does it not?

Mr. SPANG. Oh, yes.

Mr. COBURN. Only a matter of some 12 days after that.

Mr. SPANG. Yes.

Mr. COBURN. And in this letter Mr. Pierce said, among other things this, addressing this to Howard I. Young:

DEAR HOWARD: You may or may not know of a laterite nickel—

Mr. SPANG. Laterite.

Mr. COBURN (reading):

laterite nickel deposit we have under lease at Riddle, Oreg. In case you are not familiar with it we think perhaps we should acquaint you with a few facts in connection with it.

Then he says:

Our research people have investigated several ways of treating this ore and have concluded that there are two real possibilities of doing this, namely, one, the ammonia leaching process we have mentioned and, two, the electric furnace smelting process which will produce ferronickel containing at least 25 percent nickel, the balance being largely iron.

Is that correct?

Mr. SPANG. Yes, sir.

Mr. COBURN. That was based on your previous studies and development activities, was it not?

Mr. SPANG. I assume so.

Mr. COBURN. Then it says:

To test No. 2—

that is the electric furnace smelting process—

we have made an arrangement with the U.S. Bureau of Mines at Albany, Oreg., to rebuild an electric furnace that they have available to meet our specifications and have shipped 300 tons of ore for test purposes. It is expected that these tests will start before February 1 and we should be able to make our conclusions regarding this process after a run of 5 or 6 weeks. During the past year they have conducted numerous tests and the results were very gratifying and showed excellent recovery and with apparently a minimum of operating difficulties.

That is correct, is it not?

Mr. SPANG. Yes, sir.

Mr. COBURN. The tests at Albany apparently prior to the writing of this letter had been on a smaller basis, had they?

Mr. SPANG. As I told you before, Mr. Coburn, I don't know anything about those tests out there except I do know tests were conducted, I don't know the scale of them, I don't know the nature of them, I don't know anything about that. I just know the tests were conducted.

Senator SYMINGTON. In accordance with the committee agreement we will recess now until 2:30.

If you will be back at 2:30 Mr. Spang?

Mr. SPANG. I shall.

(Whereupon, at 12:40 p.m., the committee recessed, to reconvene at 2:30 p.m., the same day.)

AFTERNOON SESSION

(Those in attendance: Senators Symington (chairman), Thurmond, Cannon, Beall, and Bush.)

Senator SYMINGTON (presiding). Some Senators are detained on the floor, and we do not want to hold the witnesses too long. Therefore, Mr. Counsel, we will resume the hearing, and will you proceed with your questioning of Mr. Spang.

Mr. COBURN. Mr. Spang, as I recall it, before lunch I was asking you about this pilot plant that was used out at Albany, Oreg., in order to test the use of the electric furnace method of converting the ore into nickel metal, is that not your recollection?

TESTIMONY OF LAWRENCE W. SPANG, EXECUTIVE SECRETARY, HANNA MINING CO.—Resumed

Mr. SPANG. Yes, sir.

Mr. COBURN. And I believe you had testified that before this contract was entered into, there first was a small pilot plant of that kind operated by the Bureau of Mines out there to test your ore?

Mr. SPANG. That is my understanding, yes, sir.

Mr. COBURN. Now, this letter of January 16, 1952, that we had just referred to before the noon recess, that is the first letter from the Hanna company, and Mr. Pierce had written to the Government with reference to the possibility of producing nickel for the Government out at Riddle.

And this letter, among other things, refers to the electric furnace smelting process and says:

> We have made arrangements with the U.S. Bureau of Mines at Albany to rebuild an electric furnace that they have available to meet our specifications and have shipped 300 tons of ore for test purposse. It is expected that these tests will start before February 1, and we should be able to make our conclusions regarding this process after around 5 or 6 weeks.

In view of the fact that the letter says they have asked the Bureau of Mines to rebuild this furnace, does that mean that there was a second test made of your ore out there?

First, you started with a little one and then you had the Bureau of Mines rebuild that furnace and operate a larger furnace in the first part of 1952?

Mr. SPANG. I think that is right; yes, sir.

Mr. COBURN. It appears to be that way.

And that the second test then ran apparently in February or March of 1952?

Mr. SPANG. I believe that is correct.

Mr. COBURN. Which, of course, was before the contract was entered into?

Mr. SPANG. Yes, sir.

Mr. COBURN. And, as a matter of fact, it was before the first formal proposal was submitted by the Hanna company to the Government?

Mr. SPANG. Yes, sir.

Mr. COBURN. Well, now, this second test also seems to have turned out favorably, did it not?

Mr. SPANG. That is my understanding. It gave some favorable indications as to the process; yes, sir.

Mr. COBURN. Because after that test was concluded, you then went ahead and made a formal proposal to the Government, did you not?

Mr. SPANG. Yes, sir.

Mr. COBURN. And then Mr. Pierce's letter of January 12, 1952, says this:

> From the above you will see that we hope to have a complete picture of both processes, both capital cost and operating cost available some time in March, so that we will be able to pursue whichever one seems best suited to the situation, and be in a position to talk to the proper agencies in Washington that would be interested in the production of this metal.
>
> This letter is being written simply as a matter which we believe will be of interest to you and perhaps others with whom you are in touch.

This, again, confirms the fact that you people were planning on operating the mine and also operating a smelter in connection with the mine out there?

Mr. SPANG. We were investigating the processes; yes, sir.

Mr. COBURN. Yes.

Mr. SPANG. With that ultimate possibility in mind; yes, sir.

Mr. COBURN. Yes.

And in Mr. Vedensky's report, which follows this, it being May 2, 1952, he gives you a detailed statement of the cost of setting up a smelter as well as opening the mine, does he not?

Mr. SPANG. I believe that is right. That is in the report.

Mr. COBURN. And the cost of operating the smelter, as well as the mine, all of that is in his report?

Mr. SPANG. Yes, sir.

Mr. COBURN. Is that right?

Mr. SPANG. I believe so.

Mr. COBURN. So his report is on the assumption that the Hanna company was exploring the possibility of opening up a mine and smelter, too?

Mr. SPANG. That is right.

It disclosed his conclusions based upon the work that had been done and the possibilities based on that work, also.

Mr. COBURN. Yes.

And he recommended the feasibility of doing both, did he not, Mr. Vedensky?

Mr. SPANG. If the report says that, he did. I do not know.

Mr. COBURN. Now, then, back to this letter, for one moment, of January 16, 1952.

As I understand it, sometime later, 2 or 3 months after this letter was written, you did have a complete picture of the capital cost and operating cost of operating not only the mine and the smelter because of this second pilot operation conducted at Albany——

Mr. SPANG. Yes.

Mr. COBURN. Is that right?

Mr. SPANG. Yes, sir.

Mr. COBURN. As a result of which you were able to make your formal proposal to the Government shortly after that?

Mr. SPANG. Yes, sir.

Before we leave that, Mr. Counsel, may I just say I told you before lunch that I wanted to be as helpful as I could, but I did not have full knowledge of some of these matters. And I refer particularly now to the statements that were made and which I agreed to about the commercial sales of ferronickel in Europe. I understand from Mr. Vedensky that there were no such sales. In fact, our ferronickel is the very first commercial production of ferronickel in the world.

Mr. COBURN. Is that so?

Mr. SPANG. Yes, sir.

Mr. COBURN. I am glad to know that because we want to know what the facts are.

So that the ferronickel here in the United States, then, produced under your contract, was the first ferronickel that was used commercially, is that correct?

Mr. SPANG. The very first; yes.

Mr. COBURN. But he did not dispute the fact that the steel companies, when you made a canvass of them, rather, Battelle did, all reported that they were interested in ferronickel?

Mr. SPANG. I think that is true, yes, sir.

Mr. COBURN. And indicated that there would be a good market for ferronickel in the United States?

Mr. SPANG. Indicated they could use it, yes.

Mr. COBURN. Now, then, Mr. Spang, by the time the Hanna people made their proposal, their first formal proposal, to the Government, you had decided that the electric furnace method was the best method of smelting this ore, had you not?

Mr. SPANG. Yes, sir.

Mr. COBURN. And this letter of January 12, 1952, written by the Hanna people shortly after the Government had announced the nickel expansion program, constituted your people making an approach or taking the initiative with reference to this contract, did it not?

Mr. SPANG. Well, of course, you are aware of the earlier communications that we had received, for example, from Senator Lyndon Johnson and Bureau of Mines people a year or more before that, expressing considerable interest in this deposit and whether we could conceive ways and means to possibly get it into operation.

Mr. COBURN. Yes.

Mr. SPANG. There was a considerable approach to us before this.

Mr. COBURN. Yes. And I do not want to preclude you from saying whatever you want to say in respect to that.

I am well aware of the fact it was a copy of a letter that was attached to Mr. Humphrey's statement that more than a year, perhaps, before this Senator Johnson had written the Hanna people to inquire about the possibility of their producing nickel out at Riddle; and the Bureau of Mines approach, I am not so sure I am very well informed on that, but you had been in touch with them on that subject, had you?

Mr. SPANG. Very much so; yes, sir.

Mr. COBURN. But as soon as the DMPA announced this nickel expansion program in early January 1952, you people then took the initiative of writing this letter on the 12th of January?

Mr. SPANG. Yes.

I think Mr. Pierce, having in mind those previous overtures by the Government and then tying that in with this announced program, he thought they would be interested in our current thinking on the thing.

Mr. COBURN. Now, Mr. Spang, did you participate in preparing this formal proposal that the Hanna people made to the Government that eventually led to these contracts?

Mr. SPANG. Yes, sir, I did.

Mr. COBURN. It has not been offered in evidence, so I will offer it.

Senator SYMINGTON. Without objection.

(The material referred to follows:)

HANNA COAL & ORE CORP.,
Cleveland, Ohio, June 27, 1952.

DEFENSE MINERALS PROCUREMENT AGENCY,
General Services Administration Building,
Washington, D.C.

GENTLEMEN: Hanna Coal & Ore Corporation (hereinafter referred to as "Hanna") hereby makes the following proposal covering the mining and sale of ore containing nickel and the refining and sale of ferronickel to be produced therefrom from properties controlled by it on Nickel Mountain, near Riddle, Douglas County, Oregon, and for the development, construction, and operation of the facilities therefor:

I. MINING

Hanna, through a 100% owned mining subsidiary (hereinafter called "Mining Company"), will at its cost, develop, open, equip, and operate the mine and other facilities required to produce and deliver ore, beginning in 1954, to a smelter plant (hereinafter called "Smelter Company").

The mine will be an open pit, located near the top of a mountain at an elevation of about 3,500 feet, and the ore will be conveyed approximately 2 miles for delivery at the furnace site at an elevation of about 900 feet.

The estimated initial cost of this undertaking is approximately $4,300,000.

II. SALE OF ORE

The Mining Company will sell to the appropriate Government agency under firm contract for a period beginning in 1954 and ending in 1961, ore containing an estimated 115,000,000 pounds of recoverable nickel. The contract will contain in addition to other standard provisions the following:

(*a*) *Term.*—1954–1961.

(*b*) *Tonnage.*—1954—75,000–100,000 dry tons of ore (some of this tonnage will have to be delivered during 1953 to be available for 1954 plant operation). 1955 through 1961—450,000–650,000 dry tons of ore per year. Government agency to set annual tonnages at not less than Smelter Company plant requirements for such year within the above maximums and minimums.

A ton shall be 2,000 pounds avoirdupois.

(*c*) *Analysis.*—The ore is estimated to average approximately 1.5% nickel, but the Mining Company does not make any guarantee as to the average grade.

(*d*) *Delivery.*—F.O.B. ore stockpile adjacent to Smelter Company plant.

(*e*) *Price.*—(i) For ore analyzing 1.5% or less contained nickel per dry ton—20¢ per pound of contained nickel.

(ii) For ore analyzing more than 1.5% contained nickel per dry ton—20¢ per pound of contained nickel, plus an additional 1.25¢ per pound for each 1/10 of 1% in excess of 1.5% contained nickel, fractions pro rata.

The prices for ore as stated above shall be escalated at the rate of 1.5¢ per dry ton of ore for each 1% of increase above an average straight time labor rate for hourly paid employees of $2.05 per hour, such escalated price to be applied to all ore delivered subsequent to any such increase.

(*f*) *Payment.*—(i) Preliminary payment shall be made on the 15th day of each month for ⅔ of the purchase price of ore delivered during the preceding month to stockpile, based on an estimated analysis of 1.5% nickel and on mine weights corrected for 21% moisture.

(ii) Settlement of the remainder for any ore in stockpile and not taken into the Smelter Company plant within one year after delivery to stockpile shall be based on mine analyses and on mine weights corrected for 21% moisture with final payment to be made as provided below. The Government agency shall have the right to have such analyses and weights independently checked, and any errors so discovered will be promptly adjusted in favor of the party entitled thereto.

(iii) Final payment shall be made on the 15th day of the month for all ore charged into the furnaces during the preceding month, based on plant weights and average analysis of such ore dried at 212° F.

(*g*) *Cancellation.*—Provided Government agency shall concurrently cancel its purchase contract for ferronickel with the Smelter Company as hereinafter provided, it shall have the right to cancel this contract at any time upon six months' prior written notice, paying therefore as liquidated damages—

(i) The price for all ore stockpiled based on mine analyses and on mine weights corrected for moisture, less any payments theretofore received on account of the price of such ore, which stockpile shall then be Government property. The Government agency shall have the right to have such analyses and weights independently checked and any errors so discovered will be promptly adjusted in favor of the party entitled thereto, and

(ii) The sum of $3.88 per ton on the difference between 4,000,000 dry tons and the sum of all tonnage previously fully paid for as charged into the furnaces, and all ore fully paid for in stockpile.

III. SMELTER COMPANY

The Smelter Company will have a nominal equity capitalization and the appropriate Government agency will advance from ten to twenty million dollars as needed for the purpose of engineering, building and equipping a preparation plant, three electric smelter furnaces, one electric refining furnace and all related equipment and facilities required to take the ore from stockpile and to produce ferronickel.

IV. PURCHASE OF ORE

The Smelter Company and the appropriate Government agency will enter into a contract whereby Smelter Company will purchase and pay for all ore charged into the furnaces at the Government agency's cost thereof. Payment to be made on the 15th day of each month for all ore charged into the furnaces during the preceding month, based on plant weights and average analysis of such ore dried at 212° F.

V. SALE OF FERRONICKEL

(1) The Smelter Company will enter into a contract with the proper agency of the Government for the sale and purchase of ferronickel, the contract to contain in addition to standard provisions the following:

(*a*) *Term.*—1954 through 1961.

(*b*) *Quantity.*—The entire maximum production of ferronickel from the furnaces, estimated to be during the term of the contract 115,000,000 pounds of contained nickel. Annual deliveries are estimated to be approximately 3,000,000 pounds of nickel in 1954, and 16,000,000 pounds of nickel per year beginning in 1955 and ending in 1961.

(*c*) *Analysis.*—Approximately 25% nickel and 75% iron, but the Smelter Company does not make any guaranty as to the analysis.

(*d*) *Delivery.*—F.O.B. Government stockpile near furnace plant or to customers at terms satisfactory to Government.

(*e*) *Price.*—The price per pound of ferronickel each month shall be the greater of—

(i) The cost of production thereof determined in accordance with generally accepted accounting practice, including as cost the cost of ore in accordance with the terms of the purchase contract, current maintenance and rebuilding costs, and beginning in 1955, an amount equal to 85% of the total capital expenditures actually incurred divided by 5, and in the years 1960 and 1961, an amount equal to 15% of such total capital expenditures divided by 2, plus the actual interest paid in each such calendar year on the amount advanced to the Company for such capital expenditures, or

(ii) 62.5¢ per pound of contained nickel plus an amount equal to any increase in the now quoted Port Colborne price of 56.5¢ per pound of nickel.

(*f*) *Payment.*—Quarterly, beginning in the calendar quarter before the quarter in which ferronickel is to be first produced and delivered, the Smelter Company and the appropriate Government agency will jointly estimate the cost of production in accordance with paragraph i) above. All deliveries during the ensuing three months shall be based on such estimated cost or the price specified in paragraph ii) above, whichever is the greater, with final adjustment for the year to be made on the basis of actual costs or the price specified in paragraph ii), whichever is the greater, within 45 days after the close of each calendar year.

Payments shall be made on the 15th day of each month for all ferronickel delivered to the Government agency in the preceding month, based on plant analyses and weights. Either party shall have the right to have such weights and analyses independently checked, and any errors so discovered will be promptly adjusted in favor of the party entitled thereto.

No dividends will be paid by the Smelter Company before Government advances have been fully liquidated. The advances will be liquidated as rapidly as possible, taking in account normal working capital requirements.

(*g*) *Cancellation.*—Provided Government agency shall concurrently cancel its contract for the purchase of ore from the Mining Company as hereinbefore provided, it shall have the right to cancel this contract at any time upon six months' prior written notice, and as liquidated damages therefor it shall cancel all advances to the Smelter Company then outstanding and shall protect and indemnify the Smelter Company against all liabilities and obligations incurred by it in excess of the amount of such advances.

VI. CONSTRUCTION AND SALES

Hanna will—

(*a*) Agree to supervise the management of the construction and operation of the Smelter Company for a nominal fee.

(*b*) At the request of the Government, agree to act as Sales Agent for its account, and will use its best efforts to sell to consumers of nickel the entire production of ferronickel at the best price obtainable, and on terms and conditions satisfactory to the Government agency, and any amount so sold will be deducted from the amount to be purchased by the Government pursuant to its contract with the Smelter Company. All proceeds from any such sales, less a sales commission of 2 percent of the sales price of the ferronickel so sold shall be remitted by Hanna to the Smelter Company for application against the price otherwise payable by the Government agency under its contract for the purchase of such ferronickel. The Government agency shall on monthly billing on the 15th day of each month pay the difference, if any, between the amount received on any such sales and the price which would otherwise be paid by the Government agency under its contract for the purchase of such ferronickel.

This entire proposal is based on both the Smelter Company and the Mining Company obtaining, with Government assistance:

(1) Firm power for three-furnace operation from the Bonneville Power Administration or other appropriate source.

(2) Certificates of Necessity for not less than 85 percent.

(3) The highest possible priorities, particularly for electrical equipment.

If the foregoing is acceptable to you, please so indicate by signing and returning an enclosed copy of this letter, and we will proceed with the preparation of the definitive documents.

Very truly yours,

HANNA COAL & ORE CORP.,
(S) JOS. H. THOMPSON
JOS. H. THOMPSON, *President.*

Accepted: _____, 1952.

Mr. COBURN. But the formal proposal, as I understand it, is dated June 27, 1952. Does that sound right to you?

Mr. SPANG. That sounds right; yes, sir.

Mr. COBURN. And prior, however, to the submission of that proposal to the Government, there was a rough memorandum prepared, was there not, with reference to this Riddle nickel deal in your office?

Mr. SPANG. Yes, sir.

Mr. COBURN. I believe that was prepared at the direction of, it says "GWH." I guess that is Mr. Gilbert W. Humphrey; is that right?

Mr. SPANG. That is; yes, sir.

Mr. COBURN. And it is directed to you, as a matter of fact, the memorandum that I have here.

Mr. SPANG. I am familiar with it; yes, sir.

Mr. COBURN. It says:

Attached hereto please find a rough memorandum of the proposed deal on Riddle nickel. Will you please check this and let me have the benefit of any suggestions which you may care to make.

I wish you would check particularly for mechanical operating problems, and questions of time of payment, weights and analyses in order to make sure that we will have a workable deal. It might be well to check this against the manganese transaction.

I would like very much to get this in the form of a definite proposal to the Government to be mailed on Wednesday or Thursday of this week.

And then "GWH."

(The complete memorandum and draft is printed on p. 2290.)

Mr. COBURN. You remember that memorandum addressed to you?

Mr. SPANG. Yes, sir.

Mr. COBURN. And you went over this memorandum, did you, carefully?

Mr. SPANG. I did.

Mr. COBURN. Now, this memorandum, as I see it, Mr. Spang, does not contemplate that there will be more than one contract with the Government; is that not correct?

Mr. SPANG. I do not recall.

Mr. COBURN. Well, the memorandum says this on page 3:

The smelter company will enter into a contract with the proper agency of the Government for the sale and purchase of ferronickel, the contract to contain, in addition to standard provisions, the following—

and then it sets out the quantity and delivery and price and various things.

But it would appear from this preliminary memorandum that was prepared, or draft, rather, of the proposal that was prepared by Mr.

Gilbert W. Humphrey that there would only be the one contract with the Government, and that with the smelter company.

Is that your recollection?

Mr. SPANG. I do not recall the details of it. Was it dealing with the ore in there at all or was it just dealing with the ferronickel part of it?

Mr. COBURN. He says here the mining company, which, of course, has the ore, will sell to the smelting company ore, and so on.

Mr. SPANG. There you are.

Mr. COBURN. What is that?

Mr. SPANG. There you are, a separate company. The mining company will sell to the smelting company?

Mr. COBURN. Yes, that is right.

Mr. SPANG. Yes.

Mr. COBURN. But my point is that this original draft here prepared by Mr. Gilbert W. Humphrey proposed only one contract with the Government, do you see, only one contract with the Government?

The mining company would sell to the smelting company, and then the smelting company would sell to the Government the nickel metal.

Is that your recollection?

Mr. SPANG. I have no good recollection about it, but if that is what it says, then that was, no doubt, his very initial idea.

I mean, after all, when we started out with a contract, you have to start off with some ideas put down on paper, and that may well have been. It was probably loosely put together, the very first draft.

Mr. COBURN. This was a preliminary draft?

Mr. SPANG. Yes.

Mr. COBURN. Of the agreement that was found by the investigators in the Hanna file?

Mr. SPANG. Yes.

Mr. COBURN. And it is dated June 23, 1952, and since the memorandum is addressed to you, I thought that you might be able to help us on this.

Mr. SPANG. Well, I have not gone back.

Mr. COBURN. What is that?

Mr. SPANG. I have not gone back, really, and looked this over carefully so I am pretty——

Mr. COBURN. Well, may I just ask you this:

Do you recall that when this matter was first considered by the Hanna people, they first had in mind that there would be only one contract made to the Government and that would be entered into by the smelting company?

Mr. SPANG. My recollection has always been that we always talked about two companies.

Now, maybe at some very early stages, without thinking so much about the corporate setup we were going to have as the other aspects of the thing, maybe that feature was gone over lightly in some of these early memorandums.

Mr. COBURN. Well, certainly, this memorandum indicates that at the very first Mr. Gilbert Humphrey had in mind only one contract with the Government, does it not?

Mr. SPANG. Without reading that completely, I cannot say that that was his intention.

I would like to read it.

Mr. COBURN. You may do so.

(Discussion off the record.)

Mr. SPANG. Well, it certainly is not clear that two contracts are contemplated in this memorandum, as I read it.

I do not like to spend any more time.

Mr. COBURN. I do not want to argue with you, Mr. Spang, but, to me, I thought it was very clear.

If you will look at the first page here, as a matter of fact, of this memorandum, at the very start it says that:

> Hanna, through a 100-percent-owned mining subsidiary, hereinafter called mining company, will at its cost develop, open, equip, and operate the mine and other facilities required to produce and deliver crude ore beginning in 1954 to a smelter plant, hereinafter called the smelter company.

Now, as a matter of fact, that draft would indicate that it was the intention of the Hanna people at the very first to organize a separate company to take the title to the mine, is that right?

Mr. SPANG. Yes, sir; that is in the——

Mr. COBURN. That is the way it reads, is it not?

Mr. SPANG. Yes.

That is in the other proposal, too.

We apparently considered at one time putting the mine in another subsidiary, yes, sir.

Mr. COBURN. That is, putting the mine in a separate company?

Mr. SPANG. Yes, sir.

Mr. COBURN. Is that right?

Mr. SPANG. That is right.

Mr. COBURN. Which would be a wholly owned subsidiary of the Hanna Mining Co., is that it?

Mr. SPANG. That is right, but that did not mean——

Mr. COBURN. I recall that Mr. George Humphrey, when he testified, testified very spiritedly that under no circumstances did they want to get this mine out of the mining company.

Do you remember his testimony?

Mr. SPANG. Oh, yes.

Mr. COBURN. In that respect?

Mr. SPANG. Yes, I do, and I think that was the intention when this memorandum was prepared. It just did not clearly point up the fact that we intended to have two contracts.

Mr. COBURN. Well, but originally, apparently, the Hanna people had no objection to taking this mine out of the mining company and putting it in a separate wholly owned subsidiary, did they?

Mr. SPANG. Well, that is right, but we were still going to have a smelting company, a separate smelting company.

Mr. COBURN. I will get to that in a moment, but I am talking now first about this mine.

Mr. Humphrey was very clear that under no circumstances should this good mine be taken out of the mining company and put into another company.

Mr. SPANG. Not another company that operated the smelter, that is the problem.

Mr. COBURN. I realize that. That was the context.

Mr. SPANG. Sure.

Mr. COBURN. In which he was testifying. I appreciate that.

But, at the same time, he said that under no circumstances do they want to take this mine out of the mining company.

Now, this indicates that at the very first Gilbert Humphrey had in mind the organization of a separate and wholly owned subsidiary of the Hanna Mining Co. to take the title to the mine and operate the mine, does it not?

Mr. SPANG. Yes, that is in the June proposal, too.

Mr. COBURN. All right.

Now, then, as you go on down on the first page of this first paragraph of the agreement, it says that:

> The mining company will sell to the smelting company under firm contract for a period beginning in 1954 and ending in 1961 an estimated 115 million pounds of contained nickel—

and so on.

That was at a time when they were talking in terms of 115 million, but it finally resulted in 125 million, did it not?

Mr. SPANG. Yes, sir.

Mr. COBURN. But this indicates clearly that the mining company will sell the ore to the smelting company and not to the Government as it finally turned out, is that not right?

Mr. SPANG. This language indicates that all right, that is right; yes, sir.

Mr. COBURN. So that the mining company presumably would make a contract, or at least a sales arrangement of some kind, with the smelting company and not with the U.S. Government?

Mr. SPANG. But, as I say, this was a very early draft and there are a lot of things in here that were not carried over into the original proposal.

Mr. COBURN. Yes, I realize that, but it also indicates that at this time it was clearly contemplated by Mr. Gilbert W. Humphrey that there would be only one contract with the Government, and that would be the contract that the smelting company would make, is that right?

Mr. SPANG. This would indicate that; yes, sir.

Mr. COBURN. Now, the first proposal, the first formal proposal that was made to the U.S. Government, was made on the basis of the ore being sold at the rate of 20 cents a pound or $6 a dry ton, is that not correct?

Mr. SPANG. That is right, yes, sir.

Mr. COBURN. I have here an undated, rough draft of a proposal that also comes from the files of the Hanna company, which on the second page says this, referring to the Hanna Mining Co:

> They will represent that they will deliver to this stockpile as needed for the full operation of the furnaces an average product containing approximately 1.5 percent nickel. This they propose to sell in stockpile to a smelter company which Hanna will cause to be formed, the price to be paid by the smelter company to be 15 cents a pound contained nickel, based on the present quoted price of 56.5 cents per pound f.o.b. Ontario, plus 25 percent of any further increase in such price.

(The complete draft is printed on page 1977.)

Do you remember this draft of the proposal that evidently was worked on by the people in the Hanna office, and I should think you, too?

Mr. SPANG. No, sir.

I did not participate in fixing the price for this ore at all.

Mr. COBURN. Well, I know you did not, but you worked on the proposals, did you not?

Mr. SPANG. Oh, yes, I worked on the proposals.

Mr. COBURN. Mr. Chairman, to make sure that we have all these original drafts in the record, I offer for the record the draft to which is attached a memorandum dated June 23, 1952, with the initials "G.W.H." signed at the bottom.

Senator SYMINGTON. Without objection.

(The document referred to follows:)

THE M. A. HANNA CO.,
Cleveland, June 23, 1952.

Mr. L. W. SPANG:

Attached hereto please find a rough memo of the proposed deal on Riddle Nickel. Will you please check this and let me have the benefit of any suggestions which you may care to make.

I wish you would check particularly for mechanical operating problems and questions of time of payment, weights and analyses, in order to make sure that we will have a workable deal. It might be well to check this against the manganese transaction.

I would like very much to get this in the form of a definite proposal to the Government to be mailed on Wednesday or Thursday of this week.

G. W. H.

MEMORANDUM

1. MINING

Hanna, through a 100 percent owned mining subsidiary (hereinafter called "Mining Company"), will at its cost, develop, open, equip and operate the mine and other facilities required to produce and deliver crude ore, beginning in 1954, to a smelter plant (hereinafter called "Smelter Company").

The mine will be an open pit, located near the top of a mountain at an elevation of about 3,500 feet, and the crude material will be conveyed approximately 2 miles for delivery at the furnace site at an elevation of about 900 feet.

The estimated initial cost of this undertaking is approximately $4,300,000.

2. SALE OF CRUDE ORE

The Mining Company will sell to Smelter Company under firm contract for a period beginning in 1954 and ending in 1961, an estimated 115,000,000 pounds of contained nickel and 345,000,000 pounds of contained iron, the contract to contain in addition to other standard provisions the following:

(*a*) Term: 1954–1961.

(*b*) Tonnage: 1954—75M–100M dry tons crude ore (some of this tonnage will have to be delivered at the end of 1953 to be available for 1954 plant operation).

1955 through 1961—450M–650M dry tons crude ore per year. Smelter Company to set annual tonnage within above maximums and minimums at not less than plant requirements for such year.

(*c*) Analysis: The average product is estimated to contain approximately 1.5 percent nickel per ton (2,000 lbs.) of dry ore.

(*d*) Delivery: F.O.B. crude ore stockpile adjacent to Smelter Company plant.

(*e*) Price: 20 cents per pound of contained nickel, and the following sliding scale for variations in nickel in excess of an average of 1.5 percent:

1 ton of dry ore

Percent nickel	Pounds-per ton	Value-per dry ton	Price per pound nickel
1.2	24	$4.80	$0.2000
1.3	26	5.20	.2000
1.4	28	5.60	.2000
1.5	30	6.00	.2000
1.6	32	6.80	.2125
1.7	34	7.65	.2250
1.8	36	8.55	.2375

NOTE.—Plus escalation.

(f) Payment: (i) Preliminary payment will be made on the 15th day of each month for 2/3 of the purchase price of ore delivered to stockpile based on an estimated 1.5% nickel.

(ii) Final payment to be based on weights and analysis of ore charged into furnaces when dried at 212° F.

3. SMELTER

The Smelter Company will have a nominal equity capitalization and the appropriate Government agency will advance from ten to twenty million dollars as needed for the purpose of engineering, building and equipping a preparation plant, three electric smelter furnaces, one electric refining furnace and all related equipment and facilities required to take the crude ore from stockpile and to produce ferronickel.

4. SALE OF FERRONICKEL

(1) The Smelter Company will enter into a contract with the proper agency of the Government for the sale and purchase of ferronickel, the contract to contain in addition to to standard provisions the following:

(*a*) Term: 1954 through 1961.

(*b*) The entire maximum production of ferronickel from the furnaces, estimated to be during the term of the contract 115,000,000 pounds contained nickel and 345,000,000 pounds of contained iron. Annual deliveries are estimated to be approximately 3,000,000 pounds of nickel and 9,000,000 pounds of iron in 1954, and 16,000,000 pounds of nickel and 48,000,000 pounds of iron per year beginning in 1955 and ending in 1961.

(*c*) Analysis: Approximately 25% nickel and 75% iron.

(*d*) Delivery: F.O.B. Government stockpile near furnace plant or to customers at terms satisfactory to Government.

(*e*) Price: The price per pound of ferronickel shall be the greater of—

(i) the cost of production thereof determined in accordance with generally accepted accounting practice, including as cost the cost of ore in accordance with the terms of the purchase contract, current maintenance and rebuilding costs, and beginning in 1955, an amount equal to 85% of the total capital expenditures actually incurred divided by 5, and in the years 1960 and 1961, an amount equal to 15% of such total capital expenditures divided by 2, plus the actual interest paid in each such calendar year on the amount advanced to the Company for such capital expenditures, or

(ii) 62.5¢ per pound of contained nickel plus an amount equivalent to any increase in the quoted Port Colburn price of 56.5¢ per pound of nickel.

(*f*) Payment: Payment will be made on the 15th day of each month for ferronickel delivered in the preceding month based on plant analysis and weights. Either party shall have the right to have such analyses and weights independently checked and any errors so discovered shall be promptly adjusted in favor of the party entitled thereto.

(*g*) No dividends will be paid by the Smelter Company before Government advances have been fully liquidated, and any profits accruing to the Smelter Company will be used to accelerate repayment of advances.

(2) Smelter Company will use its best efforts to sell to consumers of nickel its entire production of ferronickel at the best price obtainable, and any tonnage so sold shall be deducted from the tonnage to be purchased by the Government pursuant to its contract. All amounts received pursuant to any such sales, less a sales commission of ____% of the value of the tonnage sold shall be applied by the Company against the amount otherwise payable under the contract with the Government agency. The Government agency shall, on monthly billing rendered by the Smelter Company, pay the difference, if any, between the amount received on any such sales and the amount which would otherwise have been received from the Government agency under the contract.

5. CONSTRUCTION AND SALES

The Hanna company will—

(1) Agree to supervise the management of the construction and operation of the Smelter company for a nominal fee.

(2) Act as sales agent for the account of the Government at a nominal fee.

This entire proposal is based on both the Smelter company and the Mining company obtaining, with Government assistance—

(1) Firm power for three-furnace operation from the Bonneville Power Administration or other appropriate source.

(2) Certificates of Necessity for not less than 85 percent.

(3) The highest possible priorities, particularly for electrical equipment.

JUNE 16, 1952.

Mr. COBURN. I also offer for the record, although it may have already been in the record, this preliminary draft, which is undated, which is on the stationery of the Hanna Coal & Ore, the letterhead of the Hanna Coal & Ore Corp. to the Defense Minerals Procurement Agency, and I want to question the witness further about this then.

Senator SYMINGTON. Without objection.

(The document referred to is printed on p. 1977 of the record.)

Mr. COBURN. Mr. Witness, would you like to look at this paragraph that I am referring to here on page 1978 about the price?

Mr. SPANG. I think I am familiar with it. It was in the group of documents that you gave us the last time we were here.

Mr. COBURN. I am sure it has been introduced in the record.

However, if you would like to look at this, why, we will be very glad to have you look at it——

Mr. SPANG. If it deals just with that one——

Mr. COBURN (continuing). To refresh your recollection.

I only want to question you about this matter of price.

Mr. SPANG. I think I am familiar with that paragraph, yes, sir.

Mr. COBURN. Now, to return to this again, it would seem that in this draft of the proposal to the Government which had reached the point of going to the Defense Materials Procurement Agency, it would appear by this preliminary draft that the Hanna people were still thinking of the Hanna Mining Co. selling the ore to the smelting company, does it not?

Mr. SPANG. Yes, sir.

Mr. COBURN. So that there would just be one contract, then, with the Government, and that would be the smelting company which would sell the nickel metal to the Government?

Mr. SPANG. On the basis of the language there, that is right, yes, sir.

Mr. COBURN. Now, this says that the price to be paid by the smelter company to the mining company for this nickel should be 15 cents a pound instead of 20, and that would figure out $4.50 a dry ton, would it not?

Mr. SPANG. Of course, there was escalation provided there, too, I note.

Mr. COBURN. Yes.

Well, there was escalation in the mining contract, too, as finally drawn, was there not?

Mr. SPANG. Yes, there was a different escalation basis.

Mr. COBURN. But my point is that here this apparently contemplated that the ore would be sold at 15 cents a pound or $4.50 a ton, is that not right?

Mr. SPANG. There is no doubt that is what that paragraph says; that is right, yes, sir.

Mr. COBURN. And that, of course, was $1.50 a ton less than what the Hanna Mining Co. finally sold the ore to the Government for?

Mr. SPANG. If that was the market price for electrolytic nickel at that time.

Mr. COBURN. No, I am talking about the ore now, I am not talking about the nickel metal, but I am talking about the ore.

Mr. SPANG. Yes.

Mr. COBURN. The mining company finally made a contract with the Government by which they sold the ore to the Government at $6 a ton, did they not?

Mr. SPANG. That is right, yes.

Mr. COBURN. And here this contemplates a price of $4.50 a ton, is that right?

Mr. SPANG. That expresses the price at $4.50 a ton, yes, sir.

Mr. COBURN. Now, you were working on this deal. It is perfectly obvious that you were, from the memorandum that Mr. Gilbert Humphrey wrote you on June 23, 1952. Do you remember that at one time the Hanna people had in mind a price of $4.50 a ton for the ore?

Mr. SPANG. The first I heard about the price was this proposal here.

Where is that earlier proposal? Did that not express 20 cents a pound?

Mr. COBURN. The proposal of June 23, 1952, the first formal proposal to the Government, does say $6 per ton, or 20 cents per pound.

Mr. SPANG. And the other draft you just handed me?

Mr. COBURN. And the other draft——

Mr. SPANG. That is the first.

Mr. COBURN (continuing). Of Mr. Gilbert Humphrey also expresses the same price; that is right.

Mr. SPANG. That is the first contact I ever had with the price proposal here.

Senator CANNON. Will the counsel yield?

Mr. COBURN. Yes.

Senator CANNON. You said 20 cents a pound or $6 a ton?

Mr. SPANG. That is right; yes, sir.

Mr. COBURN. Yes; that is the way it worked out, $6 a dry ton.

Mr. SPANG. I might say that earlier price of $4.50, of course, obtaining it as long as the price of electrolytic nickel is 56.5. I think if you figure that out now, you would be over $6 in the price for this ore if you applied your escalation.

Mr. COBURN. But I am trying to get your recollection of about whether there was any discussion in the Hanna organization about selling this ore at $4.50 a ton.

Mr. SPANG. Not that involved me at all. As I said my first contact with the price was this first proposal that Mr. Humphrey gave to me which sets forth the 20 cents a pound.

Mr. COBURN. Who would know about that, Mr. Spang?

Mr. SPANG. Well, Mr. Pierce was vice president of operations. He has been mentioned here before. This was, no doubt, the thing that was considered by a lot of people and talked to a lot of people about, ac-

countants and operating people, and I am under the impression that this 20 cents a pound that works out to $6 a ton was comparable to the price in effect at that time.

Mr. COBURN. You say Mr. Pierce. Is Mr. Pierce still with the company?

Mr. SPANG. No, sir. He has been retired since 1958.

Mr. COBURN. He is living, however?

Mr. SPANG. He is living; yes, sir.

Mr. COBURN. Where is he now?

Mr. SPANG. He resides in Arizona.

Mr. COBURN. You say this was talked about, this deal, by quite a number of people in the Hanna organization?

Mr. SPANG. Well, I have no doubt that it was. Things are not usually decided by one man.

Mr. COBURN. Who else besides Mr. Pierce would know about this price question?

Mr. SPANG. I would say Mr. Fish, who happens to be deceased now. He was Mr. Pierce's assistant, and head of our mining operations.

Mr. Vedensky may know something about it.

Mr. Gustafson, who was our chief geologist at the time.

All of those people were prominent in this project.

Mr. COBURN. Is Mr. Vedensky with the company?

Mr. SPANG. Oh, yes.

Mr. COBURN. What about Mr. Fish? Mr. Fish, you say, is deceased?

Mr. SPANG. Deceased; yes, sir.

Mr. COBURN. Would Gilbert W. Humphrey know about this?

Mr. SPANG. Mr. Gilbert Humphrey very well might have known something about this at the time; yes, sir.

Mr. COBURN. But you say you have no recollection whatever of this draft of the preliminary proposal that mentions the price of $4.50 a ton for the ore?

Mr. SPANG. I do not remember having seen it, Mr. Coburn, until it showed up in this material that you handed out here.

Mr. COBURN. This came from the Hanna files.

Mr. SPANG. Oh, yes.

Mr. COBURN. And so I was in hopes that you could help us on this. But you have no recollection of it at all?

Mr. SPANG. No, sir. Fixing the price, after all, is one thing that I would not be involved in or consulted about.

Mr. COBURN. Now, Mr. Spang—and, by the way, on the subject of price, before we leave it, the first formal proposal of the Hanna Mining Co. did propose a price of 20 cents a pound or $6 a dry ton, did it not?

Mr. SPANG. Yes, sir.

Mr. COBURN. And that price was never varied from throughout the course of the entire negotiations, was it?

Mr. SPANG. No, sir.

Mr. COBURN. I believe that the Government did say that you would have to justify that price; is that not right?

Mr. SPANG. Mr. Robinson testified to that, as I remember, during the hearing; yes.

Mr. COBURN. He testified to that.

But you also were involved in the negotiations, were you not?

Mr. SPANG. Yes, sir.

Mr. COBURN. Do you remember that the Government said that, in negotiating with you people, that you would have to justify that price?

Mr. SPANG. Apparently they call for estimates on which—of our operating costs and profits and so forth, which we submitted with our proposal.

Mr. COBURN. So that you did submit to the Government, along with the proposal of June 23, 1952, an estimate of the cost of producing this ore?

Mr. SPANG. Yes, sir.

Mr. COBURN. Well, that must have been because the Government wanted to justify that price, do you not think?

Mr. SPANG. I do not know what purpose they wanted it for. Our price, we told them quite clearly, was $6 a ton.

Mr. COBURN. I am trying to refresh your recollection here as to whether the Government negotiators did not say in the course of the negotiations that this price you quoted of $6 a ton would have to be justified.

Do you remember that?

Mr. SPANG. I do not remember that; no, sir. They wanted figures of our estimated operating costs.

After all, this was, I suppose, a normal thing. If we made a proposal, they expected to have some information about our estimated operating costs and profits and so forth.

We submitted those right along with our proposal. What purpose they wanted to use that for, to justify the price or just to have information in their files or what, I do not know.

I suppose that they wanted to consider it in connection with——

Mr. COBURN. They probably wanted to make sure they were not paying too much money for the ore. Did that not occur to you?

Mr. SPANG. Well, I think the problem is:

What was the ferronickel going to cost them? That was the thing. And the price of the ore entered into that.

Senator SYMINGTON. Would you repeat that? You thought the problem was what?

Mr. SPANG. What the ultimate product that they were buying here was going to cost them, the ferronickel. Of course, the price of the ore entered into that.

Mr. COBURN. Of course, you are right about that, but the agreement with the smelting company was that the smelting company would be paid its actual operating costs for producing the ferronickel.

Mr. SPANG. Yes, that is right, including the price of the ore.

Mr. COBURN. And one of the biggest items would be the price of the ore; would it not?

Mr. SPANG. Yes, sir.

Mr. COBURN. So the Government was very naturally concerned as to whether this ore price of $6 a ton was a fair ore price, do you not think?

Mr. SPANG. I have no doubt that they wanted to give some consideration to whether they were willing to buy ore at that price or not. Maybe one of the things they wanted to take into consideration was what we expected to make out of it. I do not know.

Mr. COBURN. Well, at any rate, you submitted a proposal of $6 a ton or 20 cents a pound?

Mr. SPANG. Yes, sir.

Mr. COBURN. For the ore?

Mr. SPANG. Yes, sir.

Mr. COBURN. And that price was never varied from in the course of the negotiations, was it?

Mr. SPANG. Yes, sir; that is right.

Mr. COBURN. Was there ever any consideration on the part of the Hanna people that the price might be reduced?

Mr. SPANG. No, sir; not to my knowledge.

Mr. COBURN. You say not to your knowledge. Again, were you not in the middle of these negotiations?

Mr. SPANG. Oh, yes.

I think that I do recall an occasion or two when it may have been mentioned, was there any possibility of reducing this price, and I suppose that I communicated that when I went back to Cleveland and was told that this was still the price.

Mr. COBURN. Who told you that?

Mr. SPANG. I would assume it would have been Mr. Fish or Mr. Pierce who told me that. Most of my contact was with them and reporting back between.

Mr. COBURN. Between Washington and Cleveland?

Mr. SPANG. Washington and Cleveland, that is right.

Mr. COBURN. With Mr. Fish and Mr. Pierce, is that right?

Mr. SPANG. Yes, sir.

Mr. COBURN. Now, we have talked here just a moment ago about the fact that at the very outset in the Hanna organization it apparently was contemplated that there would be only one contract made with the Government, and that would be made by the smelting company.

I have here another preliminary memorandum of this particular transaction dated June 26, 1952, which is addressed to the Defense Minerals Procurement Agency, but apparently was a draft that was not sent out, because it was not in the files of the Government, but was found in the Hanna files.

Mr. Chairman, I offer this draft for the record.

Senator SYMINGTON. Without objection.

June 26, 1952

Defense Minerals Procurement Agency
General Services Administration Building
Washington 25, D. C.

Gentlemen:

Hanna Coal & Ore Corporation (hereinafter referred to as "Hanna") hereby makes the following proposal covering the mining and sale of crude ore containing nickel and the refining and sale of ferronickel to be produced therefrom from properties controlled by it on Nickel Mountain, near Riddle, Douglas County, Oregon, and for the development, construction and operation of the facilities required therefor::

I. MINING

Hanna, through a 100% owned mining subsidiary (hereinafter called "Mining Company"), will at its cost, develop, open, equip and operate the mine and other facilities required to produce and deliver crude ore, beginning in 1954, to a smelter plant (hereinafter called "Smelter Company").

The mine will be an open pit, located near the top of a mountain at an elevation of about 3,500 feet, and the crude material will be conveyed approximately 2 miles for delivery at the furnace site at an elevation of about 900 feet.

The estimated initial cost of this undertaking is approximately $4,300,000.

II. SALE OF CRUDE ORE

The Mining Company will sell to the appropriate government agency under firm contract for a period beginning in 1954 and ending in 1961, an estimated 115,000,000 pounds of contained nickel and 345,000,000 pounds of contained iron, the contract to

contain in addition to other standard provisions the following:

a) Term: 1954-1961

b) Tonnage: 1954 - 75,000-100,000 dry tons of crude ore (some of this tonnage will have to be delivered at the end of 1953 to be available for 1954 plant operation)

1955 through 1961 - 450,000-650,000 dry tons of crude ore per year. Government Agency Smelter Company to set annual tonnages at not less than Smelter Company plant requirements for such year within the above maximums and minimums.

A ton shall be 2,000 pounds avoirdupois.

c) Analysis: The average product is estimated to contain approximately 1.5% nickel, but the Mining Company does not make any guarantee as to the analysis.

d) Delivery: F.O.B. crude ore stockpile adjacent to Smelter Company plant.

e) Price: i) For crude ore analyzing 1.5% or less contained nickel per dry ton - 20¢ per pound of contained nickel.

ii) For crude ore analyzing more than 1.5% contained nickel per dry ton - 20¢ per pound of contained nickel, plus an additional .0125¢ per pound for each 1/10 of 1% in excess of 1.5% contained nickel.

The prices above for crude ore shall be escalated for any increases in the base labor rate of $2.05 per hour.

f) Payment: i) Preliminary payment shall be made on the 20th day of each month for 2/3 of the purchase price of crude ore delivered during the preceding month to stockpile, based on an estimated analysis of 1.5% nickel and on mine weights corrected for 20% moisture.

ii) Settlement of the Government for any crude ore in stockpile and not taken into the Smelter

* * * * * * *

Mr. COBURN. This particular draft, only a short time after your formal proposal, first formal proposal, says:

"The mining company will sell to"—and then it is typed, "smelting company"—but then that is marked out and written in instead, "the appropriate Government agency" is inserted, so that this draft, after the change reads:

The mining company will sell to the appropriate Government agency under firm contract for a period beginning in 1954 and ending in 1961 an estimated 115 million pounds of contained nickel.

Does that mean that the mining company was planning on smelting this nickel?

Mr. SPANG. I do not think that was ever contemplated. It is probably just sloppy draftsmanship.

Mr. COBURN. Does this draft indicate that by this time it had been decided that the better way, from the standpoint of the Hanna company to set up this deal, was not to have just one contract with the Government, but to have a separate contract between the mining company and the Government and a separate contract between the smelting company and the Government?

Mr. SPANG. That was the decision that was ultimately made. When it was made or at what point, I am not sure.

Mr. COBURN. You cannot tell us when it was finally decided that there would be two contracts rather than one?

Mr. SPANG. No, sir, I cannot. I just know that that decision had been made by the time we submitted our first proposal to the Government.

Mr. COBURN. By the time you had made your first proposal?

Mr. SPANG. Yes.

Mr. COBURN. It was decided that there would be the two contracts, is that right?

Mr. SPANG. Yes, sir.

Mr. COBURN. Who made that decision?

Mr. SPANG. Well, I cannot recall that, of course.

Mr. COBURN. Well, you say "of course." You were in the midst of the negotiations and drafting.

Mr. SPANG. This is 10 years ago, Mr. Coburn. I cannot tell you the discussion. We, no doubt, had discussions about it.

We decided that that was the way that we wanted to submit our proposal.

Mr. COBURN. And why did you want to submit it that way?

Mr. SPANG. Well, I think that Mr. Humphrey covered that quite clearly in his testimony. We started out here, we only wanted to do the mine.

Mr. COBURN. What is that?

Mr. SPANG. We only wanted to do the mining operation. We were miners, and we were perfectly willing to mine and sell the ore. We did not want to take any risk in the smelter, put any money in the smelter, and we thought that the very nature of that arrangement suggested separate companies.

Mr. COBURN. Mr. Spang, we have just seen here by Mr. Vedensky's report that you were seriously considering opening not only the mine but the smelter as well, until you got in touch with the Government, is that right?

Mr. SPANG. Well, if Mr. Vedensky were around, he would probably say that that was something that we were looking forward to, planning 5 years over, or something like that.

There was a lot of other work to be done. There was no immediate—there were no plans of any immediate project on this. I am sure of that, of our own for that property.

Mr. COBURN. Without regard to whether it was immediate or not, you evidently were giving serious consideration to opening not only a mine but a smelter as well, because Mr. Vedensky's report covers the one as well as the other.

Mr. SPANG. Oh, sure.

I mean whenever you have a property, you look ahead to doing something about it and doing something with it, and he, no doubt, was considering that ultimately we would have an operation, but there would be a whole lot more pilot plant work, and everything else done before that, before we decided to undertake that project ourselves.

Mr. COBURN. Yes.

Well, I realize that, but I do not quite see the consistency in what you say now and what you said a moment ago and what Mr. Humphrey said: That you were only interested in operating the mine.

Was it only when you got in touch with the Government and undertook to make a contract with the Government that you took the position that you wanted to operate the mine and not the smelter?

Mr. SPANG. At this stage, yes.

We were not done with our work on the smelter. We were not prepared to go ahead with the smelter operation at this point.

If we had to go ahead now, we were only interested in going ahead as a mining operation.

We made that clear to the Government that if they wanted to buy the ore, they could take it and get anybody else to smelt it or smelt it themselves, or do anything they wanted with it, at this stage.

Mr. COBURN. But you, of course, had carefully canvassed the situation of operating both the mine and the smelter, as is shown by the Vedensky report?

Mr. SPANG. That is right.

And we had considerable more work ahead of us to do along those same lines before a decision would have been made to go ahead on a project of our own.

Mr. COBURN. So if this Government contract had not come along, you intended to open both the mine and the smelter?

Mr. SPANG. If the additional test work to be done proved the process feasible, we hoped that we would be able to develop something like that in years coming, 2 or 3 years, maybe, hence.

Mr. COBURN. As a matter of fact, do I quote you correctly when I say that in talking with one of our investigators, Mr. Henson, you said that entering into this Government contract by which the mining company sold ore and the smelting company sold nickel, that it really just put you into this business about a year or two in advance of what you intended to do yourself?

Mr. SPANG. I do not remember saying that. If I did say so, I would say a year or two in advance of what we hoped to do ourselves. We certainly had no intention as of the time we entered into these Government contracts of an operation of our own at that time.

Mr. COBURN. Without regard, then, to whether you said that to Mr. Henson or not—that was the way it was quoted to me—is it a fact that your entering into the Government contracts the way you did simply put you into the nickel mining and smelting business a year or two in advance of what you had intended to do yourself?

Mr. SPANG. We were in the business, that is right. We cannot deny that we wound up in the nickel business as a result of these Government contracts.

Mr. COBURN. No, but I did not ask you that, Mr. Spang.

I think you did not understand me, and I do not want——

Mr. SPANG. Well, in advance, yes.

Mr. COBURN. I do not want to have you misquoted, so to speak, in the record.

Is it a fact that your entering into these Government contracts for the sale of the ore and the metal ore, the operation of the smelter, simply put you into that business about a year or two in advance?

Mr. SPANG. I would not know how much more work had to be done before we might have developed a process on our own; whether it is a year or 2 or 5 years or 10 years, I do not know. But whether we ever would have, I do not know.

Mr. COBURN. If you did not intend to go into the smelter operation, then why did you approach the Government, because this ore itself would not be of any value to the Government. What it was looking for was the nickel metal.

Mr. SPANG. That is right.

Mr. COBURN. And so, unless you intended to get into the smelter business, then why did you approach——

Mr. SPANG. We intended to get into it at this time only because they wanted us to get into it at this time, and we would never have been in it at this time on our own.

Mr. COBURN. No, that may be so. It may have taken a little while longer. But you did approach the Government with this formal proposal in June of 1952, and if you did that, then you must have been prepared to go into the mining and the smelting business, too, because the Government was not looking for nickel metal and not nickel ore.

Mr. SPANG. Right.

Mr. COBURN. Is that right?

Mr. SPANG. Right.

And we submitted it at their instance because they were desperate to get additional nickel, and they thought that we had enough of a process that they were willing to take the gamble on it, and invited us to submit a proposal.

Mr. COBURN. We had no nickel ore in the stockpile. It is all nickel metal?

Mr. SPANG. That is right. That is what they were looking for, there is no doubt about it.

Mr. COBURN. Now, Mr. Spang, during the course of the negotiations in Washington with the Government over these contracts, in fact, very early in the negotiations, the Government wanted you—wanted the Hanna people—to finance the construction of the smelter, did it not?

Mr. SPANG. Oh, yes, I think that appears from the record; yes, sir.

Mr. COBURN. And did not the Government negotiators say to you

that it was the policy of the Government that wherever the contractor was financially able to construct the facilities that were required, it was the policy of the Government to have the contractor do that?

Mr. SPANG. I think it was their policy wherever they could get the contractor to do it; yes, that is right.

Mr. COBURN. Rather than to have the Government do it?

Mr. SPANG. That is right.

Mr. COBURN. And so they did propose, rather strongly, that the Hanna people would build this smelter themselves; is that not right?

Mr. SPANG. They would prefer that we build it and finance it; yes, sir.

Mr. COBURN. But that was turned down, was it?

Mr. SPANG. That is right.

Mr. COBURN. Rejected by the Hanna people?

Mr. SPANG. Yes, sir.

Mr. COBURN. Now, there was something said by Mr. Humphrey, when he testified with reference to this, that this was a matter of no consequence because the Hanna companies could have gone out and borrowed much more money than this from the banks without any difficulty at all.

Do you remember his saying that; you do, do you not?

Mr. SPANG. Yes, sir.

Mr. COBURN. Or words to that effect?

Mr. SPANG. Words to that effect; yes, sir.

Mr. COBURN. Actually, is it not a fact that when the Government proposed to the Hanna people in the negotiations that Hanna would build the smelter, that you people took the position that you could not extend yourselves any more financially because you were already heavily extended up in Labrador?

Mr. SPANG. The Hanna Mining Co.; that is right.

Mr. COBURN. So that that was the reason that you gave for not building this smelter yourself?

Mr. SPANG. The Hanna Mining Co.; yes, sir. We were heavily committed in Labrador.

Mr. COBURN. Now Mr. Spang—what?

Mr. SPANG. I might say, on that point, that we probably could have done some financing, but it would have required a guarantee or something to that effect of the M. A. Hanna Co., which they were unwilling to do, as Mr. Humphrey explained, because of the crash program here and the experimental aspects of the process and so forth.

So what it came down to, it was a matter of inability to finance the thing by the Hanna Mining Co.

Mr. COBURN. Because of its being heavily extended at the time?

Mr. SPANG. That is right, and not being able to get money from any other source on this basis, because they could not get it on its own credit and it would either have to have the guarantee of the M. A. Hanna Co., or something like that, which, as Mr. Humphrey explained, the M. A. Hanna Co. would not do, because of the particular situation.

Mr. COBURN. All right, Mr. Spang.

Now, I have asked you about the evident change in planning here on the part of the Hanna Co. with reference to whether there would be one contract entered into or two contracts, and by "two," I mean the mining and the smelting contracts.

They are the principal contracts here.

And you say that there was a change made in your plans, in the Hanna organization, so that by the time you made your first formal proposal, it was on the basis of there being a separate contract by the mining company with the Government to sell ore and a separate contract by the smelting company to sell nickel, is that not right?

Mr. SPANG. Yes, sir.

Mr. COBURN. And it is a fact, is it not, that the Government, in their negotiations with you people, wanted to put all this in one contract, did they not?

Mr. SPANG. Yes, sir.

Mr. COBURN. And that Hanna refused to do so?

Mr. SPANG. Yes, sir.

Mr. COBURN. Now, why was it that you finally made this change in your plans and made the decision to have the two contracts, and why was it that you refused to accede to the Government's request in that respect?

Mr. SPANG. Well, I think the main reason was because the Government was providing all of the financing for the smelter, and we did not want to get the mine exposed to that smelter operation.

After all, this was an experimental process. There was going to be a lien, a mortgage on all of the assets, all of the assets relating to the smelter operation, the Government was going to have a mortgage on, to make their advances.

We were thinking about accounting problems, working capital problems and all those things.

If you mix these two operations into one company, we did not want to be criticized by the Government about not keeping these things separate, as they would have to be kept for accounting purposes and everything else.

We just felt that the cleanest way to do this was to have it all in a separate company, and then there was not any question about it.

Mr. COBURN. Well, now, Mr. Spang, if you had done as you originally planned—by that, I mean to have either the Hanna Mining Co. or a wholly owned subsidiary of the mining company sell the ore to a separately organized company called the smelting company, and then have the smelting company sell the nickel metal to the Government—there would have been no problem there whatever?

Mr. SPANG. If the Government had been willing to guarantee the purchase by the smelting company, I think that is probably right.

Mr. COBURN. Yes.

So that there would have been no problem whatever in a setup of that kind in having the smelting company operation being mixed or mingled with the mining company operation, which you regarded as undesirable.

You say that you did not want to get into this smelting operation, and, therefore, you wanted it set up separately?

Mr. SPANG. That is right.

Mr. COBURN. And you could have done that under the plans as originally drafted by the Hanna company, could you not?

Mr. SPANG. I would have to think that out a little bit more.

Offhand, there would be a possibility of working that out, I assume; yes, sir.

Mr. COBURN. Yes. I know Mr. Humphrey said that he did not want to have any mortgage on any property that involved this mine, but, of course, if the smelting company had entered into a separate contract with the Government under much the same terms as the one that it did, and the Government took a mortgage on the smelter in order to protect itself, secure itself, against the advances made by the Government in the construction of the smelter, that would not have given the Government any kind of a lien on this mining property, would it?

Mr. SPANG. No, if it was separate.

Mr. COBURN. It was a separate company and the mining company would have been fully protected, would it not?

Mr. SPANG. That is right.

But, you see——

Mr. COBURN. Well, now—excuse me, go ahead.

Mr. SPANG. There were provisions here—well, I guess I have not thought this out. I withdraw the statement.

Mr. COBURN. Well, it is a fact, is it not, Mr. Spang, that the way these contracts were finally drawn, all the profits of this transaction were put in the mining company?

Mr. SPANG. Yes, sir. There was no profit in the smelting company; yes, sir.

Mr. COBURN. And the mining company had a right of depletion under tax law, did it not?

Mr. SPANG. I understand that it did; yes, sir.

Mr. COBURN. And the smelting company, which was to get no profits, had no such depletion rights, did it?

Mr. SPANG. I do not know as to that, sir. I am not a tax lawyer.

Mr. COBURN. You are a lawyer, are you not?

Mr. SPANG. I am not a tax lawyer. I do not know, sir. I will take your word for that.

Mr. COBURN. What?

Mr. SPANG. I will take your word for that.

Mr. COBURN. You are a lawyer, are you not, Mr. Spang?

Mr. SPANG. Yes, sir.

Mr. COBURN. And is it not a fact that the smelting company had no depletion rights whatever?

Mr. SPANG. I think that is a fact; yes, sir.

Mr. COBURN. In order to have depletion rights, you must be in some kind of a business where the capital assets of the business are being sold and depleted, is that not correct?

Mr. SPANG. That is right.

Mr. COBURN. As in mining or oil?

Mr. SPANG. Yes, sir.

Mr. COBURN. But not in manufacturing or smelting, is that not right?

Mr. SPANG. Yes, sir.

Mr. COBURN. And that is the way it eventually worked out. All the profits of this transaction were placed in the company that had the depletion rights?

Mr. SPANG. Yes, sir.

Mr. COBURN. Now, another matter of contention between the Government and the Hanna companies during the course of the negotia-

tions was the question of whether there would be any price redetermination in the mining contract, is that not correct?

Mr. SPANG. Yes, sir.

Mr. COBURN. The Government wanted to have the right to redetermine the price that they were paying for the ore as the contract was performed?

Mr. SPANG. I do not think that was ever seriously pressed at all.

Mr. COBURN. Was it not?

Mr. SPANG. Oh, it was suggested. In fact, I think, in the first draft of the mining contract, there was some provision for that.

Mr. COBURN. Well, it is a fact, is it not, that the Government wanted that right of redetermination of the mining contract?

Mr. SPANG. Yes, sir.

The very first draft included a provision for a redetermination is my recollection; yes, sir.

Mr. COBURN. Because this was a fixed-price contract, the mining contract, was it not?

Mr. SPANG. That is right.

Mr. COBURN. Six dollars a ton?

Mr. SPANG. Six dollars a ton.

Mr. COBURN. And, of course, the Government had never been in the nickel mining business, at least in the United States, had it?

Mr. SPANG. No, sir, not that I know.

Mr. COBURN. What is that?

Mr. SPANG. Not that I know of.

Mr. COBURN. And so it was quite natural at least for the Government to want to have a price redetermination clause in the contract?

Mr. SPANG. Well, I recall Mr. Robinson's testimony, and I think Mr. Brooks' this morning, that it was not customary to include a redetermination provision in any of these DPA contracts.

Mr. COBURN. It was not?

Mr. SPANG. That is as I recall his testimony.

Mr. COBURN. It was customary to get the price redetermination clauses in other kinds of contracts?

Mr. SPANG. Yes.

Mr. COBURN. Was it not?

Mr. SPANG. I do not know as to that.

Mr. COBURN. Defense contracts, things of that sort?

Mr. SPANG. I did not even know what the custom was as to DPA contracts until he said so on the stand here.

Mr. COBURN. Mr. Spang, I have here a memorandum dated October 23, 1952, that was written by Mr. Morris Levinson, the Assistant General Counsel of DMPA, to Mr. John G. Ford.

Mr. Chairman, I offer this for the record.

Senator SYMINGTON. Without objection.

(The memorandum referred to follows:)

U.S. GOVERNMENT,
October 23, 1952.

Office memorandum to: Mr. John G. Ford, director, contract negotiations division.

From: Mr. Morris Levinson, Assistant General Counsel.

Subject: Hanna Coal & Ore Corp. (mining, smelting, and operating contracts), Docket No. DMPA–2507.

Pursuant to your requests of October 20, and October 21, 1952, the mining and smelting drafts of contracts heretofore prepared and submitted to you have been revised to include the suggestions embodied in your memorandums,

and a new draft of an operating contract has been prepared. Five copies of each contract draft for discussion purposes only are enclosed.

It is our understanding that the general patent clause heretofore inserted in the smelting contract was discussed with contractor and that it refused to consider giving the Government the privileges therein proposed but will consider inclusion of a patent clause giving to the Government, or its nominee, royalty-free use of new patents. Consequently, this clause has been changed to meet your request.

There was intentionally omitted from the previous draft of the mining contract the amount per ton for liquidated damages in case of Government's cancellation after the process has been proved for the reason that Mr. Young's memorandum of October 15, 1952, to you indicated that the payment of 50 cents per ton was more than fair and should be the absolute maximum that ought to be considered. The exact figure was left blank in hopes that further negotiations would develop a figure less than the maximum. However, you advised that this matter has been discussed with contractor and that it has under consideration the 50 cents per ton figure.

It is to be noted that in both the mining and smelting contracts a new article has been inserted entitled "Redetermination." Mr. Greene advises that both Messrs. Larson and Young feel that a provision such as that should be incorporated in the mining and smelting contracts; the benefit of such provision would be to reduce the unit price over a longer period of amortization. However, it is my understanding that a provision such as referred to has been discussed with the contractor and it objects thereto. Nevertheless, it is deemed advisable that the contracts include such a provision for further discussion.

It is our understanding that the Bonneville power contract expires November 9, 1952. Will you please keep us advised of the developments in this matter.

(S) MORRIS LEVINSON.

Mr. COBURN. Ford was the chief negotiator, was he not, in the Hanna contracts?

Mr. SPANG. He was on the Government side, yes, sir.

Mr. COBURN. And you dealt with him frequently, did you not?

Mr. SPANG. Oh, yes; yes, sir.

Mr. COBURN. I notice that this memorandum says down here at the bottom, "Mr. Greene"—and, by the way, who is Mr. Greene? Do you know who he was?

Mr. SPANG. Mr. Greene is Mr. Al Greene, who was General Counsel of that Division.

Mr. COBURN. Of the DMPA?

Mr. SPANG. Yes, sir.

Mr. COBURN. And Mr. Greene "advises that both Messrs. Larson and Young feel that a provision such as that should be incorporated in the mining and smelting contracts."

And the sentence before that, which I should have read, too, is this: "It is to be noted that in both the mining and smelting contracts a new article has been inserted entitled 'Redetermination.'"

Mr. SPANG. Oh, I admit that. I said the very first draft of the Government contract had such a provision in it.

Mr. COBURN. So, without regard to what the custom was with reference to these DPA contracts, which I, myself, do not know offhand, it is a fact, is it not, that in October of 1952, according to this memorandum, both Mr. Larson and Mr. Young felt that there should be a redetermination clause in the mining contract, right?

Mr. SPANG. Yes, sir.

Now, if you will go back and look at the memorandum from Mr. Ford to Mr. Greene, telling him to draw up contracts for us, draft contracts, there is nothing said in there about redetermination.

But when the first drafts came through from the lawyers, they had a redetermination provision in them, which I understand from Mr.

Robinson, from his testimony here, was not customary in DPA contracts, and we objected to it, and I think that if you look again at this material you gave us the first day, you will see a reply to that memorandum from Mr. Ford to Mr. Levinson where he says it would not be workable on this contract because it would have the effect, maybe, of extending the amortization beyond the period which the Government could contract.

Mr. COBURN. We will look for what you say there, but you do say it is a fact, then, that both Mr. Larson and Mr. Young at one time were contending that a redetermination clause should be in this mining contract?

Mr. SPANG. I know that only from what you read.

Mr. COBURN. Well, you were in these negotiations, too, Mr. Spang. Do you not remember that?

Mr. SPANG. I saw Mr. Larson the day we signed the contracts. I never saw him before or since. I saw Mr. Young on possibly two occasions. The bulk of my—you are asking me about the way Mr. Larson and Mr. Young felt about this, and I was simply saying I did not know.

There is not any doubt about it that when we got the first drafts of the mining contracts, there was a redetermination provision included in those drafts. We do not deny that.

Mr. COBURN. All right.

Now, then, that being the case, what was the Hanna position with reference to that redetermination clause being in the mining contract?

Mr. SPANG. We objected to it.

Mr. COBURN. Why?

Mr. SPANG. Because our proposal was a fixed-price, firm contract without any renegotiation.

Mr. COBURN. Well, now, Mr. Spang, you did not want to take any unconscionable advantages of the Government, did you, in this contract?

Mr. SPANG. No, sir; but we concluded that was a fair value for the ore, and we were not willing to sell it for less.

Mr. COBURN. So you just concluded that that was the only figure you were going to consider at all in your relationship with the Government, is that right?

Mr. SPANG. That is my understanding from the people that determined what the price was going to be, yes.

Mr. COBURN. Well, now, something has been said in the earlier hearings about you people never having been in the nickel mining business before.

You never had, had you?

Mr. SPANG. Oh, no; no, sir.

Mr. COBURN. How could you be very, very sure, as you have indicated, that $6 a ton was a fair price?

Mr. SPANG. I said that was our opinion. We could not be sure of even our costs. We could not be sure of the costs we estimated and the profit we were going to make, or anything.

We could not be sure of it.

This all had to be done on estimates. This was our opinion.

Mr. COBURN. And so you put your opinion against the request that the U.S. Government made to redetermine the cost of the price of this ore?

Mr. SPANG. That is right.

When you sell anything, you form an opinion as to what it is worth, and that is your price for it, and that is what we did for the ore.

Mr. COBURN. Well, I ask you again, even though that was your opinion, did you want to take advantage of the Government in charging them too much for this ore?

Mr. SPANG. No, sir.

But we did not want to take a chance on having to sell it for less than we thought it was worth, either.

Mr. COBURN. If you did not want to take advantage of the Government and you are selling this ore to them, why were you not willing to agree to a redetermination clause? What difference would it make if you only wanted a fair return on your money?

Mr. SPANG. Well, I do not know what assurances there are that you are going to have what we felt was a fair return on our money by some kind of a redetermination clause here.

Mr. COBURN. Well, why not?

That is something that is done in the defense contracts, for instance, nearly all of the time, and here was the Government, now, just think about this for a minute, here was the Government, making a contract for the purchase of nickel ore, which they knew nothing about. They wanted the ore very badly. There is no question about that. They wanted it for defense purposes because we were really in a state of war at that time. They wanted it badly.

But they knew nothing about the mining of nickel ore, nor did they know anything whatever about the cost of mining nickel ore.

Under those circumstances, do you not think it was a reasonable and fair thing for the Government to ask that this contract should contain a redetermination clause?

Mr. SPANG. Well, I am going to beg off on that. As I said, I did not have anything to do with fixing the price or saying what the price was going to be, and in our discussions on the draft of the contract it was decided that we would object to that. Those were my instructions.

Mr. COBURN. Now, you did not answer my question, Mr. Spang, and you were a negotiator, and an active negotiator, in this matter.

Mr. SPANG. Yes.

Mr. COBURN. Do you not think under the circumstances that I described in my question a moment ago that it was fair and reasonable for the Government to say: "We know nothing about mining nickel ore. We know nothing about the cost of mining nickel ore. We should have a price redetermination clause in here so that, as this contract is performed, we can go in here and see what the cost is and protect ourselves against being charged too much money."

Now, is there anything unreasonable about that?

Mr. SPANG. Well, all I can say is that we had decided apparently that that was what the ore was worth, and we were not willing to sell it for less than that, and if we were subject to renegotiation or redetermination, whatever you want to call it, we might have been put in that position, and we did not want to be in that position.

Mr. COBURN. Although you had never mined nickel ore before?

Mr. SPANG. Oh, no, but we had mined all kinds of iron ore, and we had looked at this as a similar kind of an operation. It was an ore operation. It was a different mineral, but it was an ore operation.

Mr. COBURN. Well, if you had mined iron ore before, then you did, as you say, know something about mining?

Mr. SPANG. Oh, yes, sir.

Mr. COBURN. Did it not occur to you under those circumstances that the price of $6 a ton was high?

Mr. SPANG. No, sir.

Mr. COBURN. Because is it not a fact that the Nickel Division of the Hanna Mining Co. has enjoyed more profits per dollar of sales than any other division in the company?

Mr. SPANG. I do not want to go into the financial aspects of those contracts. Mr. Marting is going to discuss that.

Mr. COBURN. Yes, I intend to ask him about that.

But is it not a fact that your profits that you enjoyed from the nickel division during the period this contract was performed were higher than any other division in the company, any other mining division?

Mr. SPANG. I do not know that I have seen our figures on that, our comparisons.

Mr. COBURN. You are the secretary of the company, Mr. Spang, and you have been under consideration for a witness for a long time.

Do you mean to tell me that you cannot answer that question?

Mr. SPANG. I cannot answer that question, but we have the gentleman here who can.

Senator SYMINGTON. Will counsel yield?

Mr. COBURN. Yes.

Senator SYMINGTON. Mr. Spang, all we are trying to do is get at the facts.

I read into the record the income tax returns of your company, the relative profits of the three divisions. You were here when I did that. The question is: Do you know that you made considerably more profit per dollar of sales in the nickel division than you did in the other two mining divisions of the Hanna Mining Co.?

Are you saying you do not know that?

Mr. SPANG. That is right.

Senator SYMINGTON. Thank you.

Mr. COBURN. Well, you say that the people in your organization, whoever they were, decided that this request of the Government for price redetermination should not be agreed to, right?

Mr. SPANG. Yes, sir.

Mr. COBURN. And that your price was $6 a ton, take it or leave it?

Mr. SPANG. Yes, sir.

Mr. COBURN. Who decided that?

Mr. SPANG. I assume that was decided by the same gentlemen whom I have mentioned here. It, no doubt, was a joint decision.

I do not know. I came back from Washington from time to time, and if I said that they wanted to know whether there was any chance of changing this price, who told me at any particular time that this was a firm price, I do not know. I just do not recall, that is all. I can identify the people that participated in those decisions back in Cleveland.

Mr COBURN. All right, who were they?

Mr. SPANG. I have told you that: Mr. Pierce, Mr. Fish, Mr. Vedensky, Mr. Gustafson, and Mr. Humphrey.

Mr. COBURN. Mr. George Humphrey or Mr. Gilbert Humphrey?

Mr. SPANG. I am referring to Mr. Gilbert Humphrey.

Mr. COBURN. What is that?

Mr. SPANG. I am referring to Mr. Gilbert Humphrey.

Mr. COBURN. Although Mr. George Humphrey did say in his testimony previously that on all of the important decisions that were made with reference to negotiating this contract, that he was the one that made the decisions?

Mr. SPANG. Yes.

Mr. COBURN. Would you say that is correct?

Mr. SPANG. That is right. But I never had any regular liaison with Mr. George Humphrey on this. Now, he may have talked to these people I mentioned. These were the people that I dealt with and got my instructions from.

Mr. COBURN. When you went back to Cleveland and talked with somebody in the organization about the Government's request to redetermine this price, who was that? Whom did you talk with?

Mr. SPANG. I would imagine that my first visit would be with either Mr. Pierce or Mr. Gilbert Humphrey or Mr. Fish, one of those three.

Mr. COBURN. And was it the same person that you talked with who told you finally, before you came back to Washington again, that it was the decision of the Hanna Mining Co. that they would not recede from the $6-a-ton fixed price?

Mr. SPANG. Yes, sir, I think so.

Mr. COBURN. Now, Mr. Spang, to bring the subject to a close, it is a fact that the $6 price was never receded from at all at any time during the course of the negotiations?

Mr. SPANG. Yes, sir.

Mr. COBURN. And that the Government's request for a price redetermination was denied?

Mr. SPANG. That is right; yes, sir.

Senator SYMINGTON. Senator Thurmond, do you have any questions?

Senator THURMOND. I just want to ask you this question: If the Hanna company did consider this a good contract, why were they indifferent about entering into it?

Mr. SPANG. Well, I——

Senator THURMOND. Was that for appearances that they were indifferent or were they really indifferent about entering into it?

Mr. SPANG. Well, there was quite a bit of difference of opinion in our shop as to whether, in our company, as to whether we ought to go into this.

I know certain individuals who felt that we should not and others who felt that under the circumstances, on the basis of the deal we proposed, it was all right for us to take the chance.

Senator THURMOND. Did you look at this contract with the Government as you would look at any other business contract from just a pure, coldblooded money standpoint, or did you consider that we were in war at the time and that you wanted to help in that effort?

Mr. SPANG. Oh, yes, that was considered, I am sure.

Senator THURMOND. What was your answer?

Mr. SPANG. Yes, I am sure that that was considered. I think my impression was that our people had a long-range program for this thing of what, maybe, brought it into ultimate production, but when the Government indicated that they seriously wanted this in production now on some basis, we were willing to do whatever we could to bring it about.

Senator THURMOND. Under the contract there was hardly any chance for the Hanna company to lose any money, was there?

Mr. SPANG. That is right; yes, sir.

Senator THURMOND. In view of the fact there was no chance for them to lose money, in view of the further fact that we were in war at the time, would it not have shown a better public spirit if they had entered into a contract that provided a reasonable profit, if it turned out later that the profits were very large?

Mr. SPANG. Well, we thought this was a fair proposal, Senator.

Senator THURMOND. I am just trying to find out whether you just considered this another business contract, entered into purely for the money, or you appreciated the fact that you did have a monopoly and that you would not take advantage of that monopoly to gouge the Government or to make excessive profits during wartime.

Mr. SPANG. I would say certainly not. We made a determination of what we thought was a fair value for the ore, and we were perfectly willing to sell it on that basis, and we felt there were just too many risks and uncertainties in the smelter process, and if the Government wanted the ferronickel badly enough to take those risks, we were willing to go along and cooperate in any way that we could, and I think that if you will talk to the Government engineers who are very familiar with this project, they will tell you that we did an exceptional job in the development of that plant.

Senator THURMOND. That is all, Mr. Chairman.

Senator SYMINGTON. Senator Beall?

Senator BEALL. I have no questions.

Senator SYMINGTON. Senator Cannon?

Senator CANNON. Thank you, Mr. Chairman.

Who was it you said Mr. Pierce was, Mr. Spang?

Mr. SPANG. He was a vice president of the mining company. I believe he is still chairman of the board of the smelting company. He is on the board of directors of the smelting company. He is on the board of directors of the mining company. He is an employee of the M. A. Hanna Co. He does not hold an office there. He is now retired, and has been retired since 1958.

Senator CANNON. Do I understand that when the first proposal was made to your company by the Government, that it did then contain a renegotiation provision?

Mr. SPANG. The very first draft of the mining contract that we received did not contain a renegotiation provision——

Senator CANNON. About when would that have been, do you know?

Mr. SPANG. I would say that would have been about August of 1952.

Senator CANNON. And so that matter was then considered until roughly September of 1952, according to the memo from Mr. Humphrey to Mr. Pierce which is on page 1906 of the record. Are you familiar with that?

Mr. SPANG. Yes.

Senator CANNON. The memorandum dated September 12, where Mr. Humphrey wrote Mr. Pierce:

I talked to Larry Spang in Washington this morning. The Government has given up on its renegotiation provision.

So that matter would have been under consideration during all that period of time?

Mr. SPANG. I would like to say, Senator, that when you refer to the memorandum that Mr. Ford wrote to Mr. Greene, who is the head lawyer, and requested him to have his division draw up contracts, in the list of things he outlined there to be the provisions to be included in the contract there was no mention of renegotiation in that memorandum.

The lawyers apparently just put that in as—I do not know why. That was there.

Senator CANNON. That was in the memorandum of January 16 that you are referring to?

Mr. SPANG. No.

I am referring to a memorandum that Mr. Ford, the head of the Contract Negotiation Division, wrote to Mr. Greene, who is the General Counsel, asking him to have contracts drawn up with the Hanna companies and setting forth in there what were to be the terms of those contracts.

Senator CANNON. I am wondering if you are referring to the one that I questioned Mr. Brooks on this morning. It is dated January 16, 1953.

Mr. SPANG. No, no.

Senator CANNON. To Mr. Greene.

Mr. SPANG. No, sir.

Senator CANNON. From Mr. Ford.

Mr. SPANG. No, sir.

Senator CANNON. It says:

Please prepare final drafts of contracts to cover the mining contract, smelter contract, management contract, and sales and guarantee contract in accordance with drafts now in your possession as finally amended during conferences held this week between representatives of the contractor and DMPA.

That is not the memorandum?

Mr. SPANG. No, sir.

There is an earlier one that preceded the first drafts of contracts we received.

It was the request of the Legal Division to draft contracts. That is the memorandum that I am referring to. It is not in the record. I do not think it is in the record.

Senator CANNON. I see. Do we have that, Mr. Counsel?

Mr. COBURN. Well, we——

Mr. MAY. I know the letter you are referring to.

Mr. COBURN. We will find it.

Mr. SPANG. Beside the point, we admit the draft contracts, this was a point then that the negotiators pursued.

Senator CANNON. You were here in Washington during all this time negotiating with the Government?

Mr. SPANG. I spent the better part of 6 months here in Washington; yes.

Senator CANNON. From what period of time?

Mr. SPANG. That would be from some time shortly after we submitted this proposal in June or July of 1952, I think until we signed the contract.

Senator CANNON. Until you made the final execution of the agreement?

Mr. SPANG. That is right.

Senator CANNON. Now, was Mr. Robinson the gentleman with whom you did most of the negotiating?

Mr. SPANG. There were always several people there from the Government. There was always Mr. Robinson, the one who had been assigned to handle our contracts from the Contract Negotiation Branch, and then there was always a lawyer in there and I can give you about seven names there. They weren't the same all the time and there were always some men from the Finance Division, Mr. Brooks, or Mr. Saftlas or Mr. Russell, and they were the sort of people, I made the list of names here as best I can remember, I have about 30 here.

Senator CANNON. Who were present at a lot of the negotiations?

Mr. SPANG. Oh, yes.

Senator CANNON. The memorandum there indicated that there were changes or amendments made during the week on which January 16 was a Friday.

Do you remember what changes were made during that week?

Mr. SPANG. I think the question of ceiling price, what the ceiling price was going to be, was still open. We had two different ceiling prices. We had one ceiling price, do you understand what I mean by that? We were to deliver the ferronickel to the Government at cost, our operating cost but not in excess of a certain figure, so the Government always got it at cost. They just wanted to know for purposes of budgeting what the maximum was they were going to pay and they were willing to pay, and I think there were still some discussions between, I think on our behalf by Mr. Greenlee and Mr. Brooks or at least his branch as to just what that price ought to be and we left it up to them to look at that.

Senator CANNON. They were resolved during that particular week?

Mr. SPANG. I think they were resolved in early January. There has been a lot of discussion about them all the way through and I don't know just how much difference there was. After all this was just a ceiling price, is all it was, as to what should be the maximum price to be paid.

Senator CANNON. During this period of negotiation did you or any of the Government representatives go out to the location of the mine?

Mr. SPANG. No, sir.

Senator CANNON. Your trip out there with Mr. Robinson was at a later date?

Mr. SPANG. 1954.

Senator CANNON. 1954. What was the purpose of that trip?

Mr. SPANG. Well, naturally, it is a lot easier to deal with a subject if you know something, I mean the more you know about it, the easier it is to deal with it.

We had constantly little things coming up, mechanics, mostly, and we felt that it would be helpful to them; in fact, they had suggested a desire to go out there, but said they weren't able to get the authorization involved, and we said that we would be willing to arrange a

trip out there, provided they were authorized by their superiors to go, and we would be willing to pay the transportation costs if the Government would not do it and that is what we did.

Senator CANNON. Was there renegotiation taking place at that time?

Mr. SPANG. Not that I know of.

Senator CANNON. What would have been the purpose then of Mr. Robinson going out there at the company expense?

Mr. SPANG. They wanted to see the project and they felt it would be helpful on both sides when we discussed these problems as they come up; we both would have a better understanding of what the plant operation was.

After all when you talk about the furnaces and the problems with the furnaces and downtime and calciners and all of these things which I still don't know too much about, it is a lot easier to communicate with one another if you have been out there and seen the operation.

That was the only purpose that we had in mind.

Senator CANNON. Now, I don't quite understand, if there was no renegotiation what was the purpose of familiarizing them with the operation, if there was no problem of renegotiation with respect to price or material?

Mr. SPANG. Well, as I say, there are always things that had to be dealt with under these contracts. They have a Contract Administration Branch over there that, once these contracts are entered into, deal with the various day-to-day things that come up, I guess. When we signed these contracts, we just—our relations didn't end there. We have innumerable administration—administrative—problems under these contracts to carry out the terms of them on both sides. We had things to work out. We had shipping arrangements, we had innumerable things, as Mr. Robinson put it and I agree with him.

Senator CANNON. I thought Mr. Robinson testified that he was a negotiator in connection with negotiation of the contract?

Mr. SPANG. Well, he also handled all of the other problems as long as he was with the Government. He stayed with our contract. That was their custom as I understand it.

Senator CANNON. Do you recall any specific problems that you had arise?

Mr. SPANG. No, sir; I don't.

Senator CANNON. That would help for a better understanding?

Mr. SPANG. No, sir; I don't.

Senator CANNON. Who went out there? You and Mr. Robinson and who else?

Mr. SPANG. Mr. Ford.

Senator CANNON. Mr. Ford?

Mr. SPANG. Mr. Ford.

Senator CANNON. Yes.

Mr. SPANG. Mr. Ford, Mr. Robinson for the Government, and Mr. Fish, I believe, accompanied us and I know that Mr. Vines did, who was our chief engineer.

Senator CANNON. How did you go out?

Mr. SPANG. We arranged for the airlines in Cleveland ticket office to issue tickets down here to Mr. Ford and Mr. Robinson because we did not want to make any cash payments to them, and we went out by air, commercial air. [Laughter.]

Senator CANNON. And when you went out, did you go to San Francisco first or was that on the way back?

Mr. SPANG. That was on the way out and back. That was the way you went.

Senator CANNON. Both ways, through San Francisco?

Mr. SPANG. Yes.

Senator CANNON. You flew from Washington to San Francisco and then how did you go from there?

Mr. SPANG. We flew to Medford, I believe, would be the place you went to, Medford, Oreg. Then we went by car to Riddle.

Senator CANNON. How far out would you say?

Mr. SPANG. Sixty miles, I think it is.

Senator CANNON. Did you stay out there at Riddle?

Mr. SPANG. We stayed, yes, we stayed out there, I think we were there a couple of days.

Senator CANNON. And what did you do during that period of time?

Mr. SPANG. Spent all the time at the plant, long hard days.

Senator CANNON. What about the night? [Laughter.]

Mr. SPANG. After spending all day at the plant, they weren't so long.

Senator CANNON. Then you went from there back to San Francisco?

Mr. SPANG. This was—yes, sir, that is right.

Senator CANNON. And from San Francisco back to Washington?

Mr. SPANG. Yes, sir.

Mr. Ford, I believe, went over to Stockton, I think, where the Government had some depot of some kind over there that came under his jurisdiction. He didn't come back with us.

Senator CANNON. Did your problems with the Government improve after that time, these little problems that kept arising that you mentioned?

Mr. SPANG. No, sir, I would say that—well, everybody had a better understanding when we talked about the plant, the problems, they had a better understanding. I don't know what you mean if they improved. We certainly had a better understanding of the plant operation, and there is no doubt about that.

Senator CANNON. But this trip didn't affect any price that the Government was obliged to pay you or——

Mr. SPANG. No, sir.

Senator CANNON (continuing). Or any delivery problems that you had in delivering to the Government at all?

Mr. SPANG. No, sir.

Senator CANNON. It couldn't have affected that because of the contract.

Mr. SPANG. That is right, yes, sir.

Senator CANNON. Did you know Mr. Robinson before you entered into these negotiations?

Mr. SPANG. Never met him, sir.

Senator CANNON. You got rather well acquainted during the period of negotiations?

Mr. SPANG. I saw Mr. Robinson; I know Mr. Robinson as well as I know Mr. Brooks and Mr. Saftlas and I can give you about seven other names over there, too.

Senator CANNON. I think Mr. Robinson testified, I believe the second time he came under questioning, that you visited him in Florida after the hearings were announced.

Mr. SPANG. I did.

Senator CANNON. Did you visit Mr. Robinson down there?

Mr. SPANG. Yes, sir, for about an hour.

Senator CANNON. What?

Mr. SPANG. For about an hour.

Senator CANNON. Where was that?

Mr. SPANG. At Pompano Beach where he now resides.

Senator CANNON. Where he resides?

Mr. SPANG. Where he resides.

Senator CANNON. You don't live in Florida?

Mr. SPANG. Oh, no, sir, I live in Cleveland. I was there on a vacation and if I may just, if you are going to ask me about this, but I have—may I just explain that to you a little more?

Senator CANNON. Yes, sir.

Mr. SPANG. I have a very good friend, a retired flight captain of our ships, who lived in Pompano and had been in a hospital. One of our other men had been down there visiting him recently and just before I went down he had been in the hospital.

So we were down there, I said to my wife, "Well, we will take a day," we had been up at Vero Beach, and I said, "We will take a day and drive down to Pompano Beach and see Captain Gallagher" and we called en route, we didn't think he would be very far away because the report we had he had been in the hospital. We called and got no answer so I said I know somebody else here in Pompano, Mr. Robinson, who used to be with the Government and I knew him well when we were working out these contracts and we will stop and say hello to Mr. Robinson and maybe he will help us locate our friends and that is exactly what happened.

He drove me over to where they lived, and we didn't find him, but we learned from neighbors they had moved to Boca Raton. We came back to Mr. Robinson's and I located my friends through the telephone information and we went up and saw them, and that is the only visiting I have done with Mr. Robinson since, aside from seeing him here in the hearing room when he was here.

Senator CANNON. You mean besides talking to him on the telephone, don't you?

Mr. SPANG. Oh, yes, yes; I talked to him on the telephone.

Senator CANNON. Because Mr. Robinson, when he came back on the stand, did say that.

Mr. SPANG. Oh, yes.

Senator CANNON. That you talked with him on the telephone?

Mr. SPANG. That is right.

Senator CANNON. He said—

I think it was about a month ago when he called me on the telephone from Cleveland and asked me some names of people who were in Government at the time, and he just wanted to refresh his memory.

Is that right?

Mr. SPANG. That is exactly right. I was referring to personal visits.

Senator CANNON. I see.

Now, you signed these contracts yourself, did you, Mr. Spang?

Mr. SPANG. Yes, sir, I did as one of the executive officers. I attested them as secretary of the company. They were signed by an executive officer of the company.

Senator CANNON. I see. But you did attest their signature?

Mr. SPANG. Yes, I was present at the signing.

Senator CANNON. Were these all of the contracts?

Mr. SPANG. This was the three contracts; yes, sir.

Senator CANNON. Was everybody present when these contracts were signed?

Mr. SPANG. This was in Mr. Larson's office. Mr. Pierce was there who signed the smelting contract; Mr. G. W. Humphrey was there who signed the mining contract; I think Mr. Greenlee back here was there. I was there. I don't recall who was there on behalf of the Government but I have no doubt that Mr. Ford and/or Mr. Robinson were probably there.

It is possible that Mr. Young was there. I know we saw Mr. Young on that day.

Senator CANNON. You are not sure whether Mr. Young or Mr. Ford was there?

Mr. SPANG. I am not sure.

Senator CANNON. But were all of the signatures affixed to the contracts in your presence?

Mr. SPANG. Yes, sir.

Senator CANNON. And do you remember about what time of day that was?

Mr. SPANG. I think it was in the morning. We flew down around late morning or right after lunch or something like that. It is possible that—he was curious about your inquiry about that this morning. It is possible that some additional copies were signed later but certainly the contracts—there were copies of the, all three contracts signed on that day.

Senator CANNON. I admit I was a little curious because one of the other exhibits is also dated January 16, 1953, and it is an office memorandum to Mr. Ford from Mr. Robinson as negotiator and it says, "Contracts as now being finalized still contain the following controversial points" and he points out several controversial points that apparently still remained on January 16, 1953, in what it says are the contracts now being finalized.

And that is signed by Mr. Robinson, and also the same day, January 16, 1953, as I stated this morning, we have a memorandum from Mr. Ford dated January 16, 1953, to Mr. Greene saying:

> Please prepare final drafts of contracts to cover the mine contract, smelter contract, management contract, and sales and guarantee contract in accordance with drafts now in your possession as finally amended during the conferences held this week between representatives of the contractor and DMPA.

It just occurred to me that Mr. Ford and some of these other people were rather busy if Mr. Ford got the memorandum pointing out some of the controversial points in the contracts now being finalized, if he instructed the General Counsel to prepare final drafts of the contracts and if the contracts had the final drafts prepared and signed by all of you people particularly if your recollection is correct that it was the morning of January 16, 1953.

Wouldn't it occur to you that must have been a rather busy morning?

Mr. SPANG. It is a very curious record, I will admit; yes, it is.

Senator CANNON. Do you think it is possible that those contracts might not have been signed actually on January 16?

Mr. SPANG. I am sure it is not possible. I was there for that purpose and we had corporate seals——

Senator CANNON. How do you happen to fix the January 16 in your mind as that being the particular day?

Mr. SPANG. That is the date of the contracts and we dated them and signed them right there in Mr. Larson's office.

Senator CANNON. You dated and—they were dated and signed right in Mr. Larson's office?

Mr. SPANG. Oh, yes.

Senator CANNON. I believe the contracts show they were, I believe, dated with typewriter, if I recall correctly.

Does counsel have the contracts?

Mr. SPANG. The original, that may be. They may have brought them over.

Mr. COBURN. The originals show the date is inserted in pen.

Mr. SPANG. That is what I thought; yes.

Senator CANNON. I withdraw that. My copy showed it had a date typed in.

Your recollection is that the date was inserted in the contract and the contract was signed all at one time, all of these contracts?

Mr. SPANG. Right; and the corporate seal affixed.

Senator CANNON. And that was on the 16th of January 1953?

Mr. SPANG. I am sure of that; yes, sir.

Senator CANNON. Would your notes reflect what time of the morning it was when you say you think it was in the morning?

Mr. SPANG. No, sir; they wouldn't.

Senator CANNON. Do you have any independent memory or notes covering this?

Mr. SPANG. No, sir. It would either have been, I would say right before lunch or after lunch. My recollection is that it was in the morning.

Senator CANNON. Do you recall who actually inserted the date in the contract?

Mr. SPANG. No, sir; I don't. If I looked at it I could tell if it was in my handwriting or not.

Senator CANNON. I wonder if you would mind looking at it, because it appears that the date is in a different handwriting and a different ink than any of the handwriting or the signatures on the contract.

Mr. SPANG. That is not my handwriting; that is not mine.

Senator CANNON. Would you examine it and see if it appears to you that the date is inserted by someone other than any of the people who are signatories to the contract?

Mr. SPANG. It does look like a different handwriting all right.

Senator CANNON. It does look like a different handwriting?

Mr. SPANG. Yes.

Senator CANNON. It has the word "January" written out and "16" in numerals filled in.

Mr. SPANG. Yes.

Senator CANNON. Let me ask you if it doesn't look like it is filled in with a different ink even than that used by the people who signed the contract.

Mr. SPANG. Well, it could be a different color.

Senator CANNON. Different color?

Mr. SPANG. It might have been with a different pen, I don't know. Anyway these were all signed on that day.

Senator CANNON. Well, now let me ask you if it isn't possible that that date might have been inserted at some time other than at the signing?

Mr. SPANG. No, sir. I would say it isn't possible. We were there to conclude these contracts, sign them up, firmly, legally, and I am sure that one thing we attended to was seeing that they were dated.

Senator CANNON. Do you recall specifically anyone inserting the date in the contract?

Mr. SPANG. No, sir; that was 10 years ago, Senator, and that would have been a fairly perfunctory thing in connection with the execution of these contracts, putting the date in there.

Senator CANNON. But you are certain the date was inserted in your presence?

Mr. SPANG. I am absolutely certain that was done in my presence.

Senator CANNON. All right. Was it inserted in more than one place, do you recall?

Mr. SPANG. No; I think it only appeared on the cover page.

Senator CANNON. That is the page you just looked at?

Mr. SPANG. Yes, sir.

Senator CANNON. Mr. Spang, when Mr. Henson was on the stand he testified concerning the examination of certain records of the company. Let me ask you this: Did you fully cooperate with Mr. Henson in presenting the records for his examination?

Mr. SPANG. Well, we certainly endeavored to, and we thought we had until we heard his testimony on the stand.

Senator CANNON. And you are familiar with his testimony wherein he said he came into your office, and you were in the process of going through the records at that time?

Mr. SPANG. Right; because he had told me earlier he had a lot of questions he wanted to ask me about the negotiations, and I thought I wanted to be prepared for his questions.

Senator CANNON. And you were sort of trying to refresh your recollection?

Mr. SPANG. I was trying to refresh my recollection, and he also referred—all right, go ahead.

Senator CANNON. I believe he also testified that your secretary was going through some of the records, too, for the purpose of refreshing her recollection; that was your statement; is that right?

Mr. SPANG. Yes.

Senator CANNON. Is she here?

Mr. SPANG. I guess that was my statement. She asked me about that, and I said I said that. She said that actually what I had told her to do was that this subpena called for our records only up to 1954, and, of course, we didn't have any cutoff date in our files involved, and I had asked her to check two things: First, check the references to the file folder to see that the contents described and everything like that, and also to make some kind of appraisal as to how much material we had in here that wasn't called for by the subpenas, and that we were going to decide what we were going to do about that.

Senator CANNON. Was this particular occasion after the records had been subpenaed and before they had been turned over to Mr. Henson?

Mr. SPANG. Yes. Sure, he came—I think this occurred the same day, maybe a day or two later, he brought a subpena in, yes, sir. He

didn't say he wanted them right now. He said that he was going to be around there for some time and he couldn't, of course, get all of the records at once and so we agreed that the thing that was most readily available and that he expressed the most interest in were copies of tax returns and it was agreed the first thing we would give him that he could get started on would be the tax returns and that is the way we proceeded.

Senator CANNON. I understood his testimony to be that he got all of the records from you that day after he made the issue of it, is that correct?

Mr. SPANG. That is right. When he made an issue of it I said here they are.

Senator CANNON. You stopped refreshing your recollection and you gave him the records at that time?

Mr. SPANG. Yes, sir.

Senator CANNON. What was the name of your secretary?

Mr. SPANG. Martha Shuur.

Senator CANNON. Is she available here?

Mr. SPANG. No, sir, she is not.

Senator CANNON. You said that you believed that all the records were given to Mr. Henson on that day. Isn't it a fact that some of the records were not given to him until just before he left for Washington?

Mr. SPANG. I don't know—yes, well, all my records, all the records that I had in my office, that is right. There were other records, for example, geological records and things like that that he said, "I don't want these now. I will let you know when I want these additional records."

Senator CANNON. When was this, if you recall?

Mr. SPANG. When?

Senator CANNON. Yes.

Mr. SPANG. Well, he showed up, I think, the Monday after Easter, whenever that was, and it was within a day or two of that time, yes, sir, approximate time.

Senator CANNON. The Monday after——

Mr. SPANG. Easter.

Senator CANNON. Easter?

Mr. SPANG. Yes, sir.

Senator CANNON. You are familiar with Mr. Henson's testimony where he says that—

> In going through the contract negotiations file I can only speak of impression now there were drafts and a few memos. There was a complete absence of many things you typically find in a contract or business record file.

Are you familiar with that testimony?

Mr. SPANG. That is right. Yes, sir.

Senator CANNON. You also recall his testimony that he found copies of memos in Mr. Humphrey's files which normally would have been in the contract negotiations file?

Mr. SPANG. Probably Mr. Humphrey didn't return them to me is about it. But I am familiar with that; yes, sir.

Senator CANNON. Is that your explanation of the absence of these items from the contract negotiations file?

Mr. SPANG. I don't know what items he is referring to. I am just making a supposition.

Senator CANNON. Well, you do recall his testimony to that effect?

Mr. SPANG. Yes, I recall his testimony.

Senator CANNON. Wherein he said they were in G. W. Humphrey's files, "there were copies of information that I would have expected to have found in the contract negotiations file?"

Mr. SPANG. That is right.

Senator CANNON (reading):

> So I am of the firm opinion that I did not see everything unless I was able to find a copy of what was in the negotiations file at some other location.

How long a time prior to Mr. Henson's appearance did you examine these records to refresh your recollection?

Mr. SPANG. I remember now that it was Tuesday, because I arrived home, I was away on this vacation, this same trip that I saw Mr. Robinson on, I arrived home on Easter Monday and he was in the next morning. He had arrived the day before and of course I didn't see him.

I was there and that is when we started to work getting the files out for him. This stuff was all filed away. This is a 10-year accumulation and we didn't have it sitting out on the desk and we went right to work getting the material for him.

And so far as I am concerned and everybody else there, he saw everything we had that pertains to these contracts.

Senator CANNON. And everything you had pertaining to the contracts?

Mr. SPANG. That we have pertaining to the contracts, that is right.

Senator CANNON. I think Mr. Henson testified that the records would come in very slowly. "As I mentioned earlier and about the second day trying to speed things up, I walked into Mr. Spang's office," that is where he testified concerning your—you had the records.

Mr. SPANG. Yes. As I say, he said he wanted to keep the tax returns and that would keep him busy for some time and I had just got back from a 2-week vacation and I had a lot of accumulation on what he was relying on for me personally, and maybe it did take a little longer to get than he would have preferred, but he misled me when he said that he didn't want anything more for a while because he had the tax returns.

I didn't drop everything to give him the files but we made every reasonable effort to try to accommodate him with what we thought we had. I know when he left, the day he left, in the presence of some of the other boys, I asked him if he had everything that he wanted and he said "I have got the complete picture, I have seen everything."

Senator CANNON. You are familiar with Mr. Humphrey's testimony that he nailed all the decisions in relation to these matters, are you?

Mr. SPANG. Yes, sir.

Senator CANNON. Was Mr. Humphrey the one who made the decision on the fact that there would be no renegotiation proceedings in the contract?

Mr. SPANG. Well, I don't know about that, Senator, whether he was consulted on that or someone else took the responsibility in that particular point. I don't know.

I didn't have any discussion with Mr. Humphrey myself about it.

Senator CANNON. You didn't have any discussion about it?

Mr. SPANG. No, sir.

Senator CANNON. Other than Mr. Humphrey's memo to Mr.——

Mr. SPANG. Well, you are talking about a different Humphrey now, aren't you?

Senator CANNON. I am talking about Mr. George W. Humphrey.

Mr. SPANG. Well, there is no George W. Humphrey. There is a George M. Humphrey, the former Secretary of the Treasury.

Senator CANNON. George M. Humphrey, excuse me.

Mr. SPANG. Oh, well, he didn't write that memo.

Senator CANNON. Who was the memo written by?

Mr. SPANG. G. W. Humphrey, his son.

Senator CANNON. That was Gilbert Humphrey?

Mr. SPANG. That is right; Gilbert.

Senator CANNON. And then would the memo indicate that you are the one who made the decision about the renegotiation?

Mr. SPANG. Oh, no; I was just reporting back.

Senator CANNON. I see.

Mr. SPANG. No; I didn't make the decision about it.

Senator CANNON. But you don't recall who made that decision?

Mr. SPANG. I don't know, Senator. There were a lot of things going on and a lot of people who were involved. Sitting around the room, maybe a half dozen people talking out these things. The decisions were made by them and it wasn't always the same people there.

Senator CANNON. Apparently this was a rather important decision, inasmuch as it was something the Government wanted in the contract, and according to witnesses was a usual provision in this type of contract.

Mr. SPANG. That isn't what Mr. Robinson said.

Senator CANNON. I don't recall Mr. Robinson, but I recall Mr. Brook's testimony this morning because I asked him about it myself. You have no recollection as to who made the decision that there would be no renegotiation provision?

Mr. SPANG. That is right; yes, sir.

Senator CANNON. I am inclined to agree with Senator Thurmond's remarks. It would seem rather strange to me that the company would be unwilling to enter into that type of an agreement where they had a sole product in time of war that the Government was interested in and just merely said, "Here is our price; you take it or leave it," particularly when representations were made as to the cost by the company and those representations do not prove to have been correct, according to the records at this time.

You don't recall attaching enough importance to that to recollect as to who made that decision?

Mr. SPANG. I would like to be helpful, but I can't tell you. It was no doubt a joint thing. These things were all talked over by a group of people and we discussed the number of points that were open in our negotiations, and there would be a concensus of the people that this is the way it ought to be done, and we didn't keep any minutes of those meetings as to who said what. It was just a company decision like any other problem that involved a company's deciding.

Senator CANNON. No further questions, Mr. Chairman.

Senator SYMINGTON. Senator Bush.

Senator BUSH. No questions.

Senator SYMINGTON. Mr. Counsel, I would like to ask one question there if I may.

Mr. Spang, would you consider the decision not to agree with the Government that a redetermination clause should be inserted in the contract was an important decision?

Mr. SPANG. Well, I don't know what to say about that. We considered it important to us not to; that is right.

Senator SYMINGTON. In 1 year, based on your own books, you made 228 percent profit on cost in the nickel division; in 1 year. So at least it was important from the standpoint of profit, wasn't it?

Mr. SPANG. Oh, yes.

Senator SYMINGTON. Then would you call it an important decision, your refusal to have a redetermination clause?

Mr. SPANG. Well, it was important to us not to put any provision in here that would jeopardize the price that we had agreed on was what we thought was a fair and reasonable price.

Senator SYMINGTON. Haven't we had testimony as to who made the important decisions in this matter?

Mr. SPANG. You are referring, I guess, to Mr. Humphrey's testimony.

Senator SYMINGTON. I am. You say you discussed it with a great many people, that you were negotiating down here for 6 months. I am sure we would both agree this was a reasonably important decision, not to agree to any redetermination clause as requested by the Government. You say you do not know who made this decision. In all honesty I ask you, who could have made this decision?

Mr. SPANG. Well, so far as I was concerned any number of people could have made it. The people that I have mentioned. I got my instructions from——

Senator SYMINGTON. Who were those people again?

Mr. SPANG. Mr. Pierce.

Senator SYMINGTON. What was his position?

Mr. SPANG. He was vice president of the Hanna Mining Co.

Senator SYMINGTON. And he could have made a final decision not to put a redetermination——

Mr. SPANG. He was vice president of our operations. If he had told me I would have acted on those instructions.

Senator SYMINGTON. You feel, based on your knowledge of your organization, he would have been allowed to make that decision?

Mr. SPANG. Yes, sir; I do. I don't know—I think Mr. Humphrey's main instructions here—decisions—were in connection with not taking any risk on this thing.

Senator SYMINGTON. And then who else would have been in a position, in your opinion, to make this final decision?

Mr. SPANG. I acted on instructions.

Senator SYMINGTON. Who else in your opinion in the Hanna organization would have been in a position to make final decision there would be no redetermination clause despite the Government's consistent request during the period of the negotiations?

Mr. SPANG. Well, I don't think I can presume to speak for what responsibilities somebody might want to assume. If Mr. Fish had told me to go back and tell the Government, "We won't agree to this," I would have acted on those instructions. If Mr. Humphrey had told me, G. W. Humphrey or even the other, Mr. George Humphrey even [laughter], I would have acted on instructions from any of them, I mean to say.

Senator SYMINGTON. Pursuing my line of questioning, you feel that either Mr. Pierce, or Mr. Fish, or Mr. Gilbert Humphrey, or Mr. George Humphrey could have been the one who made this decision; is that right?

Mr. SPANG. Yes, sir. In the case of Mr. Fish, I think he was a little more of an operating man. I doubt if he would have made a decision like that without consultation by some of the others, but I would have acted on that under the instructions I received.

Senator SYMINGTON. You think it was made by either Mr. Pierce, Mr. Gilbert Humphrey, or Mr. George Humphrey?

Mr. SPANG. I think so; perhaps in consultation among them.

Senator SYMINGTON. If there was a consultation among them, who would make the final decision? [Laughter.]

Mr. SPANG. I have no doubt if Mr. G. M. Humphrey had had the subject put before him, he would have made the decision on the matter.

Senator SYMINGTON. That was his own testimony, wasn't it?

Mr. SPANG. Yes, sir. And don't misunderstand me. I am not saying this was put before him. I am not saying that he acted on that question at all, that he made the decision on that question.

Senator SYMINGTON. I think he stated he made all important decisions. Did he not?

Mr. SPANG. I think that was his testimony; yes, sir.

Senator SYMINGTON. Senator Cannon.

Senator CANNON. Mr. Spang, would you say that that position concerning renegotation is a fair interpretation of Mr. Humphrey's position in which I asked him if he was correctly quoted in the book "Firsthand Report" by Mr. Sherman Adams, where he says:

> We had seen something of the problems Stalin was referring to in trying to make trade agreements with Japan. George Humphrey pointed to what he called critical unemployment in the Pittsburgh area because of Japanese competition in the electrical instrument business. Eisenhower asked him if it were not possible for American businessmen to make some sacrifices in such a situation in the interests of world peace.
>
> "No," said Humphrey candidly. "The American businessman believes in getting as much as he can while the getting is good."
>
> "Maybe that is the trouble with businessmen, George," Eisenhower said seriously.

Would you say the fact that this company would not agree to a renegotiation price was simply a restatement of the business philosophy that I have just read?

Mr. SPANG. No, sir; I wouldn't.

Senator CANNON. Mr. Spang, when I questioned you concerning the date of the signing of the contracts, did you say you came down here that day for the purpose of signing contracts?

Mr. SPANG. That is my recollection; yes, sir.

Seantor CANNON. And that was from Cleveland?

Mr. SPANG. From Cleveland.

Senator CANNON. Did you get a call that morning the contracts were ready to be signed?

Mr. SPANG. Oh, no, sir. This must have been arranged, I would say a few days before that. I don't know. I don't recall.

Senator CANNON. But your recollection is that you came down from Cleveland that day, that morning?

Mr. SPANG. That morning; yes, sir.

Senator CANNON. And all of these other matters occurred which the record reflects now, and the contracts were signed, to the best of your recollection, around noon, a little before or around noontime.

Mr. SPANG. I am gaging that on the basis we flew down; we left at 9 o'clock in the morning and it would probably take a couple of hours to get down; we went right to Mr. Larson's office, so it would be around just before noon or right after noon.

Senator CANNON. How long did it take you to come down?

Mr. SPANG. I don't know, a couple of hours, I suppose.

Senator CANNON. Cleveland on the same time as Washington time?

Mr. SPANG. Yes, sir.

Senator CANNON. Thank you, Mr. Chairman.

Senator SYMINGTON. Mr. Counsel?

Mr. COBURN. Mr. Spang, in connection with the signing of these contracts, there is one thing here I wanted to ask you about. These contracts all show by ink insertions that they were executed on the 16th of January 1953, and by these contracts I mean DMP–49 which is the mining, Hanna Mining Co. contract, and DMP–50 which is the smelter contract, and 51, which is the contract between the United States of America and the Hanna Coal & Ore Corp. with reference to acting as an agent, but I think that was assigned later to the M. A. Hanna Co. in the sale of nickel.

Mr. SPANG. Some parts of it were—the sales agency parts were assigned.

Mr. COBURN. Yes. Anyhow, those are the three contracts referred to so you will have them in mind.

Mr. SPANG. Yes, sir.

Mr. COBURN. As I read these contracts—well, first, who was president of the Hanna Coal & Ore Corp. as it was then called; was that G. W. Humphrey?

Mr. SPANG. I think that was G. W. Humphrey. I have a list of it. I think that was G. W. Humphrey.

Mr. COBURN. He was president then, was he?

Mr. SPANG. No; I guess——

Mr. COBURN. Now, he signed one of these contracts as president. I don't want you to get into a kind of mistake here unintentionally.

Mr. SPANG. Yes; he was. He became president of the Hanna Mining Co. on December 16, 1952.

Mr. COBURN. Just before that?

Mr. SPANG. Just before that. He had been vice president and he became president just before that.

Mr. COBURN. All right.

Now, who was president of the Hanna Nickel Smelting Co. at the time this contract was signed?

Mr. SPANG. I think he was. He was.

Mr. COBURN. Who was vice president?

Mr. SPANG. Mr. Pierce was a vice president.

Mr. COBURN. All right, Mr. H. L. Pierce?

Mr. SPANG. Yes.

Mr. COBURN. Well, that is it.

Now, who, from the Hanna group, were here for the signing of this contract on January 16, 1953?

Mr. SPANG. Mr. Pierce was here, Mr. G. W. Humphrey was here, I was here, I think Mr. Greenlee was here, who had a lot to do with working out the figures and computations and so forth for those contracts, and I think that is all from our company who were here.

Mr. COBURN. Were all of those men present in Mr. Larson's office when these contracts were signed?

Mr. SPANG. They were. We all went together to Larson's office.

Mr. COBURN. You all gathered there together in Mr. Larson's office?

Mr. SPANG. Yes, sir.

Mr. COBURN. The reason I asked, I can't understand how these contracts were signed, now DMP 49, which is the mining contract, was signed by G. W. Humphrey, president of the Hanna Coal & Ore Corp., as that was then called. And so is the other, DMP 51, which is the agency contract and not of much consequence. But DMP 50, which is the smelter contract, and you have said that Mr. G. W. Humphrey was also president of the smelter company, that contract was signed by H. L. Pierce and where the word "president" had been typed in or evidently for the purpose of the president signing the contract, the word "vice" is written in in front of "president."

If G. W. Humphrey was present at the time that this smelter contract was signed in Larson's office, why didn't he sign it instead of their going to the trouble here not only of having Pierce sign it but writing "vice" in front of "president."

Mr. SPANG. Well, there isn't any significance to that. That is just a matter of form. We follow a practice of not having the same officer sign as executive officer for two companies that are parties to the same agreement; these were parties, to the same agreement, but they were both agreements with the Government.

Mr. COBURN. What?

Mr. SPANG. They were both agreements with the Government.

Mr. COBURN. Yes, but it is separate——

Mr. SPANG. Just a matter of form. There is no significance to it. He could very well have signed——

Mr. COBURN. He was there when all of these contracts were signed.

Mr. SPANG. Yes, sir; he was there. Mr. Pierce had been very active in this whole negotiation, and in the planning for this project and everything and we thought it would be nice if he would like to sign one of these contracts so that is why we asked him to sign it.

Mr. COBURN. Well, as I understand it you had Mr. Pierce sign it then to keep from hurting his feelings. [Laughter.] Was that it?

Mr. SPANG. I wouldn't put it that way.

There is no significance to the fact we had a difference—do you attach some significance in having different officers sign.

Mr. COBURN. I just thought it was unusual, and I was wondering whether Mr. Gilbert Humphrey was here in Washington in Mr. Larson's office on the 16th and whether all of these contracts were signed on that day.

Mr. SPANG. Oh, yes, sir; I can verify that, and I have said it, and I am sure that Mr. Larson, if he is going to be called, if he has a recollection on that will say the same.

Mr. COBURN. I see. All right.

Mr. Spang, you were also asked a moment ago—and I will pursue it a little further until I am finished with what I have in mind about it—you were also asked by one of the members of the committee a

moment ago about this trip to Oregon where Mr. Robinson and Mr. Ford were taken along.

And I believe you said that the tickets were bought up in Cleveland for these men, were they?

Mr. SPANG. They were.

Mr. COBURN. By what company?

Mr. SPANG. Well, they were paid for by the Hanna Coal & Ore Corp. They were no doubt bought by the M. A. Hanna Co. because we have, at that time, of course, when—it is different now since a change in our corporate setup here a year ago—but all of our airline credit business, that was all handled through the M. A. Hanna Co. and they would charge the cost back, you see.

But the initial payment would be made by the M. A. Hanna Co.

Mr. COBURN. I am not so much concerned who may have made the purchase originally, but who ultimately ended up by paying for the tickets.

Mr. SPANG. The Hanna Coal & Ore Corp.

Mr. COBURN. The Hanna Mining Co.?

Mr. SPANG. The Hanna Mining Co.

Mr. COBURN. Is that right?

Mr. SPANG. That is right.

Those were my instructions. I remember very clearly in arranging the transaction, I gave instructions that that expense was to be charged to the Hanna Coal & Ore Corp.

Mr. COBURN. Now, the Hanna Mining Co. paid all the expenses then, not only the tickets but all the expenses of these men on this trip, I mean?

Mr. SPANG. Meals, and hotel; yes, sir.

Mr. COBURN. Whose idea was it that they should be taken out there? Who thought this one up?

Mr. SPANG. I probably did as a result of the—some of the—you know how it is when you are talking about these contracts, questions kept coming up as to, that related to, the mechanical operation of the plant and so forth, and I don't know who first mentioned it, but everybody agreed that it would be helpful to both of us to see the plant.

Mr. COBURN. Well now, as I recall it, both Mr. Ford and Mr. Robinson, who were taken on this trip, were the men who negotiated this contract with the Hanna people for the Government, is that right?

Mr. SPANG. Yes, sir.

Mr. COBURN. And as you have indicated a moment ago in your testimony, it is the—or was, at least—the custom and practice of GSA over there, DMPA in those days, that where a negotiator had represented the Government in the negotiation of a contract, customarily at least, he was allowed to remain on and administer the contracts, so to speak?

Mr. SPANG. Yes, sir.

Mr. COBURN. So that he dealt with the contractor in the performance of the contract.

Mr. SPANG. Yes, sir.

Mr. COBURN. And if there were any amendments to the contract, usually he was the one who again negotiated with the contractor on the amendments, wasn't he?

Mr. SPANG. Yes, sir.

Mr. COBURN. And in this particular instance with reference to the smelting company contract, there was a provision in the contract that the Hanna company could cancel that contract if it wanted to, isn't that right?

Mr. SPANG. No, sir.

Mr. COBURN. Well, what if it found that the contract was not technically feasible? Couldn't it cancel the contract?

Mr. SPANG. Well, it wasn't a question of whether it wanted to or not, and there is a lot of confusion in the record about that. We were required to make a determination of feasibility that certain conditions existed, and it wasn't a question of wanting to or not. If certain conditions existed we were required to make a determination that it wasn't feasible.

Mr. COBURN. All right.

However you want to put it, there was a provision in the smelter contract that permitted the Hanna Nickel Smelting Co. to declare that this contract was not technically feasible, isn't that right?

Mr. SPANG. There is a provision that required us to make a determination, yes, sir.

Mr. COBURN. Yes.

Mr. SPANG. That is right.

Mr. COBURN. And as a matter of fact, you wrote the Government and threatened to declare it technically infeasible didn't you?

Mr. SPANG. We pointed up the circumstances which existed, which we said would require us to make a determination that the process was not feasible under the terms that were set forth in the contract, that is right.

Mr. COBURN. And that was subsequent——

Mr. SPANG. It wasn't a threat or anything. It was a statement of fact.

Mr. COBURN. That was subsequent to the trip to Oregon, wasn't it?

Mr. SPANG. That started in 1956 and the trip to Oregon was in 1954, that is right. I think—that is right. That is approximately the period.

Mr. COBURN. I notice the Government report with reference to this trip to Oregon where the mining company paid the expenses of these men, says this:

> Specific purpose of travel: To view present stage of construction and operation of the Hanna Nickel Smelting Co. plant in connection with administration of the contract and negotiation of possible changes required by development of the process.

Doesn't it occur to you, Mr. Spang, that by paying the way of these men out there that you would have to negotiate with in the future that you were putting not only them but the Hanna company in a rather equivocal position?

Mr. SPANG. No. We thought, on the other hand, we were perhaps contributing something to the situation. We felt that it was.

Mr. COBURN. How is that? I don't follow that.

Mr. SPANG. It would be much more beneficial from the standpoint of the Government to have a good understanding of what our operations were out there.

Mr. COBURN. Well, but didn't it occur to you by paying the way of these men out there to the Pacific coast which is a good way from

Washington, that you might very easily make them feel obligated to you?

Mr. SPANG. We never had that expectation at all.

Mr. COBURN. Well, you may not have had that expectation, but didn't you think about it?

Mr. SPANG. No, sir.

Mr. COBURN. You mean that never even crossed your mind?

Mr. SPANG. Never crossed my mind.

Mr. COBURN. When you made the arrangements?

Mr. SPANG. Never crossed our minds; no, sir.

Mr. COBURN. Never occurred to you that there was any impropriety whatever in taking them out there?

Mr. SPANG. No, sir.

Mr. COBURN. Can you tell us how much was spent on that trip altogether?

Mr. SPANG. No, sir.

Mr. COBURN. Why not?

Mr. SPANG. Well, I don't have the figures.

Mr. COBURN. Have you made any effort to find out how much was spent?

Mr. SPANG. No, sir; I can get them. We can ascertain them.

Mr. COBURN. You haven't made any attempt to find out how much was spent on that trip?

Mr. SPANG. The bulk of it would be the airline transportation from Washington to Medford, Oreg., and return.

I think it should be mentioned for the record in connection with this trip, of course, that we insisted that this have the complete approval of their superiors, too, and I think in this material that you gave me we are referring to, and which you read from there is an approval thereby, was it Mr. Mansure or was it Walsh, whoever was head of the DMPA at that time, and by various other officers, I think there are three or four names on there.

Mr. COBURN. It was approved, you are quite right, that the Government record shows that it was approved, by A. J. Walsh who was the Commissioner of EPS of DMPA, I guess, or GSA, I don't know which at that time.

Mr. SPANG. That is right.

Mr. COBURN. And it was also approved by Irving Gumbel, who was Director of Materials, and a man by the name of Cal Cleveland who was the administrative officer of EPS.

So there is no doubt but what the GSA people knew that they were going out there, and that their way was being paid by the Hanna Co.

Mr. SPANG. Mr.——

Mr. COBURN. What did you start to say?

Mr. SPANG. Nothing.

Mr. COBURN. What I am getting at is that it is curious that it did not cross the mind of either you or the GSA, either one of you, that there was something wrong in your paying the way of these men out to Oregon when you very easily might have to treat with them in the future.

Did you personally discuss this with the GSA officials who approved this trip?

Mr. SPANG. No, sir, I did not.

Mr. COBURN. As I understand it you suggested the trip, did you?

Mr. SPANG. I don't remember whether—I don't remember just how the matter of this trip came up. I don't. We all agreed it would be helpful in connection with handling the matters that kept coming up if we all had a better understanding of the plant operations and the mechanical setup and the physical layout and so forth, and that was the only purpose of the trip, to see those and get that information. That was the purpose of the trip.

Mr. COBURN. I don't question that. But the only thing I question is the fact that the company paid the people's way out there.

Did you make that arrangement with Ford, was he the man, or was it Robinson?

Mr. SPANG. Well, I have no doubt we talked to both of them. It was discussed with both of them.

Mr. COBURN. Who was it that got——

Mr. SPANG. We certainly didn't understand that the Government was in the custom of paying the way out under circumstances like this or we never would have done it.

Mr. COBURN. Well, who was it that took up with the GSA people, who approved this trip, the matter of these men going out there or their having their trip paid for?

Mr. SPANG. We simply said one condition of the trip was that they have the authorization of their superior officials. We did not talk to the superiors about it at all. They assured us they had, and we relied on that assurance and I didn't know what form that assurance took until I saw this material in the file here when it was handed out.

Mr. COBURN. Is this the only time that you paid the way of any Government officials in connection with the performance of these contracts?

Mr. SPANG. Yes, sir.

Mr. COBURN. This was not done on any other occasion whatever?

Mr. SPANG. None other, no, sir.

Mr. COBURN. I believe I asked Mr. Robinson, if I remember correctly whether he had ever had this experience on any other occasion when he was working in the Government and he said not so he didn't question this when the suggestion was made to him that he should go to Oregon with you and that you would pay his way. He didn't say, "Well, this is a curious thing, I have never had this done before."

Mr. SPANG. I am sure what he said was that he felt that it was a good idea, as Mr. Ford did but they would have to discuss it with, or they wanted to discuss it with, their superiors and we said, "We insist that you have the approval of your superiors."

Mr. COBURN. The upshot of it was then that everybody thought it was a good idea?

Mr. SPANG. That is right. That is all there was to it.

Mr. COBURN. All right.

Now, Mr. Spang, the Hanna Nickel Smelting Co., after the delivery of 95 million pounds of nickel metal to the Government, finally made the decision to acquire the smelting plant, did it not?

Mr. SPANG. Yes, sir.

Mr. COBURN. And it paid the terminal payment price, residual payment price, I believe it is called in the contract, of $1,722,000 to the Government, did it not?

Mr. SPANG. Yes, sir.

Mr. COBURN. And acquired the plant and began operating it on your own; when was that, April 1, 1961?

Mr. SPANG. Yes, sir.

Mr. COBURN. You are still operating the plant?

Mr. SPANG. Yes, sir.

Mr. COBURN. You are now producing ferronickel and selling it to industry, are you?

Mr. SPANG. I think that right now there is some of it going to the Government under this remaining commitment.

Mr. COBURN. Well, you do have an obligation, of course, to deliver 17 million pounds more to the Government?

Mr. SPANG. Yes, just how much——

Mr. COBURN. Excuse me, go ahead.

Mr. SPANG. Just how much is going to the Government and how much to industry is what I am saying. I don't know.

Mr. COBURN. I see. But some of it is being delivered to the Government at the present time?

Mr. SPANG. That is my understanding; yes, sir.

Mr. COBURN. And that delivery must be completed by June 30, 1965?

Mr. SPANG. Yes, sir.

Mr. COBURN. But in addition to that you are selling some of the ferronickel to industry, are you?

Mr. SPANG. Yes, sir.

Mr. COBURN. What has been the capacity of the plant since the contractor took the plant over on April 1, 1961?

Have you continued to maintain the same capacity that you had, say, for the last 2 or 3 years before that?

Mr. SPANG. Well, Mr. Coburn, I think you will have to ask those of Mr. Marting or let me inquire here, I just don't keep in close touch.

Mr. COBURN. I see, but Mr. Marting would be in close touch?

Mr. SPANG. Now that you have asked me by the time he is on the stand he will have it in mind.

Mr. COBURN. All right. That suits me. So I will reserve that for him.

There is one other thing I would like to ask you, Mr. Spang. We have had some testimony from you earlier about the fact that when the contract was, well, when negotiations were opened by Hanna with the Government for these contracts, that you had by that time determined that the electric furnace method was a feasible method of smelting the ore into nickel, and you had decided to use that method, is that right as against the leaching process, we will say?

Mr. SPANG. Yes, sir, as between the two, the electric furnace, yes, sir.

Mr. COBURN. And you had had these two pilot plant runs by that time?

Mr. SPANG. Yes, sir.

Mr. COBURN. Now, as it turned out, however, before the contract was signed, you changed, that is, you made a new decision, you changed your mind, so to speak, with reference to the process that would be used in the smelting of the ore into nickel, is that right?

Mr. SPANG. Yes, sir.

Mr. COBURN. That occurred very late, as a matter of fact, in the negotiations, did it not?

Mr. SPANG. Yes, sir.

Mr. COBURN. I think as I remember it in December of 1952.

Mr. SPANG. Yes, sir.

Well, I don't know that late, but in the fall of 1952, yes, sir.

Mr. COBURN. That came about because the Hanna Mining Co. discovered that there was another process for the beneficiating of this ore that was called the Eugene process, was it not?

Mr. SPANG. Yes, sir.

Mr. COBURN. That had been employed successfully in France?

Mr. SPANG. Yes, sir, in the manufacture of chrome or some such thing as that.

Mr. COBURN. In Europe at least.

Mr. SPANG. Yes, sir.

Mr. COBURN. So then it was that you came to the Government before the contract, the smelting contract was signed, and said you wanted to change the contract to permit the use of this Eugene process, is that right?

Mr. SPANG. Yes, sir.

Mr. COBURN. Your reason for wanting to do it was that your study of the Eugene process, and you had made one by them, hadn't you?

Mr. SPANG. Yes, sir.

Mr. COBURN. Mr. Vedensky, I think had made it?

Mr. SPANG. Yes, sir.

Mr. COBURN. You had reached the conclusion that if you changed from the electric furnace process to the Eugene process you would have a higher recovery of nickel from the ore?

Mr. SPANG. I think that was one of the factors; yes, sir.

Mr. COBURN. So then it was you came to the Government and asked them to change the smelting contract late in the negotiations in order to permit the use of the Eugene process?

Mr. SPANG. Yes, sir, we recommended that and that required some changes in the contract; yes, sir.

Mr. COBURN. And in fact, one change that was made in the smelting contract at that point was that the Government would pay, would advance the money, for testing the Eugene process?

Mr. SPANG. Yes, sir.

Mr. COBURN. And that was done, was it not, early in 1953?

Mr. SPANG. Yes, sir.

Mr. COBURN. So that the Government put up the money and a test was made of the Eugene process in perhaps February or March of 1953?

Mr. SPANG. I think about that time; yes, sir.

Mr. COBURN. And the test was successful, wasn't it?

Mr. SPANG. It apparently indicated something that made them decide that it was the better of the two processes; yes, sir.

Mr. COBURN. How much money did the Government put up in that connection?

Mr. SPANG. I think it is spelled out in the contract amendment, something in the range of $50,000 as I remember it.

Mr. COBURN. I am sorry, I didn't get that.

Mr. SPANG. I think it is spelled out in a contract amendment; I think it is something in the range of $50,000.

Mr. COBURN. At any rate, whatever it was the Government paid for it?

Mr. SPANG. Whatever it was they paid; that is right.

Mr. COBURN. And when you began to operate the smelter, you used the Eugene process?

Mr. SPANG. Yes, sir.

Mr. COBURN. And that process alone, no other process?

Mr. SPANG. That is my understanding; yes, sir.

Mr. COBURN. And it has turned out to be very successful, hasn't it?

Mr. SPANG. It has worked out very well; yes, sir—much beyond expectations, I understand.

Mr. COBURN. Mr. Chairman, I believe that concludes the questions I have of Mr. Spang.

Senator SYMINGTON. Senator Bush.

Senator BUSH. No questions.

Senator SYMINGTON. Senator Cannon.

Senator CANNON. Mr. Spang, did I understand you to say to counsel that you do have the information available concerning the expenses of Mr. Ford and Mr. Robinson and yourself out to the plant and back?

Mr. SPANG. No, sir; I said that I have no doubt we can make it available.

Senator CANNON. I wonder if I could ask you to do that?

Mr. SPANG. Yes, sir.

Senator CANNON. The expenses to cover the air transportation out, the expenses in San Francisco, the travel expense from San Francisco up to Riddle, the expenses at Riddle—to cover all of the expenses of the three of you out to the plant and back.

Also supply for the record the period of time, the period of elapsed time, if you could pin that down, because I think you gave one figure and Mr. Robinson another of the time at the plant, and I understand there was a stopover in San Francisco and so on.

Mr. SPANG. Oh, yes, there was a stopover in San Francisco both ways, both going and coming, because of the time schedule.

Senator CANNON. And you will furnish that for us?

Mr. SPANG. Yes.

Senator CANNON. Thank you, Mr. Chairman.

Senator SYMINGTON. At the time this contract was signed, how much money roughly did you have invested in the property?

Mr. SPANG. Well, I can answer that only from the—I think we represented it was $440,000.

Senator SYMINGTON. $440,000, roughly.

Mr. SPANG. Just say "roughly."

Senator SYMINGTON. How much of that was devoted to the process which didn't work out?

Mr. SPANG. I don't have any breakdown of that. I don't have any way——

Senator SYMINGTON. Would you let us know roughly what that figure was? I heard it was $300,000.

Mr. SPANG. I will try to get it.

(This is discussed on page 2336.)

Senator SYMINGTON. What was the figure invested in the mine aside from the development effort——

Mr. SPANG. I see.

Senator SYMINGTON (continuing). Of the process.

As I understand it, you were not the first company; another company had this piece of property before, did they not, and worked on it?

Mr. SPANG. The mine property?

Senator SYMINGTON. Yes.

Mr. SPANG. I think it has quite a long history; yes, sir.

Senator SYMINGTON. Do you own this property in fee simple or do you lease it?

Mr. SPANG. We lease it.

Senator SYMINGTON. I mentioned that this morning. Somebody questioned me in the hall and I wanted to be sure. You leased it from whom?

Mr. SPANG. The major part of it we lease, we have two parcels out there that I think we own some and—but they are incidental. The major part of the ore body we lease from a firm called Oregon Nickel Smelting Co., Oregon Nickel Co., that is reasonably close.

Senator SYMINGTON. Is that the so-called San Francisco group?

Mr. SPANG. That is the San Francisco group; yes, sir.

Senator SYMINGTON. And what are the terms of that lease?

Mr. SPANG. Well, I can't tell you for sure, Senator. I can ascertain it.

Senator SYMINGTON. We know you charged the Government $6 for the ore mined.

Mr. SPANG. Yes.

Senator SYMINGTON. Do you know how much you pay in royalty for the ore mined?

Mr. SPANG. I don't. I mean I wouldn't want to say. I have an idea of the range it is in, but I wouldn't want to say without ascertaining for sure.

Senator SYMINGTON. I read an article which said it was 25 cents.

Mr. SPANG. I think it is.

Senator SYMINGTON. Is that right?

Mr. SPANG. I think that is approximately right. But what I am saying, I don't want to be held on that figure, but I think it is within that range.

Senator SYMINGTON. If that is wrong, will you correct it in the record?

Mr. SPANG. All right, sir; I will if it is terribly different.

Senator SYMINGTON. Senator Cannon, have you any further questions?

Senator CANNON. No.

Senator SYMINGTON. Senator Bush.

Senator BUSH. No more.

Senator SYMINGTON. Mr. Counsel.

Mr. COBURN. No more this evening.

Senator SYMINGTON. I have several more questions to ask you on part of your testimony this afternoon, but would like to read the record first.

Could you be here with us tomorrow?

Mr. SPANG. Certainly can.

Senator SYMINGTON. Ten o'clock?

Mr. SPANG. Yes, sir.

Senator SYMINGTON. Thank you very much.

We said we would recess at 5 and it is 5.

(Whereupon, at 5 p.m., the hearing recessed, to reconvene at 10 a.m., Friday, October 5, 1962.)

STOCKPILE INVESTIGATION

FRIDAY, OCTOBER 5, 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, Beall, and Bush) met, pursuant to recess, in room 235, Old Senate Office Building, at 10:05 a.m.

Present: Senators Symington (presiding), Cannon, Beall, and Bush.

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.

Mr. Spang, you were sworn yesterday. Will you consider yourself sworn?

Mr. SPANG. I will, sir.

Senator SYMINGTON. Thank you.

Mr. Counsel, will you proceed?

Mr. COBURN. Mr. Spang, I understand that you want to correct your statement in one respect because after thinking the matter over last night you find that in one respect you had your mind diverted or something of the sort and you didn't give the right answer and, of course, we all want to get the facts, so I want to give you an opportunity here to tell us what you now recall the facts to be with reference to a question that was asked you as to your knowledge, I think, of the profits of the different divisions of the Hanna Mining Co. by the chairman here. Isn't that the matter that you had in mind?

STATEMENT OF LAWRENCE W. SPANG, SECRETARY, HANNA MINING CO.

Mr. SPANG. Yes, sir. That is the matter; yes, sir.

Mr. COBURN. All right. Will you tell us now what you want to say in that respect?

Mr. SPANG. I would just like to say that in thinking over my testimony I do, of course, have knowledge that the divisional profits in relation to sales and as shown from the tax returns were put into the record, and I am familiar with that fact, and familiar with those figures.

I think there have been some questions about the comparisons of those divisional profits and, of course, I guess I was focusing on that and wasn't really—which was the reason why I answered incorrectly, and as I stated, of course, I am not the best one to get into any discussion of that matter. I just wanted to say that I am familiar with those various divisional profits and the information shown by tax returns and as in the record.

Mr. COBURN. I see; all right.

Mr. SPANG. There were two other matters, Mr. Counsel, if I may, that the chairman asked me to inquire into. Should I speak about those, refer to those now?

Mr. COBURN. Yes; of course. This would be a good time to do it.

Mr. SPANG. The chairman asked me about the royalty under our nickel lease and I verified that is 25 cents a ton.

The other matter you asked me about was the amount of expense that we incurred out there prior to the contracts, the $440,000 figure, how much of that related to the testing work on the two processes as against the work done actually at the mine and in checking with our accountants I find the way we keep our books that has all been lumped together and from the books you cannot segregate that. It could be done, I guess; it would be quite a job to go back to the invoices; but as far as the books disclose now there is no segregation of that.

Mr. COBURN. May I pursue that for a moment, Mr. Chairman, before I quit?

This is the last thing I will ask the witness, at least for the moment.

Let me see if I understand correctly what the facts are with reference to this last matter which you have mentioned; namely, the expenses incurred by the Hanna Mining Co. before the contract was signed. That is what you have in mind?

Mr. SPANG. Yes, sir.

Mr. COBURN. As I understand it, there were expenses incurred by the mining company that had to do with the operating of the mine before the contract was signed?

Mr. SPANG. Yes, sir; there was drilling expense and exploration expense.

Mr. COBURN. And that was to determine, of course, the character and quality and extent of the ore?

Mr. SPANG. Yes, sir.

Mr. COBURN. In the body; is that right?

Mr. SPANG. Yes, sir.

Mr. COBURN. Then there was also expense incurred by the mining company before the contract was signed that had to do with the feasibility of smelting this ore into nickel that would be salable; is that correct?

Mr. SPANG. Yes, sir.

Mr. COBURN. And you say on the books of the mining company that those expenses are all put into one item?

Mr. SPANG. They are all put into one item; yes, sir.

Mr. COBURN. And you say it would be difficult now to break that down between the expenses incurred with reference to smelting and the expenses incurred with reference to mining?

Mr. SPANG. That is my understanding. It would require going back and getting into each invoice and putting that on its proper account. I think our people went over this with Mr. Henson.

Mr. COBURN. And you are not prepared, of course, to do that?

Mr. SPANG. No, sir.

Mr. COBURN. But are any of your other people prepared to do that?

Mr. SPANG. I take it it could be done; yes, sir.

Mr. COBURN. What is that?

Mr. SPANG. I take it it could be done.

Mr. COBURN. Well, I don't mean could be done in the future. I am talking about your ability now to testify with reference to that. I am talking about you now or one of your people.

Mr. SPANG. No, sir.

Mr. COBURN. They wouldn't be able to testify to that now?

Mr. SPANG. As to the breakdown; no, sir.

Mr. COBURN. What is the total figure on that?

Mr. SPANG. I was correct, $440,000.

Mr. COBURN. All right. Thank you, Mr. Chairman.

Senator SYMINGTON. Mr. Spang, yesterday some of your testimony worried me. I didn't want to ask questions against it until I had read it.

On page 2293 of the record counsel points out that in some memorandums at the time where there was thought of one contract, there was consideration of a price of $4.50 a ton for the ore. You mentioned that that was the first you had heard of it, but Mr. Coburn says that was in some memorandums that the staff obtained from your records.

Later on, on page 1005, Senator Thurmond asked:

> Did you look at this contract with the Government as you would look at any other business contract from just a pure, coldblooded money standpoint or did you consider that we were in wartime, and that you wanted to help in that effort.

And you said:

> Oh, yes, that was considered, I am sure.

Based on the record, it is hard for me to reconcile that. In the testimony it was shown that no one really knew what the cost of the ferronickel would be and, therefore, the Government wanted a redetermination clause. But you all established a price of $6, and although the record shows that everybody, including Mr. Larson and Mr. Young wanted a redetermination clause your company decided not to give the Government a redetermination clause. Then we asked you who were the people who might have made that decision. As I remember it, you said Mr. Fish, Mr. Pierce, Mr. Gilbert Humphrey or Mr. George Humphrey; is that correct?

Mr. SPANG. That is correct. I think in connection with Mr. George Humphrey I told you that I doubted very much if that was a matter that was submitted for his consideration. I think that his decision was probably based on the terms that had been worked out we ought to go ahead with this or not.

I am sure that he didn't—wasn't consulted on things like that.

Senator SYMINGTON. Excuse me, did I interrupt you?

Mr. SPANG. No, sir.

Senator SYMINGTON. I didn't want to labor it, but Mr. Humphrey said he made all the final decisions. You feel, and we will accept your opinion on it, that it was either Mr. Fish, Mr. Pierce, or Mr. Gilbert Humphrey; is that correct?

Mr. SPANG. Yes, sir, or in consultation with each other.

Senator SYMINGTON. Well, somebody has to say, "All right, this is what we are going to do," don't they?

Mr. SPANG. That is usually the way; yes, sir.

Senator SYMINGTON. Do you think there was a secret vote on this?

Mr. SPANG. No. [Laughter.]

Senator SYMINGTON. Now, I would point out what worries me about this. In the Minnesota mining division the Hanna Mining Co. for the years 1954–60, inclusive, on sales of $227 million-plus, it netted, average on cost before taxes, 10 percent. This comes off your own books. In the Michigan division, on sales of $51.5 million, roughly, you netted $5.6 million, or 12 percent. In the nickel division on sales of $26.2 million you netted $15 million, or 135 percent.

In the total sales of the Hanna Mining Co. in the years 1954 to 1960, inclusive, $495 million-plus, you netted profit of about $75 million.

Taking those years, whereas the sales of the nickel division were about 6 percent of the total sales, the nickel profit was over 20 percent of the total profit. The total profit on capital investment (expenditures) for those 7 years, was 419 percent.

These are the largest profits I have ever seen on any Government contract in my life.

The largest Government contractor in my State last year had profits of about 7 percent before taxes.

Incidentally, as most people do, he operated at great risk, attempting to develop things for which often, ultimately, they did not receive a contract award.

For example, in the 23 years he has been in existence this manufacturer has put well over 80 percent of his profits back into the business, in an effort to move the business on. There wasn't any such risk situation here; in fact there was no risk involved in these Hanna contracts.

I will put it to you this way: Don't you think that, regardless of whether a war was on or wasn't on, if you didn't know what the cost of the nickel was, considering you were making a contract with the Government where they were agreeing to take all your production over the period of the contract, at a premium price, you should have been willing to have a redetermination clause? I am asking you personally.

Mr. SPANG. Well, no, sir.

I think we felt that we ought to be treated the same as the other contractors. Mr. Robinson has said that there were no renegotiation provisions in any of the other DPA mineral purchase contracts. I think when Mr. Brooks testified he was talking broadly about the range of Government contracts.

The Renegotiation Act recognizes that mineral purchase contracts are not a proper subject for renegotiation, there must be some good reason for that.

The price that we established here was exactly the same price or approximately the same price we get for our iron ore. These are comparable considerations; why this reflects a lot more profit than appears to in some of the other divisions based on a similar price, I will have to leave those opinions to somebody else. But I believe those are the matters we gave consideration.

Senator SYMINGTON. If you had put the mining company and the smelting company together, under the Renegotiation Act your contract could have been renegotiated, could it not, if you go one process beyond the actual mining.

Mr. SPANG. You may be right about that, I am just not sure.

Senator SYMINGTON. There is one other observation I would make. Figuring not the 7 percent profit which might well be high but rather 10 percent as the amount of profit allowed on defense contracts of $10,000 or more, the Government awarded in fiscal year 1962, if the same Hanna profit of 57 percent instead of 10 percent profit had been allowed all companies, as was allowed the Hanna company in this contract, the additional cost to the American people for defense last year would be over $10,700 million. If that is true, do you still believe that full recognition of the fact we were at war at the time this contract was signed was taken into consideration when Hanna made this contract?

Mr. SPANG. I don't know that I understand the Senator's question or whether I can testify to it.

Senator SYMINGTON. In answer to Senator Thurmond's question yesterday you said you felt Hanna had taken into consideration the fact we were at war. It was clear nobody knew what this nickel was actually going to cost. So the Government said, "All right, we will pay you what you say you need, a dollar and a half more than you once thought right, based on the record when you were considering one contract, but we ask that you place in the contract a redetermination clause." I am asking, under those circumstances if, in your opinion, Hanna recognized we were at war at that time?

Mr. SPANG. I am sure we were familiar with that; yes, sir.

Senator SYMINGTON. Senator Cannon?

Senator CANNON. Will the Senator yield?

Senator SYMINGTON. I will be glad to yield.

Senator CANNON. What was the recognition you gave to the fact we were at war? Did you give the recognition we were at war you were a sole source and, therefore, you would get all you could?

Mr. SPANG. We weren't a sole source.

Senator CANNON. Well, you were the sole source in this country, were you not?

Mr. SPANG. Yes, sir.

Senator CANNON. And was the recognition you gave to it that because we were at war and you would get, as Mr. Humphrey stated it, the businessman getting all he could?

Mr. SPANG. We undertook the smelter operation at cost.

Senator CANNON. I am talking about the mining.

Mr. SPANG. Well, the Senator was talking about the ultimate cost of the nickel. I thought I explained how we determined that price, and the ore price and we felt it was reasonable and we didn't see why we should be subjected to any other different regulations than other contractors.

Senator CANNON. Let me ask you this then. If you felt it was reasonable, your Hanna Mining Co., your Minnesota Division, did you have any Government contracts there?

Mr. SPANG. No, sir.

Senator CANNON. And those were all contracts with private industry?

Mr. SPANG. Steel companies; yes, sir.

Senator CANNON. And there you had 10 percent profit on cost, is that right?

Mr. SPANG. If that is what the figures show.

Senator CANNON. That is from the period of 1954 to 1960, according to the figures here from which Senator Symington, I believe, quoted from the record, 10 percent on cost; is that correct?

Mr. SPANG. That is correct; yes, sir.

Senator CANNON. And you had no Government contract in that division, did you?

Mr. SPANG. We had no Government contracts.

Senator CANNON. What about the Hanna Mining Co., Michigan Division, where you had 12 percent profit?

Mr. SPANG. We had no other Government contracts that I know of.

Senator CANNON. I see.

So the nickel division, where you had 135 percent profit on cost, is the only one that had a Government contract?

Mr. SPANG. Yes, sir.

Senator CANNON. And was the sole contract of that division with the Government, was that all of your contracts in that division?

Mr. SPANG. Yes, sir.

Senator CANNON. So that the one division where you had only dealings with the Government your profits were 135 percent on cost, and the other two divisions where you did not have any dealings with the Government but with private industry you had a 10-percent profit on cost in the Minnesota division, and 12-percent profit on cost in the Michigan division, is that correct?

Mr. SPANG. The nickel division was the only division we had Government contracts, yes. Otherwise the figures speak for themselves.

Senator CANNON. That again leads me to ask you the consideration that you gave to the fact we were at war, was the consideration that you had the Government in a spot and you would get all you could while the getting was good?

Mr. SPANG. No, sir.

Senator CANNON. How do you account for the fact, then, that you entered into a contract where you made a profit 10 times as great over cost as you did in your other two divisions?

Mr. SPANG. I am sure that there are some explanations that can be made about those comparisons.

Senator CANNON. There must be.

Mr. SPANG. I am not familiar with them.

Senator CANNON. I would like to hear them.

Mr. SPANG. I am not familiar with them.

Senator CANNON. I see. You are not prepared to give us any explanation to that question?

Mr. SPANG. Yes, sir.

Senator CANNON. Thank you, Mr. Chairman.

Senator SYMINGTON. You had been secretary of this company for the years during the period of the contract?

Mr. SPANG. Since 1953.

Senator SYMINGTON. Senator Beall?

Senator BEALL. Mr. Chairman, I don't quite understand how the total costs, total amount the Government paid was $99,758,000 approximately $100 million and the total profit was $15 million. That included the cost of smelting and everything else so $15 million profit on $100 million is about 15 percent profit.

I don't see—if you take in the overall costs put in smelting, you have the smelting which is part of the cost to the Government, and the mining, and the other phases of processing the ore, and the total profit was $15 million.

You have to take in the whole cost, don't you, the smelting and everything else; don't you?

Senator SYMINGTON. Will the Senator yield?

Senator BEALL. Yes.

Senator SYMINGTON. It was agreed, the way the contracts were drawn, that all profit would be in the mining company. The Government also agreed by contract to put up all the money to build the smelter, and then to let the company have the smelter, own it, at 7½ percent of its cost, at the end of the contract.

This was a totally financed smelter and smelting operation. The Government paid all cost, guaranteed it, and then transferred the plant for a million, seven, a plant which Hanna has now insured for $16 million. In the mining company only was there to be any profit.

The Hanna company did not know what the cost of mining this nickel would be, the Government knew a lot less about it. Therefore, over the months prior to the change in policy, the Government negotiators stipulated consistently that they would make no contract unless the contract had a redetermination clause.

This is based on the record, as it has now developed.

All I was asking was, why a redetermination clause was not agreed to in the contract?

Senator BEALL. Just the same, if you have other costs that enter into in the smelting that should be all part of it, should it not?

Senator SYMINGTON. It was agreed by both Hanna and the Government at the time the contracts were made that all profits came out of the mining contract.

Senator CANNON. They also paid a management fee to the company for the operation of the smelter for a hundred thousand dollars a year, as I remember it.

Senator SYMINGTON. That is correct.

Senator BEALL. It was a nominal fee.

Senator SYMINGTON. Maybe so, but the officers were all the same in all of the companies.

Senator Beall.

Senator BEALL. I have no questions.

Senator SYMINGTON. Senator Cannon.

Senator CANNON. No.

Senator SYMINGTON. Senator Bush.

Senator BUSH. No questions.

Senator SYMINGTON. Counsel, have you any further questions?

Mr. COBURN. I have no further questions.

Senator SYMINGTON. Thank you, Mr. Spang.

Next witness, Mr. Counsel.

Mr. COBURN. Mr. Marting.

Senator SYMINGTON. Mr. Marting, you have been sworn, have you not?

Mr. MARTING. Yes, sir.

Senator SYMINGTON. Consider yourself sworn.

Mr. MARTING. Yes, sir.

Senator SYMINGTON. Will you proceed, Mr. Counsel?

TESTIMONY OF W. A. MARTING, PRESIDENT OF THE HANNA MINING CO.

Mr. COBURN. Will you identify yourself, please, by stating your name and address?

Mr. MARTING. Walter A. Marting, Cedar Road, Gates Mills, Ohio.

Mr. COBURN. Mr. Marting, are you in any wise connected with the Hanna Mining Co.?

Mr. MARTING. Yes, sir; I am president of the Hanna Mining Co.

Mr. COBURN. How long have you been the president?

Mr. MARTING. I was made president in May of 1960.

Mr. COBURN. Prior to that were you employed by the Hanna Mining Co.?

Mr. MARTING. Yes, sir; I was executive vice president from October 1958 to 1960.

Mr. COBURN. And prior to that were you employed by the mining company?

Mr. MARTING. No, sir; I was not. I was employed by the M. A. Hanna Co. I came to work for them in early 1953, and became, I think, a director of the Hanna Mining Co. in 1956. But prior to that time, until I became executive vice president of Hanna Mining, I was a vice president of the M. A. Hanna Co. and continued as a vice president of M. A. Hanna Co. until last November when we rearranged the companies into an investment company and a mining company.

Mr. COBURN. And prior to your going with the M. A. Hanna Co. as a vice president, as I understood you.

Mr. MARTING. Well, I started out, I think I was about a year over there before I became a vice president. A short time.

Mr. COBURN. Well, before you went with the M. A. Hanna Co., may I ask you what you did?

Mr. MARTING. I was a partner in the law firm of Jones, Day, Cockley & Reavis in Cleveland.

Mr. COBURN. Who for many years were counsel of the M. A. Hanna Co. and the Hanna Mining Co.?

Mr. MARTING. Yes, sir.

Mr. COBURN. Because these dates are rather important with reference to what you might know about the contract that the mining company made with the Government and with the smelting company, as I understand you, you went with the M. A. Hanna Co., got out of the law practice and went into business with the M. A. Hanna Co. in 1953, is that right?

Mr. MARTING. That is correct, sir.

Mr. COBURN. But you didn't go with the Hanna Mining Co. until 1958?

Mr. MARTING. That is correct.

Mr. COBURN. Which was a matter of some 6 years or so after this contract was entered into, the mining company contract with the Government?

Mr. MARTING. That is correct.

Mr. COBURN. But you are now president of the Hanna Mining Co. and have been for a matter of 2 years?

Mr. MARTING. That is correct, sir.

Mr. COBURN. Mr. Marting, I think it would be of interest for us to know just how the Hanna Mining Co. is divided from the standpoint of operations. As I understand it, it is divided into divisions from an operational standpoint, isn't it?

Mr. MARTING. No, sir; that is purely from an accounting standpoint.

Mr. COBURN. Is it?

Mr. MARTING. Yes, sir.

Mr. COBURN. Well, excuse me, go ahead. You explain what you have in mind.

Mr. MARTING. The way we look at our operations are primarily from a mines standpoint. In other words, we would have various mines in Minnesota, various mines in Michigan from an accounting standpoint, we would group all of those together.

Mr. COBURN. All right. Then from an accounting standpoint the mining company is divided into divisions, is that right?

Mr. MARTING. Purely, that is right, purely——

Mr. COBURN. As I understand it there is a nickel division.

Mr. MARTING. There is a nickel division; yes.

Mr. COBURN. And this nickel division has been devoted exclusively to the performance of this contract with the Government?

Mr. MARTING. That is correct.

Mr. COBURN. It hasn't any other thing, no other activities except that?

Mr. MARTING. No other activities.

Mr. COBURN. All right. What other mining division do you have in the Hanna Mining Co.?

Mr. MARTING. Well, I would have to answer that this way, sir: We have certain mines that we own ourselves entirely. Quite a few of our operations are carried out in other companies where we have interests, stock interests varying anywhere from 10 to 60 or 70 percent, so our mining operations, you can roughly classsify them as the mines which we own directly and the mines in which we have a stock interest because we have other ownerships.

A good example of that is on our whole Labrador project of which Hanna mining now has 24 percent. Now, that, of course, is a separate company, and it wouldn't appear on our books at all. But operationalwise that would be one where we are responsible and very much interested, and we have the same in Minnesota where quite often the way these work out we, together with steel companies, would form a joint mining company and we would have a stock interest in and would make our profits by the mining company making money and then we giving dividends out as everybody else. So that, in a very rough way, Mr. Coburn, is the way we operate.

Mr. COBURN. All right. But then I understand you have a Minnesota division of the Hanna Mining Co., don't you?

Mr. MARTING. Yes; we do.

Mr. COBURN. What activities is it engaged in?

Mr. MARTING. Well, we have three things up there. One thing is we have certain mines which we own, operate, and sell the ore, and at this point I might add in this Minnesota division we put in a lot of other things.

That may lead to one reason of making these comparisons that I think you should keep in mind.

For instance, taking this ore I am talking about that we buy from companies in which we have a stock interest, through the Minnesota division, we will buy that ore at market price and resell it at market price, merely running it through our books, and that amount, I have the exact figures here, but that amount has been ranging anywhere from $20 to $22 million a year.

In other words, we show it as a sale, because we have sold this, we show it also as a purchase and at approximately the same price. So this $22 million would be on the sales side and would also be on our plus side. If I may——

Mr. COBURN. Let's get back to my question.

Mr. MARTING. Yes.

Mr. COBURN. What are the activities, in other words, what kind of mining is the Minnesota division engaged in?

Mr. MARTING. Ore mining.

Mr. COBURN. Ore mining?

Mr. MARTING. That is right.

Mr. COBURN. Where are those mines located?

Mr. MARTING. In Minnesota.

Mr. COBURN. And that is all as far as the Minnesota division is concerned then, just the iron mines in Minnesota?

Mr. MARTING. It is purely in Minnesota properties. We have some mines in Missouri and I wanted to check.

Mr. COBURN. As I understand it you also have a Michigan division of the Hanna Mining Co.?

Mr. MARTING. That is correct, sir.

Mr. COBURN. And what are its activities so far as mining is concerned?

Mr. MARTING. Just mining ore.

Mr. COBURN. Well, I know, but what kind of ore and where is it located?

Mr. MARTING. It is iron ore and these are underground mines in Michigan. The main mine is our Wauseca mine, and during this period we were also starting our first pellet plant development which is located at Groveland, Mich. That is not a direct shipping iron ore, it is where we take the iron ore which is a very low-grade iron ore, break it apart, taking the iron out and put it back together. That is where it is more manufacturing than mining.

It has been going on—we started that in that division, I think, in 1958. But outside of that the only other mine in the Michigan division is our Wauseca which, as I say is an iron ore underground mine.

Mr. COBURN. Located in Michigan?

Mr. MARTING. Located in Michigan.

Mr. COBURN. Do you have any other mining divisions of the Hanna Mining Co.?

Mr. MARTING. I am not sure about our Missouri properties, I think they are in separate companies, and during this period—could I just check that from an accounting standpoint?

That is right, our Missouri properties were in a separate company so we did not treat those as a division, but treated those as a wholly owned subsidiary.

In addition to that we, of course, are in the dock and vessel business, and various other things. I am quite sure you are aware of that because you have our tax returns and we show that.

Mr. COBURN. Well, those are not mining activities.

Mr. MARTING. Those are not mining, no.

Mr. COBURN. Are there any other divisions then of the Hanna Mining Co. that are engaged in the mining business other than the nickel division, the Minnesota division, and the Michigan division?

Mr. MARTING. No. As I say, some of these other mining activities would be some of these either wholly owned or partially owned companies which would account, of course, for a large part of the iron ore we handle every year.

Mr. COBURN. These subsidiary companies were not included in the divisions of the Hanna Mining Co., as I understand it.

Mr. MARTING. They were not, sir.

Mr. COBURN. Treated as separate corporations entirely?

Mr. MARTING. Yes, sir.

Mr. COBURN. And you have a very large iron operation, iron mining operation, do you not, in Labrador?

Mr. MARTING. Yes, sir.

Mr. COBURN. But that is a separate corporation?

Mr. MARTING. That is separate. That is what I say, sir, we have a stock interest in it of approximately 24 percent.

Mr. COBURN. By "we" you mean Hanna Mining?

Mr. MARTING. Hanna Mining.

Mr. COBURN. How long has that been operated?

Mr. MARTING. Well, Iron Ore Co. of Canada started operating, started construction in 1952 and started shipping ore in 1954, and we have been operating since that time.

Senator BUSH. Mr. Chairman, may I ask a question?

Senator SYMINGTON. Senator Bush.

Senator BUSH. I have before me a prepared statement which I presume Mr. Marting wanted to make before the committee. Is he going to have an opportunity to make that statement?

Mr. COBURN. Yes, of course, so far as I am concerned.

Senator SYMINGTON. He didn't ask and to be frank, I hadn't seen the statement, but, Mr. Marting, if you would like to make a statement, we would be glad to have it.

Senator BUSH. I see it on the desk.

Senator SYMINGTON. The Senator from Connecticut is correct.

Mr. MARTING. Yes, I filed.

Senator SYMINGTON. Would you like to read it through without being interrupted?

Mr. MARTING. It is immaterial.

Senator SYMINGTON. We will reserve the right then to interrupt but you read your statement and we will try not to interrupt.

Mr. COBURN. I am glad you called that to our attention. I had the statement and to be honest with you, I overlooked it and he didn't request permission to read it so I started questioning. But so far as

I am concerned, he can certainly read it right now if he would like to do it.

Senator BUSH. Mr. Chairman, I suggest Mr. Marting be permitted to read through his statement, and then answer any questions pertaining to his statement.

Senator SYMINGTON. All right, please read your statement through.

Mr. MARTING. I am at your disposal, sir.

I welcome the opportunity to appear again before you and hope to assist in putting before you all the facts in connection with the Hanna nickel contracts. There are here various members of the Hanna organization as well as representatives of the independent accounting firm of Ernst & Ernst, since many of the issues are of an accounting nature.

At the adjournment of the hearings in August there were four major areas which appeared to need further clarification. I would like to comment briefly on these four.

1. Profits made by the Hanna Mining Co. under its mining contract: There was testimony that our aftertax net profit under the mining contract was $10 million and also that it was $7,500,000. During the past several weeks we have had many conferences with investigators from the subcommittee on this point. There is no disagreement that our tax returns show a divisional pretax profit for the period of 1954–60 of approximately $15,096,000 for the nickel division and that this results in aftertax profit of approximately $10 million for this division, before the allocation of certain general expenses of the company. But we believe it is clear that our true economic profit under this contract amounted to approximately $7,535,000. We have given the investigators for the subcommittee a detailed computation together with backup accounting material showing how we arrived at this $7,535,000 figure using as a base the agreed-upon tax return figure. This difference of roughly $2,500,000 involves the allocation to the nickel operation of various costs and expenses incurred by the company as a whole in certain essential and necessary activities such as exploration, the carrying cost of nonoperating properties, and State and local taxes, none of which have been allocated on the tax returns as a charge against the profits of the nickel division.

To save time I do not plan to explain in detail this computation in this statement in view of the fact that the investigators have already gone over it, and we have here to explain the accounting treatment Mr. Tippit, the managing partner of Ernst & Ernst, who we understand will be called as a witness.

2. The so-called windfall to Hanna on the value of the smelting plant: It has been contended that, when we terminated our arrangements with the Government and took over the operation of the smelter for our own account, we got for $1,700,000 a plant worth several times that amount.

This was not the transaction.

Title to the smelting plant has always been in the Hanna Nickel Smelting Co. which is our wholly owned subsidiary. The smelting company simply borrowed from the Government an amount equal to the total cost of constructing the plant, and gave a mortgage to secure this amount.

This loan—all $22,300,000 of it—has been repaid in full plus interest at 5 percent, and the mortgage has been canceled; and we have also paid to the Government an additional amount of $1,722,000 as provided by the contract.

It certainly is obvious to anyone that if we had borrowed this same amount from any bank in the country and had used, as we did in this case, funds received from the sale of our nickel to repay this loan, there could be no question about our receiving any windfall profit when the loan was paid off, irrespective of what value anyone put on the smelter at that time.

It is true that we obtained the funds to repay this loan from the proceeds of our sale of nickel to the Government. But it cannot be argued that the price at which we sold it to the Government was excessive when the resulting inventory stands the Government at less than the market price.

3. Expense versus capitalization: There is a dispute between the investigators of the subcommittee and our company on the question whether certain expenses incurred by the Hanna Nickel Smelting Co. for the production of ferronickel for the Government account should have been capitalized. I believe it fair to say that this is recognized by all as strictly an accounting matter, and in our opinion should be dealt with on that basis.

From the management standpoint we hired people whom we considered to be good sound accountants to handle our accounting matters; and for many years the firm of Ernst & Ernst has audited our books and checked our accounting procedures and principles, and we of course rely on their judgment on matters such as this. Mr. Tippit is fully informed on this issue and plans to testify about it.

4. Destruction of records: This issue has attracted wide attention, involving as it does an imputation of active misconduct on the part of Hanna.

Testimony before the subcommittee in August created the widespread impression that Hanna, shortly after the President's announcement on January 31, 1962, of a stockpile investigation, had called in a records service organization, whose representative was then instructed by Hanna to destroy records pertaining to the Hanna nickel contracts with the Government; and that records were destroyed in violation of the contracts. In order to clarify the situation I would like to explain just exactly what occurred.

Back in 1952 Hanna hired Naremco Services, Inc., of New York City, a nationally known records management concern, to prepare and put into effect for them a modern records management program. A representative of Naremco came to Cleveland and early in 1953 completed this program. Under this program a manual was prepared which set up certain time schedules as to how long certain records should be kept and when they could be destroyed.

This whole retention program was carefully reviewed by Hanna's general counsel, its tax manager and the various department heads. It was specifically designed to be sure that we maintained and kept such records as we were legally required to under all conditions as well as insuring that at all times we could reconstruct the financial condition of the company for previous years. Certain records were to be retained for specified periods and others were to be maintained permanently, such as original books, cash ledgers, and so forth.

After that time Hanna from time to time consulted with the representatives of Naremco, and in 1958 a Naremco representative made a report after reviewing our program and made certain other recommendations. In September 1961, it was decided by Hanna personnel that a complete review should be made of our records management program, and Naremco was asked for a cost estimate of a new survey.

On November 7, 1961, Mr. Shiff, president of Naremco, came to Cleveland and reviewed our program, following this by a written proposal dated November 14, 1961. By letter dated December 13, 1961, Hanna confirmed arrangements for review of the program and arranged that the Naremco representative would start his review on January 8, 1962, to include—

bringing up to date of our retention periods, checking over the records as a whole, cleaning out old records we have in volume that should be disposed of and revising the indexing system.

On January 8, 1962, the Naremco representative started work as scheduled. Thus there is no question that this records organization was called in at least 6 weeks before, and actually started work 3 weeks before, the President's announcement about the stockpile investigation.

All of the foregoing facts are known to the subcommittee's investigators, and photocopies of the letters arranging for this program including the start on January 8 were in their possession at the time of the August hearings.

Upon his arrival January 8, Mr. Norman Pfeiffer, the Naremco representative, found that record retention periods previously prescribed were not being followed—records were being kept longer than the prescribed periods, resulting in an accumulation of records overdue for destruction. Next he outlined suggested retention periods which he based on existing schedules and on the practices of other companies. All departments involved approved retention periods applicable to their records. Essentially these were in line with periods previously set up. In no instance did any Hanna personnel suggest reducing any retention period.

On January 23, Pfeiffer began to destroy records older than the respective retention periods, in accordance with the approved schedules. The respective department heads or their representatives were present when records were destroyed, to identify and approve.

Pfeiffer completed his work April 2, 1962, wrote a report and drafted an updated records manual for Hanna. His report notes that he reviewed for destruction or retention 1,709 cubic feet of records, and destroyed 896 cubic feet; a destruction summary by departments is included.

Pfeiffer was given no instructions by Hanna, either to destroy specific records or otherwise. This and the foregoing facts as to his activities at Hanna in 1962 were stated by Pfeiffer to the subcommittee investigators on August 31, 1962.

One other aspect of this records issue remains to be discussed: Whether Hanna violated the contracts by destruction of records.

The Government had two contracts with respect to Hanna nickel: one with Hanna Coal & Ore Corp. (now the Hanna Mining Co.), the "mining contract," and one with Hanna Nickel Smelting Co., the "smelting contract." These contracts contained provisions with re-

spect to Government access to records of the respective contractors.

The smelting contract gives the Government, while the contract is in effect and for 3 years thereafter, access to and the right to examine any pertinent books, documents, papers and records of the Hanna Nickel Smelting Co. involving transactions related to this contract. All such books, documents, papers and records are on hand and available for examination, including all of the smelting company's cash books, check registers and other pertinent books of account, and carbon copies of all checks issued by the smelting company at any time and voucher detail on all checks.

Actual canceled checks for the years 1953 and 1954 were destroyed in 1962 by Pfeiffer of Naremco pursuant to Hanna's record program and in conformity with retention periods prescribed under that program. Full information as to transactions covered by those checks is available in other form including copies of the checks, retained as voucher detail.

The mining contract gives the Government, while the contract is in effect and for 3 years thereafter, access to and the right to examine any pertinent books, documents, papers, and records of the Hanna Mining Co. involving (*a*) progress of construction as defined in the contract and cost of facilities and (*b*) production and delivery of ore. All such books, documents, papers and records of the mining company are on hand and available for inspection, including all of the company's check registers, cash books and other permanent books of account and carbon copies of all checks issued by the mining company's nickel division and voucher detail on all such checks.

Actual canceled checks of the nickel division for the years 1953 through 1955 were destroyed in 1962 by Pfeiffer of Naremco pursuant to the company's record program. Full information as to transactions covered by such checks is available in other form including carbon copies of the checks retained as voucher detail.

With respect to both contracts, all books, documents, papers and records have been retained and are available for inspection except the canceled checks enumerated above which have been destroyed pursuant to the companies' record program.

This is, after all, a legal question. We have the opinion of Messrs. Jones, Day, Cockley & Reavis, supported by the opinion of Messrs. Ernst & Ernst on accounting aspects, which advises us that we have not violated either of the contracts. But beyond this, it is apparent that as a practical matter full records of all transactions relating to the contracts are on hand, all of which records have been made available to the investigators.

In summary, I believe it now should be wholly clear that the only Hanna nickel records destroyed were canceled checks over 6 years old duplicative of other retained records; that these checks (together with voluminous other outdated records) were destroyed on the initiative of an independent agency, pursuant to Hanna's established general records program and in accordance with firm arrangements made in 1961; and that there has not been any deliberate destruction of records in the light of the President's announcement of January 31, 1962.

There is one additional point which we have found in going over the record which I would like to comment on in some detail; the apparent contention that Hanna was guilty of misrepresentation in

the estimate of its mining costs to the Government submitted in connection with the June 1952 proposal. This contention is based upon the testimony of Government investigators and two memorandums introduced into evidence from the Hanna files.

On June 27, 1952, Hanna made its proposal to the DMPA. Attached to this proposal were various compilations, including an estimate of Hanna's expected costs of mining and delivering ore to the nickel smelting plant. This estimate was prepared by the Hanna organization and represented its best guess of these costs based upon knowledge and information then available.

At that time of course there was no mine in existence, and the ore body was the top of a mountain covered by trees and underbrush. Many questions regarding the mining operation had not been determined, such as the method of hauling the ore from the top of the mountain to the smelter plant, whether mining operations could be carried out throughout the winter or not, and many others.

All of this was explained to the persons negotiating the contract for the Government. Both Hanna and the Government negotiators were fully aware that precise predictions, or even close approximations, for an untried process over a 10-year period in the future were impossible. The price of ore as contained in the proposal as well as that in the final contract was not in any way dependent upon these estimates.

It has been inferred that Hanna at the time it submitted the estimate knew that it was wrong. This is solely a matter of inference and is based entirely on two memorandums which have been put in evidence.

The first of these was a one-page memorandum written by Mr. Perry G. Harrison, a sales official of Hanna Coal & Ore Corp., dated May 13, 1952, showing estimated costs of $2.50 per ton (as compared with $3.18 per ton in the estimate submitted to DMPA).

This memo, and I would like to just show this, this is the memo, and this line here is the total cost estimate, one little line, this memo contains three figures which purport to add up to the $2.50 figure but which, in fact, add up to $2.25.

There is no identification to indicate what the three figures represent. Furthermore, in the actual copy of this memo (though not in the version placed in the record as retyped by the subcommittee staff) one of the three figures is scratched out and a handwritten figure is shown above it; if this was intended to be a correction, the three figures would still fail to add up to the total stated.

Mr. Harrison is now deceased. He had no active role either in preparing the estimate submitted to the Government in 1952 or in negotiating with the Government.

None of the Hanna personnel involved in the matter at that time has been able to make any sense out of the Harrison figures, and none of them recalls a figure of $2.50 being discussed at any time.

The inevitable conclusion is that this memorandum was a "scratch pad" calculation, and of no significance whatsoever. Certainly it can't be said that this one-line calculation represented the thinking of the Hanna organization as to what its costs would be.

The second memorandum is contained in a report dated March 19, 1953, prepared by Mr. R. C. Fish, then vice president of Hanna Coal & Ore Corp., to show the cash flow of the mining operation from that time forward. This memorandum prepared about 8 months after

the original estimate, in fact when analyzed supports the cost estimate submitted to DMPA.

The estimate submitted to DMPA showed a total cost of $3.18 per ton whereas the cost in the R. C. Fish memo showed a total of $2.69 per ton, or a difference of 49 cents per ton. This 49-cent difference is attributable to the following factors: The estimate submitted to DMPA used a 21-percent moisture factor, and the Fish memo used a 20-percent moisture factor. This accounted for 3 cents of the difference.

The Fish memo reduced the labor and supply cost by 10 cents per ton of crude ore which translated into dry tons accounts for an additional 12 cents of the difference. Both estimates were made up on a crude-ton basis and then factored to a dry-ton basis, because the price was on a dry-ton basis. (Obviously such a minor change in such a variable cost as labor and supplies cannot be the basis of a misrepresentation on the part of Hanna.)

The balance of the difference arose out of the capital cost of the mine and its amortization. The estimate submitted to DMPA used a capital cost of $4,300,000 and an assumed writeoff over total sales of 4,034,000 tons of ore. The Fish memo used a capital cost of $3,292,000 and an assumed writeoff over total sales of 4,550,000 tons. These two factors account for the remaining 34 cents of the difference.

The difference in capital cost used was $1,008,000. The Fish memo expressly omitted funds spent to date on the mine, in the amount of $498,000. The reason for this was that his computation was made in order to reflect the mine's future cash requirements and their return, and therefore cash already spent was not pertinent to the basis of his calculations.

The balance of the difference in capital cost, that is, $510,000, is attributable mainly to the fact that the estimate submitted to DMPA was based on hauling the ore from the mine to the smelter by means of a conveyor belt system, while the Fish memo was based on using an aerial tramway—this was the system eventually used.

The other difference of course was in assumed tonnage sold, that is, 4,034,000 tons versus 4,550,000 tons. It is quite apparent to anyone studying these estimates that the per ton capital costs are bound to vary depending on the total tons sold. The fact is that on the dates of these two estimates no one could tell how many tons would be sold. The Government people knew this as well as the Hanna people.

All other operating costs used in the two estimates were identical.

It should also be noted that the figures on costs submitted to DMPA were, as they were clearly labeled, simply estimates. Hanna submitted its best estimate, in good faith. There is no evidence, whatsoever, that in June 1952 Hanna had any knowledge or belief inconsistent with the figures stated in the estimate.

CONCLUSION

In conclusion I would like to state that all of the people at Hanna are proud of their performance under this contract with the Government. Hanna made a substantial profit from this contract. But this does not change in any way the benefits received by the Government:

1. All funds advanced by the Government to Hanna in the amount

of $25,600,000 have been repaid in full with interest at 5 percent amounting to $4,800,000.

2. A substantial amount of nickel was produced for the Government at a time of extreme shortage.

3. Upon completion of the contract the Government will have an inventory of 94,700,000 pounds of nickel at a total net cost of $67,200,000, or an average net cost of approximately 71 cents per pound. Not only is this price below present market values but to the best of our knowledge it represents the cheapest nickel which the Government purchased from outside sources under the defense production nickel expansion program.

4. All of these purchases were made in the United States as compared with all other purchases which were from foreign sources. All funds spent were spent in this country, created jobs here, paid taxes here and purchased goods here.

5. A new and the only domestic nickel-producing industry has been established in this country which not only will serve to strengthen our national security but also has resulted in the creation of a new business and new jobs for Americans.

Senator SYMINGTON. Thank you, Mr. Marting, for your statement.

Senator Bush, have you any comments or questions?

Senator BUSH. Not at this time.

Senator SYMINGTON. I have one.

In previous testimony, it was said:

Our investigation shows that the average costs per ton of producing or mining that ore during the first 5 months of 1962 was $1.67 a ton.

Right?

Mr. MARTING. I would have to check the figure but let us assume your figure is right. I assume it is.

Senator SYMINGTON. Have you checked the figure?

Mr. MARTING. Yes, sir. May I make one short statement before answering that, sir?

Senator SYMINGTON. Please do.

Mr. MARTING. I will answer it and certainly will, but I would like to point out, Mr. Chairman, we are engaged in a highly competitive business now that we have taken over the smelter, that is, the nickel business.

As you know, our annual production is around 20 million pounds per year.

Our competitors are much larger, International Nickel, 300 to 400 million pounds; Falconbridge, Sherritt-Gordon, the French. In the last 6 months this has become a very competitive situation. Inco, as you have read, just cut their production a few weeks ago. We are fighting for all the business we can get, and it is all with foreign companies.

I know we gave you all of our 1961 figures. We have given you everything in 1962 but I would like to say before answering this: I just wish you would consider these figures on our costs and that type of thing, after we have taken over the plant—and I am not talking only mining but smelting costs—could be a very embarrassing and perhaps a very injurious thing to us in our future business. We have given the figures, the information, and will answer any questions you

have, sir, but I just hope you will keep in mind our situation from now on. I am not talking of going back.

As you know we took over and we are now in the marketplace and competing and before delving too much into that I wish you would just consider those factors.

Senator SYMINGTON. We will consider it. You went into considerable length here to say that the $2.25 or $2.50 calculation was a "scratch pad calculation," and I now note that the actual cost per ton of ore, based on your own figures, is a great deal less than $2.25. If this figure is right, and you agree it is correct, $1.67, then at $6 a ton you are making over 300 percent profit on this contract. Under those circumstances do you think the Government would have done anything about that tremendous profit if you had allowed them a redetermination clause?

Mr. MARTING. That is very difficult to say because I am not the—my own guess is that I just have no idea. I don't know what—I think as you say the $1.67 was our cost in 1962.

Senator SYMINGTON. The first 5 months. I think it was $1.69 for the fiscal year 1961. But I saw this 1962 figure on the record, so I read the record.

Mr. MARTING. Yes.

Senator SYMINGTON. Mr. Counsel.

Mr. COBURN. Mr. Witness, I apologize for not giving you the opportunity of reading your statement before you got started but I don't think it put any of us, either you or us, at any disadvantage because I only asked you about the organization in a formal way of the Hanna Mining Co. and that was as far as we got.

Mr. Marting, in the previous hearings that were held on these Hanna contracts a dispute arose between the figures that the Government investigators had developed from your books as to the income after taxes of the Hanna Mining Co., which the Government investigators reported to be something in excess of $10 million; isn't that correct?

Mr. MARTING. That is correct, sir.

Mr. COBURN. And on the other hand, Mr. George Humphrey, when he testified, said that the income of the Hanna Mining Co. after taxes was about $7.5 million.

That is correct; is it not?

Mr. MARTING. That is correct, sir.

Mr. COBURN. I want to go into that with you today to see just whose version is correct because there is a substantial difference there and I think the committee is entitled to know whose version of the income after taxes of the mining company is the correct version of this matter.

With that in mind I would like to ask you this: There is no doubt, as I understand it, but I would like to have you confirm this, that your books, the books of the Hanna Mining Co., show that the nickel division of the Hanna Mining Co. which of course, would be this income arising from this contract with the Government, was something in excess of $10 million for the period from 1954 to 1960.

That is correct; is it not?

Mr. MARTING. That is correct, sir, and I think I said that. That is why I read the statement. I don't think there is any dispute on the 15 or 10, the only question that is open is 10 versus 7½.

Mr. COBURN. Now, that period of 1954–60 was selected because that was the period during which nickel ore was sold by the Hanna Mining Co. to the Government, is it not?

Mr. MARTING. Well, you chose it. I would assume that. That is your period, yes.

Mr. COBURN. Well, that was the reason for choosing it, I know. We wanted to find out what the income of the Hanna Mining Co. from this nickel contract was during the period that the nickel ore was delivered to the Government.

I might say, however, in order to be completely accurate about this matter, that the ore deliveries by the Hanna Mining Co. to the Government did not actually stop until March 31, 1961, did they?

Mr. MARTING. That is correct, sir.

Mr. COBURN. So that really if you want to be completely accurate, the income of the Hanna Mining Co. from the contract should include the period from the time the deliveries started until they finished.

Now, the deliveries began in 1954, didn't they?

Mr. MARTING. Yes.

Mr. COBURN. And they concluded in March 1961, that is correct, isn't it?

Mr. MARTING. Yes.

Mr. COBURN. On the other hand, in order to be perfectly accurate again, the expenses incurred by the Hanna Mining Co. in the development of the mine, some of which may have been incurred in 1953 before deliveries began, should also be taken into consideration, shouldn't it?

Mr. MARTING. I would think so, yes, sir.

Mr. COBURN. In other words, to be completely accurate?

Mr. MARTING. That is the way I would figure it.

Mr. COBURN. So I think we do have that area of agreement?

Mr. MARTING. I think there is no question about it.

Mr. COBURN. And our testimony with reference to the income after taxes of the Hanna Mining Co. will be based on the proposition you and I have now agreed on?

Mr. MARTING. Absolutely.

Mr. COBURN. Now, Mr. Marting, when was it that these computations that gave rise to a result of $7½ million profit after taxes were developed by the Hanna Mining Co.?

Mr. MARTING. You mean the time element of when that was done?

Mr. COBURN. Yes, when was that done?

Mr. MARTING. I would assume sometime this summer is when we put together the $7,535,000.

Mr. COBURN. Sometime in the summer of this year?

Mr. MARTING. Sure.

Mr. COBURN. These figures were put together, as I understand it, by the Hanna Mining Co., itself?

Mr. MARTING. Oh, yes.

Mr. COBURN. Not by your auditors but by the Hanna Mining Co.?

Mr. MARTING. No, we did it, but, as in all of these matters, Mr. Coburn, we checked with our accountants, because these things involve primarily accounting but they also involve principles, and they check to see whether they are correct or not, because this is the kind of figure that I was trying to explain earlier, that we would never make up for our own use, because these figures, to us, are not the ones we would use in our ordinary business.

Mr. COBURN. But these figures—did I interrupt you? I did not mean to.

Mr. MARTING. No, sir, you did not.

Mr. COBURN. These figures, that is, the $7.5 million, were first put together by the Hanna Mining Co. itself?

Mr. MARTING. That is correct.

Mr. COBURN. Well, as I say, both your income tax returns filed during this period by the Hanna Mining Co. and your books, for that matter, show that the income after taxes of the Hanna Mining Co. arising from this contract were something in excess of $10 million?

Mr. MARTING. That is correct.

Mr. COBURN. Why did you go to the trouble of preparing these additional figures to reduce it to $7.5 million? Did you think that $10 million was too much to make on this contract?

Mr. MARTING. Certainly not, no.

The only reason we were doing it—you are getting into an accounting matter here—is the $10 million was just the one division. Going back to this divisional basis, we had quite a few substantial expenditures which we show on a general account which we do not allocate to divisions, and it is quite apparent that we have to get the money to make these expenditures from our profitable divisions, and so——

Mr. COBURN. Excuse me. We will go into that. I will give you full opportunity to explain all that.

Mr. MARTING. All right.

Mr. COBURN. But I was wondering, you said a moment ago that these calculations, by which you reached a result that you actually made only $7.5 million after taxes, were something that you ordinarily would not set up either on your income tax returns or your books, did you not?

Mr. MARTING. Sure, that is right.

Mr. COBURN. And under those circumstances I was wondering why you went to the pains of doing this. Did you think that a $10 million income was too much?

Mr. MARTING. No, no; no, no; no.

Mr. COBURN. It was not that?

Mr. MARTING. I might explain it this way. I would like to correct what I said there.

Our final net profit that we report at the year end, which we put in our annual report and which we send out, would reflect completely these items that reduced the $10 million to $7.5 million.

So our annual reports and also our tax returns, to the extent these are claimed as tax deductions, would show these items; the only point: They would not be shown as a nickel division. They would be shown in the general. So our statements do show this.

What we were doing is taking our total statements and putting it around where, if you are going to try to get the real profit of the nickel division, it would be one that we thought was accurate, because that was our understanding: That you wanted to know what was our profit that we made out of this contract.

Senator SYMINGTON. Senator Bush, we have a live quorum. Shall we go over or shall we stay?

Senator BUSH. I will accommodate myself to your wishes.

Senator SYMINGTON. I will accede to the distinguished Senator.

Senator BUSH. Did you want to go over?

Senator SYMINGTON. All right, I think we might.

(At this point in the proceedings, a short recess was taken, after which the hearing was continued.)

Senator SYMINGTON. The hearing will come to order. Proceed, Mr. Counsel.

Mr. COBURN. Thank you, Mr. Chairman.

Mr. Marting, I want to ask you some questions now relative to this difference in viewpoint between the income that the Hanna Mining Co. had after taxes during the period—well, with reference to this contract with the Government. And, in order to aid everyone who is following this hearing—at least I hope it will aid them—we have prepared a chart here which is a chart that is simply an indication of the information that was provided to the committee investigators by the Hanna Mining Co. with reference to this problem.

(The chart is printed on p. 2543.)

Now, this chart is not as visible as I had hoped, and it has a good deal of detail on it, but every one of the committee members and the press have a smaller piece of paper before them which is just a copy of this, and you have, too, I think, and perhaps that will be something that you can follow better, but I will use the chart.

Now, Mr. Marting, here the first item on this chart, which is called profits per company books January 1, 1953–March 31, 1961, is 1953 net loss (development expenses), $403,747.

Will you tell us what that is, please, sir?

Mr. MARTING. Those were the various expenses we incurred in 1953 at the mine to get ready for shipping in 1954. The bulk of that would be stripping expense.

As you know, this mine is at the top of a mountain with a lot of trees and underbrush. To get to the ore body that, of course, had to be cleared off, prepared, so that we could mine just the ore.

And I think the bulk of that is what we call development expense, which would include stripping and work done up there to get the ore body ready for commercial shipments.

Mr. COBURN. As I understand it, then, this expense, this item of $403,000, was incurred by the Hanna Mining Co. after the contract had been signed with the Government, but before any ore was delivered to the Government under the contract, is that right?

Mr. MARTING. That is correct.

Mr. COBURN. And so, of course, you would be entitled, that being a legitimate expense, you would be entitled to a credit, so to speak, on this income tax problem that we have here, for the reason that it was incurred by the mining company, even though it was incurred before you were making any deliveries and getting any income in.

And so I want to make that clear.

Now, however, I want to ask you about this item of $403,000.

During 1953, before you started delivering any ore to the Government under the contract, but after the contract had been signed, did the smelting company—it had been organized by then, had it not?

Mr. MARTING. Yes. I think that was organized in January of 1953.

Mr. COBURN. Yes, in order to enter into the contract?

Mr. MARTING. That is right.

Mr. COBURN. ——did the smelting company incur any expenses in the sense of developing the process—I am not talking now about build-

ing the smelter but in the sense of developing the process—that was going to be used after the smelter was built and in operation?

Mr. MARTING. You mean during the year 1953?

Mr. COBURN. During the year 1953.

Mr. MARTING. I would assume so, Mr. Coburn. I could check that very quickly.

Yes, we did. Yes, sir.

The smelting company, obviously, I am sure, had expenses going on from the time we signed.

Mr. COBURN. I am not talking about capital expense in the sense of building the smelter at all, but I am just talking now about the expense with reference to the development of the process and all of that.

As a matter of fact, that is not a difficult question because of the fact that the Government put up all the money——

Mr. MARTING. Sure.

Mr. COBURN (continuing). For the construction of the smelter?

Mr. MARTING. Yes. I would assume, I am sure they did spend money on that, absolutely sure.

Mr. COBURN. All right.

Now, is the money that was spent by the smelting company a part of this $403,000?

Mr. MARTING. Not to my knowledge. Let me check again.

Mr. COBURN. I wish you would.

Mr. MARTING. It would be quite amazing to me that we would have from 1953 on—we had the two separate companies, but I would be almost sure of that, but let me check with our people.

Mr. COBURN. I wish you would, because my reason——

Mr. MARTING. I have checked, sir.

Mr. COBURN. What?

Mr. MARTING. I have checked, and that $403,000 does not include any expenses of the nickel smelting company in 1953.

Mr. COBURN. This is entirely an expense of the mining company?

Mr. MARTING. Yes, sir.

Mr. COBURN. In developing the mine?

Mr. MARTING. Yes, sir.

Mr. COBURN. Preparatory to performing the contract?

Mr. MARTING. Yes, sir.

Mr. COBURN. All of it?

Mr. MARTING. All of it.

Mr. COBURN. Thank you.

Now, then, the next item is "1954 to 1960 Net Profit," and this, of course, is before taxes.

Mr. MARTING. Yes, sir.

Mr. COBURN. $15,063,210.

Now, as I understand it, that was taken from the books of the Hanna Mining Co.

Mr. MARTING. That is correct, sir.

Mr. COBURN. And then the "First quarter 1961 (Jan. 1,–Mar. 31, 1961), $753,503" additional income before taxes.

Now, that, again, was taken from the books of the company, was it not?

Mr. MARTING. Yes, sir.

Mr. COBURN. And it is based on the profits before taxes that were earned by the Hanna Mining Co. during the 3 months of 1961, just before you took over the smelter?

Mr. MARTING. That is correct, sir.

Mr. COBURN. That results, then, according to our computations at least, in a figure, taking into consideration all three of these items, two of which are plus items and one a minus item, results in a net figure of $15,412,966 income before taxes for the mining company, according to your books?

Mr. MARTING. That is correct, sir.

Mr. COBURN. Now, let us go into the other items we have here that will reduce this $15 million figure to a figure of profits after taxes.

In 1953 you had a loss from operations of the mining company, that is, the nickel division of the mining company, of $209,948, did you not?

Mr. MARTING. I think that was the tax effect, Mr. Coburn, on the loss.

Mr. COBURN. That is all we are concerned about now.

Mr. MARTING. Yes.

Mr. COBURN. The tax effect.

Mr. MARTING. It was not a loss. It was a tax credit.

Mr. COBURN. We are trying to get at your profits after taxes, you see.

Mr. MARTING. Yes.

Mr. COBURN. And so we will not concern ourselves, as I understand it, here with anything except taxes.

Mr. MARTING. Right.

Mr. COBURN. And so you did have a tax loss in 1953 of this amount, is that correct?

Mr. MARTING. That is correct, sir.

Mr. COBURN. Now, the period from 1954 to 1960, $4,893,900 is the Federal income taxes that you paid, or perhaps State, too, I do not know, but, anyhow, just the Federal income taxes for that period, is that right?

Mr. MARTING. I think that is right, yes. I would not think there were State taxes in there. Just Federal income taxes, no State income taxes.

Mr. COBURN. Then the next item, "First quarter, 1961, $259,200," being the Federal income taxes that were paid on the profits realized during the first quarter of 1961.

Mr. MARTING. Yes, sir.

Mr. COBURN. Making a total tax, Federal tax paid, including all these figures, two of which are positive figures and one a negative, of $4,943,152.

Mr. MARTING. That is correct, sir.

Mr. COBURN. And then, if you subtract the taxes from the income before taxes, you get a net figure of income after taxes of $10,469,814, do you not?

Mr. MARTING. Yes, sir.

Mr. COBURN. Excuse me just one moment.

All right, Mr. Marting.

Now, let us take up these items that represent the difference between the investigator's calculations and the calculations of the Hanna Mining Co.

The first figure on this chart here is called Pre-Contract Expenses, and it is divided into two parts: One, Development, 1949–52, and the other, Research, 1951–52.

Now, as I understand it, first, as to both of those items, these were expenses that were incurred by the Hanna Mining Co. with reference to the situation out at Riddle, Oreg., before the contract with the Government was ever signed?

Mr. MARTING. That is correct, sir.

Mr. COBURN. But they are divided into development and research.

Let us take development first, $258,593.

Is that a part of this item that you were talking about a minute ago that you said had not been broken down—not you, but Mr. Spang, that Mr. Spang had said a moment ago had not been broken down—between the costs that were incurred in connection with determining whether this process of smelting the ore into metal was feasible and usable and what were incurred in connection with determining whether you had a mine there where the ore was good enough to be used. Is that the item, part of that item?

Mr. MARTING. Yes, sir.

Looking at it now—I mean I heard the testimony, the two totaled up to——

Senator SYMINGTON. Would you identify the two gentlemen behind you?

Mr. MARTING. Yes, sir.

The two gentlemen are Mr. Bartholomew, who is the director of our planning, and Mr. Greenlee, who is manager of our tax division.

I do that mainly to be sure so that I do not have to correct because I cannot keep all these in mind.

That is correct, sir. Those two are the $440,000 that Mr. Spang referred to.

Mr. COBURN. Yes.

As I see these figures, if you add them, they run to about $440,000?

Mr. MARTING. Yes.

Mr. COBURN. Now, what I would like to know is:

How much of that $440,000 is attributable to the development of the mining property and how much of it is attributable to the smelting aspect of this operation?

Mr. MARTING. I might answer that this way, Mr. Coburn:

The development expense that you see first, 1949 through 1952, is primarily exploration work that was done on the deposit itself, which would be drilling and that type of thing, dredging, drilling over this period, this 3- or 4-year period.

I think one reason it is broken down, I do not think from a tax standpoint we get any credit for that taxwise, and the $182,000 was worked out mainly at our lab in Minnesota.

But I think I might answer this:

That the two, together, we would look on as a precontract expense determining whether we had an ore body and whether the ore body had an ore that was salable or treatable. So one would be primarily exploration work, the first item, the $258,000; the second would be work in our Hibbing lab.

Some would be testing the grade of the ore; others, I am sure, there would be work on: Is this the kind of ore that could be treated

or is this the kind of ore that cannot be? They are very much intertwined.

Mr. COBURN. Now, then, so that everyone will understand the nature of this problem here, as I understand it, before this contract was entered into with the Government, the mining company was doing these things that caused it to incur expense:

First, it was out there boring, I guess, and testing; that is, running borings to find out whether you had any nickel ore out there?

Mr. MARTING. That is correct, sir.

Mr. COBURN. And perhaps you might have been putting roads in?

Mr. MARTING. That would all be part of it.

Mr. COBURN. And removing some woods to get in there and do the work, is that correct?

Mr. MARTING. That is correct.

Mr. COBURN. And that, of course, was related immediately to the development of this property as a mine?

Mr. MARTING. That would be, because that would be determining the size of the ore body and how much and the extent of it and that type of thing.

Mr. COBURN. And the percentage of nickel in the ore and all that sort of thing?

Mr. MARTING. When you get into that, sir, that is where, undoubtedly—and I am sure it happened here, although in checking into it I am sure it has happened—we would drill diamond drill holes which would take out portions of the ore body.

Now, we would not test that right on the site, as you can understand, the top of the mountain. There was probably just a camp up there.

That would all be sent back to Hibbing for analysis. In other words, our metallurgists, our chemists and all would take this sample of ore, just like they do iron ore or any other material; they would go through it and analyze it all kinds of ways.

Mr. COBURN. As to content?

Mr. MARTING. As to content.

Mr. COBURN. That is, of nickel?

Mr. MARTING. As to structure.

Mr. COBURN. And iron and that sort of thing?

Mr. MARTING. Yes, to determine what this material really was.

Mr. COBURN. All right.

But, at the same time, now, in addition to that, the Hanna Mining Co. had a pilot plant operating at Hibbing, did it not, Hibbing, Minn.?

Mr. MARTING. I do not think we had a pilot plant operating at Hibbing.

Mr. COBURN. Well, were you not engaged——

Mr. MARTING. On nickel, I do not think so.

Mr. COBURN. Perhaps I am wrong.

Mr. MARTING. You are ahead of my time.

Mr. COBURN. Excuse me.

Mr. MARTING. I am quite sure we did not.

Yes, we had a continuous laboratory, but I do not know that we had a pilot plant which is a much different thing.

Mr. COBURN. All right, then, you had a laboratory?

Mr. MARTING. Yes.

Mr. COBURN. At Hibbing, Minn.?

Mr. MARTING. Yes.

Mr. COBURN. And this laboratory was not only engaged in analyzing the content of the nickel in the ore, the samples that you sent from Riddle, but the laboratory was also engaged in, as I understand it, determining whether the ammonia leaching process could be used to convert this ore into metal, as had been done in other places, is that correct?

Mr. MARTING. Well, I would have to get a full breakdown. I am not sure I am familiar whether ammonia leaching was used.

I would certainly think that our Hibbing lab at that time was trying to see this ore body—we find what the ore is, and the next thing, does it have any commercial value. Is there any way this could be treated, since it is only nickel? Is there any way this ore can be treated so that, economically, we can take nickel out of it?

Now, I am not familiar with every process that was tried out in the Hibbing lab, but I am sure they tried many. They should, I know.

Mr. COBURN. Well, I hesitate to undertake to tell you about your operations when you are with the company and I am not, but I have read some material that would indicate that at Hibbing you had what I thought was a smelter plant, but I see I am wrong.

Senator SYMINGTON. Pilot plant?

Mr. MARTING. Pilot plant.

Mr. COBURN. Not a smelter plant but a pilot plant.

But I see that it was a laboratory to determine whether this nickel ore could be converted into nickel metal by the ammonia leaching process. Would you say that would be right?

Mr. MARTING. I would think so. I will check it.

Mr. COBURN. All right. And so expenses were incurred in that way?

Mr. MARTING. Sure.

Mr. COBURN. You have no doubt, is that right?

Mr. MARTING. Undoubtedly, they would be.

Mr. COBURN. In addition to that, the Bureau of Mines was operating a pilot plant out at Albany, Oreg., was it not, that was engaged in testing the electric furnace method of converting your ore into ferronickel, correct?

Mr. MARTING. That is correct.

Mr. COBURN. And that was in this period before the contract was signed?

Mr. MARTING. Before the contract was signed, yes.

Mr. COBURN. There were two different tests of that kind that I know of, so the evidence has shown, that were developed, or run, rather, is that right?

Mr. MARTING. Well, probably more than that. Certainly the two that I know of.

Mr. COBURN. Perhaps more?

Mr. MARTING. Probably so.

Mr. COBURN. Did the mining company incur any expense in that respect or was that all picked up by the Government?

Mr. MARTING. I understand that any of those expenses that are in the $182,000 figures were not picked up by the Government at all. They were picked up by the mining company.

Mr. COBURN. That is in the tests that were run at Albany, Oreg., is that right?

Mr. MARTING. I think that is right. I am quite sure it is. I will check.

Mr. COBURN. The answer is yes?

Mr. MARTING. The answer is yes, subject to my—you are talking about a lot of expenses here. Let us assume that it is. We have the man who handled the whole program right here, Mr. Coburn.

Senator SYMINGTON. We are going to have more witnesses here than we have spectators.

Mr. MARTING. I am just trying to save time. That would be correct. The expenses occurred in the Bureau of Mines plant that were not paid for by the Government under the nickel smelting contract.

Mr. COBURN. Do you have any idea how much those expenses were out at Albany?

Mr. MARTING. I think they are in the $182,000. I may be wrong on that.

Mr. COBURN. May I ask you this——

Mr. MARTING. They are in the $182,000.

Both the expenses in the Bureau of Mines and our Hibbing lab expenses are included in the $182,000.

Mr. COBURN. Then maybe we can simplify what I thought was a rather complex problem.

Mr. MARTING. Yes?

Mr. COBURN. "(b) Research, 1951–52, $182,264"—is that all expense that was incurred by the mining company in determining whether you had a feasible process for turning this ore into metal?

Mr. MARTING. I would not say all. I would put it this way, because I am certain that Hibbing lab, as I explained to you, would take the ore and analyze its structure and chemical content.

It would also, Hibbing lab, would check these various processes to see whether this was a commercial ore. They are in there and also the pilot plant work or work done by the Bureau of Mines.

Mr. COBURN. Would you say, then, that virtually all of this $182,000 figure had to do with determining whether you had a good process for turning this ore into metal?

Mr. MARTING. Well, it would be hard to say. I would say the bulk of it probably was, because analyzing the chemical part of the ore would not take that much, I am sure.

Mr. COBURN. Now, then, if that is the case, what about "Development, 1949–52, $258,593"—was all of that expenses incurred by the mining company in determining whether you had an ore body there?

Mr. MARTING. That is right, sir.

Mr. COBURN. All of that was?

Mr. MARTING. Yes, sir.

Mr. COBURN. So, really, for all practical purposes, we can break this item down, as it seems to have been broken down by you people, for that matter, before it was submitted to the investigators, into $258,000 that is related to the mine and $182,000 that is related to the smelter?

Mr. MARTING. Well, I do not think, if I may answer, I do not think that is quite the right characterization. The reason for the breakdown that we have is one is a deductible item for tax purposes and the other is not.

How you label it is one thing. The way we look at this, and we would any new property, if we found an ore body that had—first we

found it had 1.5 percent nickel up and down, but that was the average of a certain tonnage; the next thing we need to know, do we have a commercial ore body.

You cannot say we were thinking of a smelter now. The first work we would do is: Is this commercial. You might have any kind of a deposit with a high nickel content but there is no way you could treat it. It would be a noncommercial deposit.

So I think in our thinking—I am not saying the way you label it, but in our own thinking that total $440,000 would be in our mind, the management of the company, do we have an ore body that has any commercial value.

Now, a part is finding the ore. The second part is: What can you do with it.

We know the nickel is there. Is there any possibility of getting the nickel out of there, and these were explorations along that line.

Mr. COBURN. Yes, I see.

Mr. MARTING. That is the way we look at it.

Mr. COBURN. I see the way you look at it, but the thing that I have in mind is this. We are here trying to determine this dispute between what the income of the mining company—not your entire operation all thrown together out there, because, as I understand it, you people were at great pains to keep it from all being thrown together when you contracted with the Government—but we are trying to find out here the mining company's income after taxes.

It is a fact, of course, that the mining company was the only company that was supposed to make any money out of this deal, is that right?

Mr. MARTING. That is correct, sir.

Mr. COBURN. And not the smelter?

Mr. MARTING. That is correct.

Mr. COBURN. And since the smelter was engaged in rendering ore into nickel and the mine was engaged in taking the ore out of the ground, I am trying to determine with reference to these precontract expenses how much of these expenses are related to taking the ore out of the ground and how much is concerned with converting the ore into metal, and that is my reason for asking you the questions that I have.

Mr. MARTING. Yes, sir.

Mr. COBURN. And, as I understand you now, you say that this development expense, 1949–52, of $258,000, is entirely related to taking the ore out of the ground?

Mr. MARTING. That is right, yes.

Mr. COBURN. But the other item of $182,000 is very largely related to converting the ore into metal?

Mr. MARTING. Determining whether we had a commercial ore body, yes.

Mr. COBURN. The answer is yes; is it not?

Mr. MARTING. Yes.

Mr. COBURN. To what I have asked you?

Mr. MARTING. Determining whether we had an economic ore body. That is exactly——

Mr. COBURN. May I ask you this again, now. My question was: Is not this figure of $182,000 largely an expense that was incurred in determining whether the ore could be converted into metal?

Mr. MARTING. That would be correct.

Mr. COBURN. Now, Mr. Marting, let us go on down to the next item No. 2, which you take as a credit, so to speak, in this question.

It has to do with the expenses of the mining company from 1954 through March 31, 1961:

(*a*) Administrative expense, $211,734.

Now, tell us what that item is, will you please, sir?

Mr. MARTING. Those are made up of various expenses of the Hanna Mining Co. which are general in nature and are not charged to any particular division, but which are definite expenses of the company.

They are made up of quite a few items. One would be salaries of our general accounting people in Cleveland, travel for them, audits that are made by our auditors, various legal fees we might incur in the general corporate activities.

Mr. COBURN. I certainly would not object to that, Mr. Marting.

Senator SYMINGTON. Could I ask a question?

Mr. COBURN. Yes, Mr. Chairman.

Senator SYMINGTON. Do you believe that these administrative expenses are properly allowable to the costs of the Hanna Mining Co. nickel division?

Mr. MARTING. I certainly do, sir.

Senator SYMINGTON. Then why did you not so express them in your income tax returns?

Mr. MARTING. Because we set up our income tax returns, we have these divisional profits, and then at the very end, Mr. Chairman, we deduct these various general things which we cannot, without going through a lot of allocations—we could have done it this way, but for simplicity we lumped together this and all of this exploration work, which we take off at the end, but it is not allocated——

Senator SYMINGTON. Are you going to apply for a tax refund?

Mr. MARTING. No, because on these particular ones we deducted the Hanna Mining Co. taxes in that year, but they were not deducted as an expense of Hanna Mining Co., but deducted at the end as a part of the general expense of the company.

Mr. COBURN. All right, Mr. Marting.

Now, you were telling us about these general administrative expenses here, and had gotten as far as saying that they include accounting expenses, legal expenses, and what else?

Mr. MARTING. Bank and trust fees.

Mr. COBURN. Sir?

Mr. MARTING. Bank fees, trust fees, for our general bank accounts, office expenses and equipment, mainly office equipment, office furniture and that type of thing in Cleveland, directors' fees and expenses, any public relations expenses, our annual report, and this type of what are called general corporate expenses of the Hanna Mining Co. as a corporation.

Mr. COBURN. As I understand you, then, Mr. Marting, there were administrative expenses that were incurred by the mining company that were charged to the nickel division, and, of course, go into this situation up here as to their net profit both before and after taxes?

Mr. MARTING. That is right.

Mr. COBURN. Is that correct?

Mr. MARTING. Sure.

Mr. COBURN. A very substantial amount of administrative expenses?

Mr. MARTING. Oh, yes.

Mr. COBURN. That were directly related to the nickel division for which you took credit up here in your tax returns, and, of course, the result is in the computations here of profits before and after taxes?

Mr. MARTING. That is correct, sir.

Mr. COBURN. But this item here of $211,000 constitutes additional administrative expenses that were not allocated on your tax returns and your books to the nickel division?

Mr. MARTING. That is correct. And these are the items I am talking about, like our annual report.

Mr. COBURN. But you say that because they are of a general character and applied to the whole corporation, they ought to be divided among the different divisions of the corporation, is that right?

Mr. MARTING. Well, we have to put them there because the divisions are where we get the profits, and these are valid expenses.

As you see, the total amount here of $211,000 is over an 8-year period, and I have listed what they are. I think you have a list of all of them. If you have not, we will see that you get one.

Mr. COBURN. Now, how did you allocate this item of $211,000 between the different divisions of the corporation, on what basis?

Mr. MARTING. Well, there were several bases checked and used.

The basic one was using it, allocating not only this administrative expense, but it also applied to the larger item that you will come to.

Mr. COBURN. We will get to that in a moment.

Mr. MARTING. But the allocation is the same.

Mr. COBURN. Yes, I realize that.

Mr. MARTING. On the basis of the net profits of these divisions as among themselves.

In other words, the percent of net profits of nickel, as compared to other divisions. They would allocate these on that basis.

If I might go on to say that in doing this, several other ways were tried, so I am advised by our accounting people.

This was done primarily by our accounting people and checked with the Ernst & Ernst people. This is the allocation point.

Mr. COBURN. But, as I understand it, then, this item of $211,000 constituted that part of the general administrative expense that was allocated to the Nickel Division, right?

Mr. MARTING. Yes.

Mr. COBURN. And it was allocated to the Nickel Division. The amount was determined on the basis of the net income of the Nickel Division, relative to the Minnesota Division and the Michigan Division, we will say, and the other nonmining divisions of the company, right?

Mr. MARTING. That is correct, except—basically, that was it. That was the theory. The exact detail, as I say, is an accounting matter. That is exactly what we are——

Mr. COBURN. I am not asking you about the details now. I am only asking you about the method of allocation, sir.

Mr. MARTING. That would be the method; yes, sir.

Mr. COBURN. As I understood your own testimony a moment ago——

Mr. MARTING. That is correct.

Mr. COBURN. It was allocated between these different divisions of the company on the basis of the net income of the divisions during the period of the contract here, the nickel contract?

Mr. MARTING. That is correct, sir.

Mr. COBURN. And not on the basis of, let us say, sales?

Mr. MARTING. No.

Mr. COBURN. Or expenses?

Mr. MARTING. No.

It was—that is right. They both would be considered, of course, in getting at your net profit.

Mr. COBURN. Yes, I realize that, but let us answer my question, if you will, please.

It was allocated on the basis of income, not on the basis of sales or expenses incurred by the division?

Mr. MARTING. That is correct.

(Discussion off the record.)

Mr. COBURN. On the basis of income, the Nickel Division had an income of 39 percent; the Minnesota Division, 7 percent; and the Michigan Division, 10 percent, during the period of time that this contract was performed, did it not?

Mr. MARTING. Would you please repeat that question, sir, so I am clear on it?

Mr. COBURN. This record that I have before me indicates that during the period of time in question the income of the Nickel Division was 39 percent; the Minnesota Division, 7 percent; and the Michigan Division, 10 percent of the mining company's total income, is that correct?

Do you have the answer on that, Mr. Marting?

Mr. MARTING. No, sir.

I do not because I would like to have the question read again because I am not clear in my mind what the question is.

Mr. COBURN. Here is what I am trying to get at. I am trying to get at the validity of your allocation as to whether it was a reasonable and proper allocation between the Nickel Division and the Minnesota Division and the Michigan Division that are the three mining divisions of the mining company, as I understand it.

Now, what was the percentage of income of the Nickel Division during the period of the contract, and what was the percentage of income of the Minnesota Division and of the Michigan Division during the period of the contract?

Mr. MARTING. What was the percent that the Nickel Division was of Minnesota?

Mr. COBURN. Or, as income is concerned, what percent of the total income of the company? I am talking about the net income, now.

Did you get my question? I want to make sure you have it.

Mr. MARTING. I am trying to be helpful, Mr. Coburn.

Mr. COBURN. I know you are. I want to communicate with you, too.

Mr. MARTING. We figured of the total net income of Hanna Mining, that the nickel was 20 percent of that, and, therefore, we took the general expenses and roughly 20 percent—this is on the overall of these general expenses—have been allocated to the Nickel Division.

Senator SYMINGTON. Can I ask a question here, Mr. Counsel?

Mr. COBURN. Yes.

Senator SYMINGTON. As I understand it, there are considerably more divisions in the Hanna Mining Co. than just Nickel and Minnesota and Michigan; is that correct?

Mr. MARTING. Not considerably more. The other main one, sir, is Dock & Vessel.

Senator SYMINGTON. The total sales of the Hanna Mining Co. were $495 million. The sales of the Minnesota Division were $227 million. That would leave about $268 million. The total sales of the Michigan Division were $51 million. That would leave roughly $217 million. The total sales of the Nickel Division were around $26 million, so the other divisions sold about $191 million. That was in addition to the sales of the three mining divisions in the Hanna Mining Co.; is that correct?

Mr. MARTING. Yes, I assume those figures are correct, yes.

Senator SYMINGTON. That is pretty substantial.

Now, the question: Did you split this cost between all of the Hanna Mining Co. or just between the three mining divisions of the Hanna Mining Co.?

Mr. MARTING. Can I answer it this way, Mr. Chairman:

What we did, we took the total net profit of the Hanna Mining Co.

Senator SYMINGTON. Which was how much?

Mr. MARTING. Well, it would vary year to year.

Senator SYMINGTON. What was the total profit over the period in question. That would be a better way to put it. I have $75 million. Is that about right, for the entire Hanna Mining Co., $74,886,926 for the years 1954–60, inclusive?

Mr. MARTING. That would include dividends, too?

Senator SYMINGTON. Net income before Federal income taxes.

Mr. MARTING. Yes. Oh, net income before Federal income taxes?

Senator SYMINGTON. Yes.

Mr. MARTING. My figures are all after taxes, Mr. Chairman.

Senator SYMINGTON. Well, it does not make any difference, if you are figuring how you prorated it.

Mr. MARTING. No.

Senator SYMINGTON. As to whether before or after.

Mr. MARTING. Roughly, if I may put it this way, roughly it was this: We figured our profit after taxes on mining, in general, was roughly $50 million.

Our Nickel Division profit was roughly the $10 million figure you see there. Based on that, the net allocation here, you see, was on a 20-percent basis.

Senator SYMINGTON. Let me repeat my question:

Did you prorate these costs, this figure here of $211,734, on the whole Hanna Mining Co., or just on the profits of the three mining divisions of the Hanna Mining Co.?

Mr. MARTING. What we did, if I may answer that in my way, because what we did, we took the total profit of Hanna Mining Co.

Senator SYMINGTON. Of all divisions?

Mr. MARTING. All divisions.

Senator SYMINGTON. Including the three——

Mr. MARTING. Including the three.

Senator SYMINGTON (continuing). Mining divisions?

Mr. MARTING. Right, all of them, sir.

Senator SYMINGTON. Right.

Mr. MARTING. Except we did deduct one division—dock and vessel—profit, which was a small profit. The biggest profit we had in any one year was $700,000, but that is because that is separate and has nothing to do with the bulk of these expenditures.

Senator SYMINGTON. There is no implied criticism in my questioning. I am only trying to get the facts.

Mr. MARTING. That left us what we call a mining and general profit which was the total profit of Hanna mining except for dock and vessel.

Senator SYMINGTON. Right.

Mr. MARTING. That figure amounted to $50,462,000.

Now, then, we took the profit of the nickel division, wihch you see up there, which is roughly $10 million. These are all after-tax figures, you understand.

Senator SYMINGTON. Right.

Mr. MARTING. Which gave us the $10,469,000—I cannot see that far—and then we allocated these expenses on the basis that these expenses applied to the total $50 million.

Senator SYMINGTON. Are you saying that profit after taxes of the Hanna Mining Co. was $50 million?

Mr. MARTING. Yes, sir.

Senator SYMINGTON. And that your profit in the nickel division was $10 million?

Mr. MARTING. Right, sir.

Senator SYMINGTON. And that you, therefore, allocated 20 percent?

Mr. MARTING. That is right, sir. That is correct, sir.

Senator SYMINGTON. And that you, therefore, allocated 20 percent of the total profit of the Hanna Mining Co., which included these other divisions as well as the three nickel companies?

Mr. MARTING. Yes. And it included all of our profits except—from every source except the dock and vessel.

Senator SYMINGTON. I understand.

Mr. MARTING. So it comes out roughly 20 percent.

Senator SYMINGTON. I understand.

Mr. MARTING. Now, that varies.

We did it year by year, sir, so that there would not be—in other words, for the year 1954 it was only 3.8 percent.

Senator SYMINGTON. Your sales in the nickel company were 6 percent of the total, roughly.

Mr. MARTING. Yes.

Senator SYMINGTON. And your nickel profits were just over 20 percent of your total profits. Very well.

Mr. Counsel?

Mr. COBURN. All right.

Now, Mr. Witness, let us get back to what you and I were trying to explain here, and I may not have been communicating very well, but I will make another try at it.

First, I do not want to pick nits with you, but let us think about this just a moment. You say you did not include the yards and docks, or whatever you call it, or maybe that is a Navy phrase, the division of the Hanna Mining Co., in your computation?

Mr. MARTING. That is correct.

Mr. COBURN. Well, now, as I understand these expenses, they were of a quite broad and general character. That is your reason for claiming that they ought to be allocated in part against the nickel division.

They constituted such things as accounting, legal expenses, banking expenses, matters of that kind.

Are not those applicable to the steamship division, whatever you call it, just the same as any other division of the company?

Mr. MARTING. Sure. May I explain that to you?

The bulk of the expenses, as you see—you say we should not argue about minor amounts—but the bulk of the expenditures that we allocated, as you will notice your next line, which is $2,173,000, which is all primarily exploration and has to do with our mining operations. It is true that part of the $211,000 should, and probably could, be allocated to the dock and vessel, but may I just read the figures to show what we are talking about, sir?

Mr. COBURN. Well, no; I do not want to cut you off, but I do not want to get involved in a lot of long testimony, and I do not think it is necessary.

This is not a large point.

Mr. MARTING. All right, sir.

Mr. COBURN. But I think we can get at this quickly now. I grant you very readily that the cost with reference to the operation, or the profits, rather, that the profits with reference to your steamship division ought not to be included in exploration, research, and so on.

I grant you that freely.

But, on the other hand, this other administrative expense here which was quite general in character, so general that you say it ought to be allocated between the divisions——

Mr. MARTING. Of course.

Mr. COBURN (continuing). Do you not think you ought to have included the steamship division in that calculation to be perfectly honest about it?

Mr. MARTING. No question, sir.

Mr. COBURN. That should have been done?

Mr. MARTING. The amount is so small.

Mr. COBURN. All right.

Now, Mr. Marting, let us go back to this matter of the method that you used of dividing the administrative expenses, and, for that matter, the exploration expenses, between the different divisions of the three mining divisions, we will say.

I understand that you did it on a net-profit basis, is that right, on a net-profit basis during the period of time in question?

Mr. MARTING. That is correct; net-profit-after-taxes basis.

Mr. COBURN. Net profit after taxes?

Mr. MARTING. Yes.

Mr. COBURN. And, by the way, in determining that, what figure did you take for your net profits after taxes, $10 or $7.5 million?

Mr. MARTING. This is $10 million, because we are trying to arrive at the $7.5 million.

Mr. COBURN. So you took the $10 million?

Mr. MARTING. Yes.

Mr. COBURN. That you got off your books, just like we did?

Mr. MARTING. We have no argument that the books show the $10 million, Mr. Coburn. I thought we clarified that.

Mr. COBURN. I know we have no argument about it. I did not know there was any argument about this matter at all until we got into our hearings.

But, be that as it may, as I understand it, your net profit from the Nickel Division during this period of time was 18 percent; is that correct?

Mr. MARTING. It was 18 percent of what, sir?

Mr. COBURN. Eighteen percent of the net profit of the entire corporation, I guess. But you can tell me better.

Mr. MARTING. We get much closer to the 20 percent.

Mr. COBURN. Do you?

Mr. MARTING. Yes.

Mr. COBURN. All right, I accept 20 percent. That says 20 percent, then.

Mr. MARTING. It is roughly $50 and $10 million.

Mr. COBURN. All right, it is 20 percent.

Mr. MARTING. Yes, sir.

Mr. COBURN. And your net profit of the Minnesota Division was how much?

Mr. MARTING. I would have to check that on this same basis. We took the total profit, took the part of that and that is the way we allocated it. But we did that to show what our profit was, our real profit, in the Nickel Division.

Mr. COBURN. Mr. Marting, you are president of this company, are you not?

Mr. MARTING. I am.

Mr. COBURN. And I remember when Mr. Humphrey testified the other day, and I started to ask him some question about this, and he said:

> It is a mere matter of detail about which I would not be concerned, but we have a man right here who can give you all the information you want on that subject—

and he turned to you with a sweeping gesture, did he not?

Mr. MARTING. Yes, sir, he certainly did.

Mr. COBURN. Now, then, let us tackle this problem because I believe you ought to be prepared at this point on this subject, and you ought to be prepared in detail, because this thing was developed as late as last August by you people, was it not?

Mr. MARTING. That is correct, sir.

Mr. COBURN. And before?

Mr. MARTING. That is correct.

Mr. COBURN. Getting ready for this hearing?

Mr. MARTING. That is correct.

Mr. COBURN. All right.

Now, let us get down to this thing, because you are supposed to know the answers here on this.

I want to know how it was that you computed, you allocated, this administrative expense on the basis of net profits between the Nickel Division and any other division of the company.

Now, you tell me that, if you will, please, because I believe you can.

Mr. MARTING. We allocated the percentage of these deductions to the Nickel Division on the lines I told you, sir. We took the total net profits of the company.

Mr. COBURN. Yes, all right.

Mr. MARTING. We took the total net profits of the Nickel Division.

Mr. COBURN. All right.

Mr. MARTING. From the total net profits of the company. We deducted the Dock and Vessel Division.

Mr. COBURN. Yes?

Mr. MARTING. And then we came out to this total net profits, excluding Dock and Vessel, of $50 million.

Mr. COBURN. All right, fine.

Mr. MARTING. And a net profit of $10 million on the Nickel Division, and we allocated these on that percentage, and that is the way we did it.

Mr. COBURN. All right. Now, then, I want to ask you this: What was the percentage of the net profit of the Nickel Division during the period and time in question of the entire company?

I believe you said it was 20 percent, have you not?

Mr. MARTING. Twenty percent.

Mr. COBURN. Now, then, let us take the Minnesota Division, which was also engaged in the mining business. What was its percentage of the net profits of the entire mining company?

Mr. MARTING. We will have to get that for you. I cannot answer that myself right now. That is a very simple matter, and we will figure it out and put it in the record for you, sir.

Mr. COBURN. Mr. Chairman, may I suggest that, since it is 12:30, that perhaps during the noon hour this witness can be prepared on these things that I am asking him, and we might take an adjournment, if it is all right with you, or a recess, rather?

Senator SYMINGTON. All right.

Mr. Marting, I want to ask a question or two of you at this point.

You sent a pamphlet out around the country under your name which had these figures in it. I must say I am surprised that you do not know the details of this $7.5 million profit figure, because that was emphasized in your pamphlet. You know the pamphlet I am referring to, do you not?

Mr. MARTING. Yes, sir.

Senator SYMINGTON. It is called "A Conspicuously Successful Case." Have you a copy in front of you?

Mr. MARTING. I have it in my briefcase. That is correct, sir.

Senator SYMINGTON. You sent it to a good many people in my State. Did you send it to a good many people in other States?

Mr. MARTING. Yes, sir.

Senator SYMINGTON. Now, on page 3, we get back to the figure Mr. Coburn is talking about.

Mr. MARTING. Yes, sir.

Senator SYMINGTON. You say the company made a profit of $7,535,000.

Is there any effort to reconcile those figures with the other figures given on that page? I tried; spent an evening trying to figure how you arrived at that $7,535,000 figure.

The average person who reads an earnings statement would look at this pamphlet and expect that the figures above showed that the net profit was $7,535,000, the last amount listed on the page.

Is there any way you can do that, based on the figures in this pamphlet?

Mr. MARTING. On the figures above that?

Senator SYMINGTON. Yes.

Mr. MARTING. No, sir, because this is the figure we are talking about here, the $7,535,000.

Senator SYMINGTON. I know, but you give a lot of figures, and then arrive at a profit of $7,535,000; and the average person reading this would assume, as one does reading any earnings statement, that, from what was presented above there was some way you arrived at that figure.

Will any operation on the figures above let you arrive at $7,535,000?

Mr. MARTING. No, sir; I do not think at all, no, sir.

Senator SYMINGTON. Now you say here, Federal income and withholding taxes paid by Hanna, $7.8 million.

That includes the withholding taxes your employees paid, does it not?

Mr. MARTING. That is right.

Senator SYMINGTON. Did you ever see a balance sheet or earnings statement or any statement that listed as part of costs the withholding taxes paid by the employees?

Mr. MARTING. Well, normally, that would not be in a profit-and-loss statement.

Senator SYMINGTON. If it normally would not be, why is it here?

Mr. MARTING. I do not think this was labeled, sir, as a profit-and-loss statement or a balance sheet.

Senator SYMINGTON. It says, "Summary of facts relating to Hanna Nickel contracts," and the impression one would get is that this is a detailing of costs which helped you arrive at the $7,535,000 figure given at the bottom.

We were perplexed because the profit figure you had always used before, and which, I understand, there was no disagreement on, was the $10 million one.

Now, you have here sales to Hanna of power from the Bonneville Dam, $7 million; is that correct?

Mr. MARTING. That is correct.

Senator SYMINGTON. But it must have cost the Government something to produce that power, did it not?

Mr. MARTING. Oh, I assume it does, yes.

Senator SYMINGTON. If you are going to list it as something you paid the Government, under the theory of normal, sound accounting practice, would you not also list what it cost the Government, and then deduct that first from the $7 million; or add if it cost the Government more to produce than $7 million.

Mr. MARTING. If you certainly were trying to show a profit-and-loss statement, of what the Government made on the sale to the Hanna Mining, you certainly would.

Senator SYMINGTON. Now, at the bottom here you say:

Sources: Report on borrowing authority dated December 31, 1961, submitted to the Congress by the General Services Administration pursuant to section 304(b) of the Defense Production Act as amended, and, audit report of Comp-

troller General of the United States dated April 1961, covering contracts DMP 49, 50, and 51.

We could not find any justification for your statement in that regard. Have you those two reports with you?

Mr. MARTING. Yes, sir.

Senator SYMINGTON. Would you show us where that is stated?

Mr. MARTING. I will get it right out, sir, because we have the key to this.

Senator SYMINGTON. Please show where, in the borrowing authority, it states the total price paid by the Government for the 94.7 million pounds of nickel was $67 million.

Mr. MARTING. If you will notice, sir, the first figure, total costs for 108 million pounds of nickel, $98.2 million. In this summary that is shown on column 5.

Senator SYMINGTON. Column 5, what page?

Mr. MARTING. This is a borrowing authority transaction. I beg your pardon?

Mr. MAY. What page?

Mr. MARTING. We just have this.

Senator SYMINGTON. I do not want to delay it, but will you be ready to talk about that this afternoon?

Mr. MARTING. Yes, sir.

Senator SYMINGTON. Fine.

Now have you the report of the Comptroller General, the report of April 1961, which was so critical of these contracts?

Mr. MARTING. Yes, sir.

Senator SYMINGTON. Do you see in there where it says that the price paid by the Government for the 94 million pounds is $67.42 million?

Mr. MARTING. No, sir.

Senator SYMINGTON. But that is what your asterisk says it says.

Mr. MARTING. Our asterisk says the source of all this material is these various reports, sir.

Senator SYMINGTON. Let me read what you say here:

"Total price paid by Government for 94.7 million pounds of nickel, $67.2 million,*" and you go down to the asterisk, and you say that some of this information is in the audit report of the Comptroller General dated April 1961.

I have this report here, and I wish you would show me where it says any such thing.

Mr. MARTING. Sir, if you look at our statement, we say:

"Sources," and we get two sources, the report on borrowing authority——

Senator SYMINGTON. We have studied this carefully, and cannot find anywhere it says what you say it said, in the pamphlet you sent around.

Mr. MARTING. Mr. Chairman, what I would like to show you, that every figure in there, all we have done here is arithmetic.

But the source of these figures we got from these reports, and I can go through——

Senator SYMINGTON. All right. You put an asterisk in. You first put in the incredible figure of $7.535 million, which the counsel has been questioning you on.

Somebody reading this quickly might estimate that as the net profit, based on the figures you give above it. But I could not reconcile it, and now you say it cannot be reconciled; that the $7.535 million figure has no relationship to the other figures on the page.

All right.

Let us go to page 3, now.

Mr. MARTING. I am looking at page 3.

Senator SYMINGTON. You say:

Total price paid by Government for 94.7 million pounds of nickel, $67.2 million.

And then you say—

and audit report of Comptroller General of the United States dated April 1961, covering contracts DMP 49, 50, and 51.

Do you have that in front of you?

Mr. MARTING. I do.

Senator SYMINGTON. Where is it in the Comptroller General's report?

Mr. MARTING. What we mean by this asterisk is that the source of all of these figures we show in this table, Mr. Chairman, came from these two reports.

Senator SYMINGTON. Then what you are saying is that you have changed some of the figures in those reports in order to get justification for what you printed under the asterisk; is that it?

Mr. MARTING. No, sir.

We took those figures and added and subtracted and came out with this result. That is what we meant.

Senator SYMINGTON. What figures? Show me in the report what figures?

Mr. MARTING. All right.

You have to use both. You have to use both reports, sir.

Line 5 on the "Borrowing authority" report is where we got the $98.2 million.

Senator SYMINGTON. It is nearly a quarter of 1. Would you file a statement for the record here as to how you arrived at that profit figure, which is millions of dollars below the profit figure you gave in your income tax filing.

Mr. MARTING. Yes, sir.

(The information requested of the witness has not been received.)

Senator SYMINGTON. I honestly tried to arrive at how you get that figure.

In fact, yesterday proved pretty conclusively that this profit statement just is not correct.

You say "Total price paid by Government for 94.7 million pounds of nickel, $67.2 million." To get that figure of $67.2 million, you have to make some deductions, do you not, including subsequent sales of nickel by the Government to industry?

Mr. MARTING. That is right, sir.

Senator SYMINGTON. If you buy a car for $1,000 and you sell it a year later for $500, was the cost of the car to you $500, or was it $1,000?

Mr. MARTING. If I have sold the car, I do not get the point. I do not have a car then. I do not mean that.

Senator SYMINGTON. Well, let us be serious.

Mr. MARTING. Yes, sir, I am.

Senator SYMINGTON. In this statement you use the word "price," but the figure given is after the sale of some of the nickel, is it not?

Mr. MARTING. That is correct, sir.

Senator SYMINGTON. All right.

So what you are really talking about is not price, but net value? Isn't that correct?

Mr. MARTING. Well, net cost or net price, yes.

Senator SYMINGTON. Net value, is that right?

Mr. MARTING. That is right.

Senator SYMINGTON. Actually, then, this figure, $7.5 million, on page 3, has nothing whatever to do with the figures listed above it on the same page; is that correct?

Mr. MARTING. No, sir, not one thing.

Senator SYMINGTON. Thank you.

Mr. MARTING. Not the slightest.

Mr. COBURN. Mr. Chairman, may I say, before we recess here, that I would like to have Mr. Marting prepared to tell us, when he comes back here after the recess, as to what percentage of the profits of the mining company, net profits, now——

Mr. MARTING. Yes, sir?

Mr. COBURN. Were allocated to the nickel division, or what their percentage was; what percentage of the net profits were in the Minnesota division——

Mr. MARTING. All right, sir.

Mr. COBURN. And what percentage of the net profits in the Michigan division.

Mr. MARTING. Correct.

Mr. COBURN. The three mining divisions.

Mr. MARTING. Yes, sir.

Mr. COBURN. Then I want you also, if you will, please, to be prepared to give us what your gross income was, what percentage of the entire gross income of the mining company came from the nickel division, from the Minnesota division and from the Michigan division.

As I understand it, in these three mining divisions your gross income was essentially your sales?

Mr. MARTING. Yes, sir.

Mr. COBURN. Was not all of your income from the sale of ore?

Mr. MARTING. The bulk of it; yes, sir.

Mr. COBURN. Nickel ore in the case of the nickel division?

Mr. MARTING. Yes.

Mr. COBURN. Iron ore in the case of the Michigan division, iron ore in the case of the Minnesota division?

Mr. MARTING. There might be some dividends in those divisions, but the bulk would be——

Mr. COBURN. Nothing that amounted to anything. So, essentially, gross income would be sales of ore?

Mr. MARTING. Yes.

Mr. COBURN. Would you be prepared to testify on that?

Mr. MARTING. We will do our very best, sir, on that. We will get everything we can on that.

Mr. COBURN. Thank you.

Senator SYMINGTON. We will recess until 2:30.

(Whereupon, at 12:45 p.m., the hearing was adjourned, to reconvene at 2:30 p.m., of the same day.)

AFTERNOON SESSION

(Present: Senators Symington, Cannon, Beall, and Bush.)

Senator SYMINGTON. The hearing will come to order.

The first witness will be Mr. Jess Larson.

Mr. Larson, I have a short statement I will read.

At an executive hearing of the Senate Armed Services Committee, the Treasury Department was asked to permit an inspection of various tax returns. This request was approved. The name of Mr. Larson was included.

The request became a matter of public knowledge. Mr. Larson objected to this action, saying it has reflected on him, that he would have been glad to supply the returns.

There was no such intention. I want to emphasize that the subcommittee has no reason to question Mr. Larson's character and integrity. This was a routine request made in the course of a thorough investigation.

STATEMENT OF JESS LARSON, ATTORNEY, WASHINGTON, D.C.

Mr. LARSON. Well, thank you very much, Senator Symington. This is sort of like when my father used to bring me out behind the barn and flail the hell out of me and say, "Son, this hurts me more than it hurts you," and he never quite convinced me of that. [Laughter.]

Senator SYMINGTON. Mr. Counsel, will you proceed?

Mr. COBURN. First, for the record, will you identify yourself please by giving us your name and address?

Mr. LARSON. My name is Jess Larson. I live at the Sheraton Park Hotel in Washington.

Mr. COBURN. Now, as I understand it, I won't overlook this this time, you have a statement, Mr. Larson, a written statement that you submitted to the committee in advance, that you would like to read at this time?

Mr. LARSON. That is correct.

Mr. COBURN. All right, will you please do so?

Mr. LARSON. Thank you.

Mr. COBURN. Mr. Chairman, there is no reason at all to question anything Mr. Larson would say, but on the contrary I have every confidence in him. But it has been the practice of the committee to swear the witnesses and I suggest that we might follow that practice.

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

Do you swear that the testimony you give this subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LARSON. I do.

Mr. COBURN. Now, Mr. Larson, will you please read your statement?

Mr. LARSON. Mr. Chairman, and gentlemen of the committee, my name is Jess Larson. I live and practice law in the District of Columbia.

From 1947 to May of 1949 I was the Administrator of the War Assets Administration; from May 1949 until July 1, 1949, I was the Administrator of the Federal Works Agency; on July 1, 1949, I was appointed the first Administrator of the General Services Administration; on September 8, 1951, I was appointed Administrator of the

Defense Materials Procurement Agency, which duties I was required to perform in addition to my duties as Administrator of General Services Administration.

In the course of this statement I will explain why this arrangement was brought about.

I am here at the invitation of the committee to answer, to the best of my ability, any questions it might have regarding my stewardship of the Defense Materials Procurement Agency.

Specifically, it is my understanding that you wish to question me regarding contracts which I executed, in my official capacity, between the Federal Government and the Hanna Nickel Smelting Co. of Riddle, Oreg.

Ten years have gone by since the decision was made to enter into these contracts. During that time my activities have been confined to the private practice of law and I have not been associated with any activities which would tend to keep my recollection fresh regarding the happenings of a decade ago.

I have not had an opportunity to examine the testimony of previous witnesses in these hearings, and I am only familiar with the record to the extent that the press has reported the proceedings.

With the exception of glancing over certain official reports of the committees of the Congress, I have made no effort to refresh my recollection since to attempt to do so would require access to innumerable official records which are not available to me and the expenditure of a great deal more time than I can afford.

My testimony will necessarily be to the best of my knowledge and belief. There are a few facts of which I have a rather clear recollection; others are quite hazy.

With this in mind, I felt that this statement would be the best way to proceed.

I would like to make it clear at the outset that I will not attempt to explain or justify the actions of any contractor with whom my Agency did business, including the Hanna interests. I will make an honest effort to recount for this committee the circumstances which led me to execute, on January 16, 1953, contracts which the committee is now investigating.

When Congress created the General Services Administration (GSA) in 1949, it was given the purchase and custodial responsibilities for the national stockpile. This responsibility was strictly a ministerial one.

General Services Administration had no responsibility for, nor did it determine, the items which were to be purchased for the stockpile nor any quantities thereof. Under the procedure that existed at that time it received programs from the Munitions Board which would set forth the items to be purchased, quantities, and approximate time schedules for accomplishment of goals.

With this directive as its guide GSA then submitted to the Congress, through the Bureau of the Budget, appropriation requests to carry out such programs.

Programs submitted by the Munitions Board for the fiscal year 1950 and 1951 indicated a considerable increase in quantities and a step-up in the time schedule for achieving the goals set forth therein. To meet this stepped-up program GSA changed its organizational structure by

adding a new and separate Service called Emergency Procurement Service.

To direct this operation I appointed Mr. Al Walsh, an experienced and able career public servant who had been in charge of stockpile purchasing since its inception.

With the international situation growing more tense in the early part of 1950, the appropriate committees of Congress began to indicate concern at the rates at which stockpile purchases were being made.

I might add there that they became concerned with the slow rate at which they were being made.

The Armed Services Committee of both Houses held hearings, and committee staff members were assigned to keep constant surveillance on the operations involving stockpile activities.

Almost immediately it was apparent to me that these inquiries and the attendant publicity were contributing to the increases that began to occur in the markets of the world where we were shopping for the items to fulfill the stockpile programs.

With the outbreak of the Korean war in mid-1950, these markets broke wide open, thus throwing the purchase programs completely out of balance.

Shortly thereafter the Defense Production Act of 1950 (Public Law 774, 81st Cong.) was enacted by the Congress and approved by the President on September 8, 1950.

The chairman of this committee will remember the hearings held by the Congress prior to the passage of this act. He was one of the principal witnesses. I also testified.

The decision of the administration had been made to submit legislation to the Congress which would provide for the expansion of production not only to meet the requirements of the conflict, but at the same time produce at a rate to meet the requirements of the growing economy.

This is important to remember because it reflected a difficult policy of both "guns and butter."

Section 2 of the act setting forth this declaration of policy provided in part:

> * * * It requires expansion of productive facilities beyond the levels needed to meet the civilian demand.

The act provided that the President was authorized to delegate power to carry out its provisions.

Title III was entitled "Expansion of Productive Capacity and Supply" and was the provision of the act most important to the operations of GSA as well as other established and emergency agencies.

Section 303 of this title III, as amended in August of 1951, together with the Executive order issued by the President, constituted basic authority for the emergency operations which had been delegated to the GSA by the President.

I believe it is important to repeat the provisions of this section:

> SEC. 303. (a) To assist in carrying out the objectives of this act the President may makes provision (1) for purchases of or commitments to purchase metals, minerals, and other materials, * * * for Government use or resale; and (2) for the encouragement of exploration, development and mining of critical and strategic minerals and metals: * * *
>
> (b) Subject to the limitations in subsection (a), purchases and commitments to purchase and sales under such subsection may be made without regard to

the limitations of existing law, for such quantities, and on such terms and conditions, including advance payments, and for such periods but not extending beyond June 30, 1962, as the President deems necessary, except that purchases or commitments to purchase involving higher than established ceiling prices * * * or anticipated loss on resale shall not be made unless it is determined that supply of the materials could not be effectively increased at lower prices or on terms more favorable to the Government, or that such purchases are necessary to assure the availability to the United States of overseas supplies.

This language made abundantly clear the broad powers Congress was willing to give to the executive branch to deal with the emergency.

Likewise it was clear from this language that all obligations made under the authority of this act were not solely to meet the military and defense needs, but to also maintain the domestic economy.

This act had nothing to do with stockpiling as such. Stockpiling enters in only to the extent the planners took stockpile requirements into consideration in arriving at goals or quantities.

Contracts entered into under this act were not stockpiling contracts, they were contracts to acquire materials and expand production to carry out its purposes.

There were stockpiling contracts under the Stock Piling Act of 1946, but the contracts I will discuss today, including nickel contracts, were negotiated under the act above quoted. Stockpile contracts were not made under emergency powers.

The President issued Executive Order 10161 on September 9, 1950, the next day after he signed the Production Act.

This order delegated sundry powers to existing Government agencies including the GSA. Under this Executive order and the organization that was then created, GSA was charged with the responsibility to "purchase and make commitments to purchase, materials, minerals and other materials for Government use or resale."

The National Security Resources Board (NSRB) was charged with supervision of the Agencies operating under the Executive order.

GSA was not authorized to make any purchases or commitments to purchase with Defense Production Act funds except as a result of a specific program having been certified to it by the National Security Resources Board.

It was under such a certification that the initial aluminum expansion programs were carried out with guaranteed price arrangements serving as the incentive.

Later the Office of Defense Mobilization (ODM) was substituted for the National Security Resources Board. Other emergency agencies including the Defense Production Administration (DPA) which was to take over the functions previously exercised by NSRB in certifying programs to GSA, were established.

This organizational arrangement was generally followed until August 28, 1951, when Executive Order No. 10281 was issued establishing an emergency agency known as Defense Materials Procurement Agency (DMPA) and charged it with performing certain functions previously delegated to GSA and other Agencies.

The result of this was to place in one Agency the procurement of and contracting for expansion of the production of most of the strategic materials required for prosecuting the war and maintaining the economy.

The reason for this change was to effect a more efficient operating organization and to eliminate a certain amount of duplication. Also to coordinate stockpile purchases in order that such purchases would not unnecessarily drive the markets upward in a continuing spiral.

It was also felt that as a result of these activities which provided for possible delivery of materials in quantity to the Government, large inventories were likely to be created. These inventories, of course, could be resold under the provisions of the act, but it was recognized that if the war came to an abrupt close, large inventories would be left in the hands of the Government. The logical Agency for managing these inventories and arranging for their transfer to the national stockpile, if so directed by the President, was GSA. It was felt by the President that the Administrator of GSA could better bring about this coordination by also serving as the Administrator of DMPA.

Under this arrangement ODM, acting through DPA, would certify to DMPA that a certain material was strategic and that production available to this country in certain quantities must be provided, and directed DMPA to submit for certification, in accordance with section 303 of the act, a program for bringing into production the specified material in the specified quantities.

GSA and DMPA had no authority to determine what production should be expanded, what the production goals were to be, what the quantities of purchase were to be, nor what time schedule should be fixed. They did not have the authority to determine on their own that subsidy or premium prices should be paid, that loans should be guaranteed, or that rapid tax amortization should be used in achieving expansion of production, all of which were incentives provided for in the act.

Authority in these matters was retained by and administered under the supervision of the Director of ODM acting through the Administrator of DPA. During my period of service I never obligated the Government of the United States for the expenditure of one cent until, and unless, I had a directive to carry out an expansion program within the limits of a specified amount of dollars and in terms that permitted me to utilize premium prices and/or other devices for incentive as provided in the Defense Production Act.

In carrying out my responsibility under the Defense Production Act, I reported to, and was responsible to, the Director of the ODM and, in turn, the President of the United States. In the field of materials expansion covering certified programs directed to me as outlined herein, I had the authority to act and was solely responsible for my actions and the actions of the organizations I was charged with administering.

The specific contract terms agreed upon, and the specific prices to be paid (within the dollar and term limitations certified to me by DPA) were strictly and solely my responsibility.

In order to carry out my responsibilities as Administrator of DMPA, I inherited the staff that had been assembled by the Department of Interior and which had previously worked in this area. Most of these men had been recruited from industry. They were a fine, able, patriotic group who, at a sacrifice in most cases, performed, in my opinion, an outstanding job. In addition, there was transferred to DMPA certain individuals from the Economic Cooperation Administration, oversea operation.

To round out the organization I assigned certain staff members from GSA for either full-time or part-time staff duties within DMPA, and made a few initial appointments, and I might add parenthetically the praise I have for the people from industry goes for the people that, all the people I mentioned here likewise.

My responsibility in administering both of these organizations was a large one. I could not have accomplished it without proper staffing by trained and dedicated people.

With an appropriate delegation of responsibility both in GSA and in DMPA I was able to remain in a position of overall supervision. No directive was received from ODM or DPA of which I was not fully aware. No program was transmitted to DPA for certification without having been approved by me.

It was within the context of the above organization and circumstances that in January of 1952 the ODM requested that I prepare and submit to them at the earliest possible moment a program for the expansion of the production of nickel. Like all other strategic materials necessary in defense, and the maintenance of our civilian economy, nickel was in extreme short supply. The Preparedness Subcommittee of the Senate Armed Services Committee had shown keen interest in a number of expansion programs including nickel.

They had issued various reports which discussed the nickel shortage and urged and cajoled the executive branch to move forward more rapidly in this expansion. They communicated directly with potential nickel producers and urged them to cooperate with the executive branch to expand their production. Likewise the Armed Services Subcommittee of the House maintained surveillance of our activities. Congress had also created the Joint Committee on Defense Production to monitor all activities under the act. I reported to all of these committees regularly and irregularly.

Nickel occurs, as you well know, as a result of the actions of nature. It is not an item for sale from a shelf nor can it be produced by the mere construction of a manufacturing plant. If you are required to expand the production of nickel you obviously must deal with the people who own nickel-bearing ore deposits.

We had by no means been idle in attempting to expand the production of nickel. Beginning with a directive from National Security Resources Board we had activated the U.S. Government-owned Nicaro nickel plant located in Oreinte Province in Cuba. We had let a contract for the expansion of the productive capacity of that plant by 50 percent. We had also been carrying on extensive preliminary negotiations with Canadian producers, Far East producers, potential South American producers, and at least two possible domestic producers.

In the meantime, the stockpile goals had been increased step by step until the fall of 1952 when we received one of the many amendments to the original request for a nickel program which placed the stockpile goal at 900 million pounds. In the meantime, the use of nickel by the domestic economy was threatened to be eliminated in order to meet the requirements of a greatly increased production of jet aircraft.

For the most part nickel users within the domestic economy could only obtain whatever quantities of nickel the free world's largest producer could make available to them. The shortage was so serious

that in order to keep the economy going it had become necessary for the President to remove from the national stockpile substantial quantities of nickel and distribute to industry.

With the apparent acquiescence of the dominant producer of nickel a ceiling price had been placed upon it and priorities of allocation were rigidly enforced. Black-market nickel was selling as high as $3 per pound. Our allies were protesting vehemently at our "gobbling up" the free world's nickel supply. Almost every week I found myself being required to attend an emergency meeting on the nickel situation.

Congress was demanding more action to alleviate this shortage. In these circumstances which were continually growing more tense, we were admonished by our directing agency, ODM, to move forward on every front.

Crash programs were obviously necessary and justified. No owner of a nickel deposit, either foreign or domestic, would dream of opening up or expanding his production without sufficient financial guarantees from the Government of the United States.

We made trips to Canada and talked urgently with officials of the International Nickel Co. Their position was that they were producing all of the nickel they could produce from their then known deposits with the exception of some low-grade ore bodies which they could open up, and would open up, at high cost. This cost, our engineering people estimated, would be at least $1.35 per pound for contained nickel. We felt that this was too expensive and turned it down for the time being.

Our negotiations in Canada, in Venezuela, in New Caledonia, in Brazil, and in examining every known nickel deposit in the free world gave us sufficient experience to convince us that most of the incentives provided in the act would have to be utilized in order to accomplish our goals. We turned down the Venezuelan deposits because the costs would have been at least $1.50 to $1.75 per pound. From an examination of the New Caledonia deposits we determined that this cost would be at least $1.50 per pound.

To the best of my recollection, it was in the summer of 1952 that the Administrator of DPA sent me an urgent directive that I should submit to him for certification a program which would result in the expansion of nickel production available to U.S. consumption and stockpiling in a total amount of around 190,000 tons or 380 million pounds of nickel per year.

On the basis of our experience and preliminary negotiations up to that time, we submitted a program which was somewhat short of this requirement but, to the best of my recollection, it involved or included the completion of negotiations with Falconbridge Nickel Co. of Canada for a large tonnage which could only be brought into production by large capital expenditures for the sinking of additional mining shafts.

We had completed negotiations with National Lead Co. for the conducting of experiments, and the operation of a pilot plant, at Fredericktown, Mo., and we included in our program, production from that area, which incidentally never came into being, I understand.

We also included the further increase in the capacity of Nicaro Nickel in Cuba, another 50 percent, as I recall. Likewise, we included

an anticipated production from Western Nickel with a mine located in British Columbia. We included, in the program, the production from 13 to 20 million pounds annually of nickel from the Riddle, Oreg., mine of the Hanna Co., at an estimated probable cost of less than $1 per pound of contained nickel if the process were successful.

This program was immediately certified back to us with the admonition that if we found, after further negotiations, we needed additional money, it would be forthcoming. Negotiations to complete this program was moved forward as rapidly as possible within DMPA. Everyone within the agency was aware of the crucial need for speed. Everyone was aware of the timelag required between the closing of negotiations and the beginning of the flow of nickel into the economy.

Early in my staff's negotiations with the Hanna company, I had been informed of the "toughness" of their proposal. Their unique contract demands were as objectionable to me then as they are to some of those who have only recently become aware of them. The criticisms of my comptroller were well known to me. It was his duty to make such an analysis as he did. No one on my staff was happy with the Hanna proposal. An honest and a diligent effort was made to amend that proposal through prolonged negotiations but, in the end, as you know, it remained substantially the same.

In June 1952, I directed that an intensive study and analysis be made of the Hanna proposal and a recommendation by the technical staff as to (1) the feasibility of the process, and (2) the need for this production in order to carry out our directive from DPA.

One of our most able mining engineers available to me devoted himself to this study and his report recommended that the overriding and crucial need for nickel was indeed greater than the probable costs under the proposed contract.

My staff was still not satisfied and negotiations continued until late September, or early October 1952. At this time the pressures on me were so great that I felt I would be guilty of gross neglect of duty if I delayed longer in concluding these negotiations. I had weighed carefully the objections which my staff presented to me.

I did not like the arrangement which made possible the least risk on the part of the contractor, nor did I like the liquidated damage provisions in the contract. However, my deepest concern and apprehension was whether or not the particular process involved would work. I might add thankfully that it apparently did.

Nonetheless, the overriding and crucial need for additional nickel production left me no alternative except to pay a higher price to a producer outside the boundaries and outside the control of the United States. My decision was, I think, obvious, and I made the decision to go forward with the contract, and directed that application be made for accelerated amortization. As I recall, the estimated cost of contained nickel to the Government, if it were forced by early end of hostilities to take it into inventory, was under $1 a pound.

Even at this date some of the members of my staff felt that further negotiations might soften some of the terms of this contract. These negotiations apparently went along through the month of December. In early January of 1953, I, together with my Deputy from DMPA, was urgently called to the office of the Director of ODM. There were present, in addition to the Director, the Special Assistant to the Direc-

tor of ODM, the Administrator of DPA and the Deputy Administrator of DPA.

We were asked about the progress of the nickel program. We reviewed that program with those present. It was pointed out to us that the Department of Defense was growing increasingly alarmed at the lack of movement toward a more rapid expansion of nickel production. We were told then and I believe it was later confirmed (or had been previously confirmed by memorandum from the ODM) that we should pay up to $2 a pound for nickel if necessary to get the owners of nickel deposits under contract and moving toward expanded production.

We returned to our offices and I issued on-the-spot instructions that we would expedite our negotiations with Falconbridge and that we would immediately conclude the contracts with the Hanna Co. I issued orders for a followup of daily reports to me as to this progress. As a result of this, the contracts were signed by me in my office on Friday, January 16, 1953.

In performing my responsibilities I certainly was aware of my duties to the taxpayers. I do not believe that my decisions obligating public funds were reckless. Under this contract, and eventually other contracts for which I was responsible, I am honestly convinced that we purchased the materials which we were directed to purchase at the lowest possible cost to the Government under the circumstances facing us at the time.

Generally speaking, I believe the mining industry responded with patriotism and understanding. Certainly the results of the program conclusively prove that the only practical way to expand the raw materials to meet an emergency is to call upon private industry to assume their responsibilities under such incentives as those provided in the Defense Production Act of 1950. The alternative of condemnation, Government ownership and Government operation is unthinkable.

That, gentlemen, is my story of the Hanna contract, to the best of my knowledge and belief. I can only say, in all seriousness and without criticism of anyone, that it is easy to renegotiate this contract today and without the responsibilities that faced me when I was forced to make my decision. The Comptroller General has been critical of the contract. Understandably so. He was not charged with the responsibility to furnish strategic and critical materials in time of emergency. Even if we had been successful in persuading the contractor to accept the standard clause in the mining contract for examination of books and records, as the Comptroller General has said we should have, the cost itself would still not have been subject to renegotiation.

I certainly am strongly in favor of giving to the taxpayers an accounting of the money spent during any period, including the emergency created by the Korean conflict. This committee is to be commended for its constructive moves. It is to be regretted that this investigation comes so many years after the events.

In closing I will merely say that if I were faced with the same circumstances today which I faced in October of 1952, I would make the same decision that I made then.

Thank you.

Senator SYMINGTON. Thank you, Mr. Larson, for your statement.

Mr. Counsel?

Mr. COBURN. Mr. Larson, I think that you did not read the first paragraph of your prepared statement and I think it is important that we have it because it shows your Government experience.

Mr. LARSON. Modesty prohibited me from doing so. It is in the record.

Mr. COBURN. Allow me then if I may to ask you questions that will develop this so we will have the information.

Mr. LARSON. If you think that is necessary.

Mr. COBURN. As I understand it from 1947 to May 1949, you were the Administrator of the War Assets Administration, were you not?

Mr. LARSON. That is correct.

Mr. COBURN. And from May 1949 through July 1, 1949, you were the Administrator of the Federal Works Agency?

Mr. LARSON. That is correct.

Mr. COBURN. On July 1, 1949, you were appointed the first Administrator of the General Services Administration; is that correct?

Mr. LARSON. That is correct.

Mr. COBURN. On September 8, 1951, you were appointed the Administrator of the Defense Materials Procurement Agency?

Mr. LARSON. That is correct.

Mr. COBURN. Which required you to perform the duties of that office in addition to your duties as the Administrator of GSA?

Mr. LARSON. Correct.

Mr. COBURN. And so at the time the Hanna contracts were entered into on January 16, 1953, you were the Administrator of DMPA and also GSA?

Mr. LARSON. That is correct.

Mr. COBURN. As the Administrator of GSA, you had the responsibility for negotiating and executing these contracts?

Mr. LARSON. No, sir.

Mr. COBURN. Or was it DMPA?

Mr. LARSON. DMPA.

Mr. COBURN. Excuse me. All right.

Now, Mr. Larson, the record thus far shows that on January 4, 1952, there was an expansion, a substantial new expansion, program in nickel announced.

Do you remember that?

Mr. LARSON. Well, I don't remember the details, Mr. Coburn. As I said in my statement, my recollection is that it was around January of 1952 that DMPA was requested by ODM to formulate an expanded nickel program.

Mr. COBURN. Well, the record shows that an expanded nickel program under the Defense Production Act was promulgated on January 4, 1952?

Mr. LARSON. Then the work had been done prior to that time to formulate the program.

Mr. COBURN. Yes. And it was as a result of the new nickel program announced at that time that these Hanna contracts were entered into, so we have found?

Mr. LARSON. That is substantially correct. I think, I have a hazy recollection, that there were some amendments to that program that increased it.

Mr. COBURN. You are correct about that.

In November of 1952, there was an increase, an amendment and an increase in the nickel program.

But really the negotiations with the Hanna Co. resulted from this program that was announced on January 4, 1952.

There doesn't seem to be much dispute about that.

Now, Mr. Larson, with that in mind, a formal proposal was submitted by the Hanna people in June of 1952 that inaugurated or initiated the negotiations that occurred between the DMPA people and the Hanna people.

Mr. LARSON. My recollection is that while no formal proposal—a formal proposal might not have been involved, but I think there were talks with the Hanna people sometime before that.

Mr. COBURN. Well, in DMPA there had been some talks with them in May, but their first formal proposal was submitted on June 23, 1952.

Mr. LARSON. I was under the impression that talks with Hanna had been going on since early in the year of 1952.

This is very hazy, but that is my impression.

Mr. COBURN. There is this that has been developed by the record: On January 12, 1952, Mr. Howard Young—who I believe, was your deputy administrator in DMPA, was he not?

Mr. LARSON. Yes.

Mr. COBURN. He received a letter from Mr. Pierce of the M. A. Hanna Co., calling attention to the fact that they had this nickel deposit out in Riddle, Oreg.

That was in January—January 12, 1952. But there was no formal proposal made by the Hanna people until June 23, 1952. That is what the record shows so far.

Now, with that in mind, after the negotiations began between the Hanna people and the Government, did you participate in any of those negotiations?

Mr. LARSON. Directly with the Hanna people?

Mr. COBURN. Yes.

Mr. LARSON. No.

Mr. COBURN. Sir, I didn't hear you.

Mr. LARSON. Not directly with the Hanna people.

Mr. COBURN. The negotiations were carried on by people below you in your organization in DMPA, were they?

Mr. LARSON. They were carried on by assigned staff people; yes.

Mr. COBURN. People who were regularly engaged in negotiating with contractors?

Mr. LARSON. That is correct.

Mr. COBURN. Although you did not participate in any of these negotiations, Mr. Larson, were you advised of the progress of the negotiations?

Mr. LARSON. Yes, I was.

Mr. COBURN. How was that done—in staff meetings that were held in DMPA, or how was that done?

Mr. LARSON. Regular staff conferences, informal meetings with staff members, memorandums in some cases.

Mr. COBURN. So you did know of the progress of the negotiations, even though you did not participate in them?

Mr. LARSON. Yes.

Mr. COBURN. And you knew, apparently from your statement, that the negotiators were having a difficult time with the Hanna Co. in reaching an agreement, were they not?

Mr. LARSON. That is true.

Mr. COBURN. Now, with reference to the principal matters in dispute, during the course of these negotiations, who in DMPA would make the decision, when one had to be made, to break the logjam, so to speak? Would that be you or Howard Young?

Mr. LARSON. It would be me.

Mr. COBURN. Now, among the other things that were a source of dispute between the Government and the Hanna people, in the course of these negotiations, was the price that would be paid the Hanna Mining Co. for the ore, was it not?

Mr. LARSON. May I get this over with? It is kind of disconcerting. Thank you very much.

Senator SYMINGTON. Would you mind not taking pictures now?

Mr. LARSON. I don't mean to——

Senator SYMINGTON. Many witnesses feel the same way about that.

Mr. COBURN. Do you want me to ask that question again?

Mr. LARSON. Please.

Mr. COBURN. During the negotiations between the Hanna people and DMPA, one of the points at issue was the price that would be paid by the Government to the Hanna Mining Co. for the ore, was it not?

Mr. LARSON. This is true. I think before that, probably it included—included was the type of operations we would be conducting, whether it would be an integrated operation with one contract with the Government or whether it would be the several contracts or the two contracts that the Hanna people had proposed.

This was the first obstacle to overcome as I recall it.

Mr. COBURN. The Government was contending for what, Mr. Larson, in that respect?

Mr. LARSON. My recollection is that we wanted the same type of thing we normally went after—a single, all of the Government's obligations within a single, contract.

It is more simple to administer and easier to negotiate.

Mr. COBURN. That was the way you had always done it before, was it not?

Mr. LARSON. This was the way we preferred to do it.

Mr. COBURN. And the Hanna people, of course, were contending for two separate contracts, one with the mining company and one with the company that would operate the smelter.

Mr. LARSON. That is true.

Mr. COBURN. And finally, the Government acceded to that demand, is that correct?

Mr. LARSON. This is correct.

Mr. COBURN. What else do you recall that arose between the two as substantial items of dispute during the negotiations?

Mr. LARSON. Well, my recollection is naturally refreshed from reading the report of the Comptroller General that Senator Williams put into the record, and it is a very comprehensive report, and a very fair one, I think except for the fact that the Comptroller General has no responsibilities of making this kind of tough decisions, and he, therefore, made some suggestions which we thought of a long time before his report.

My recollection, refreshed in that manner, brings to my mind the fact that we had quite a hassle with the Hanna people over whether or not we would have a clause in the contract which we—which was boilerplate, standard, which was desirable from the standpoint of the Government, and had been formulated over many years of experience in procurement, and that is the clause, which is a standard clause for the examination of books and records.

The Hanna people had said that they had had some bad experiences with General Accounting Office auditors taking a lot of their time unnecessarily and upsetting their operations as a result of this clause having been in the contract that they operated under in World War II, I believe.

Anyway, we felt that our responsibilities required us to get that in the contract for whatever good it was.

We also tried to get a price redetermination——

Mr. COBURN. Excuse me before we move on——

Mr. LARSON. Clause in the contract.

Mr. COBURN. Excuse me before we move on to price redetermination, it finally was determined with reference to the mining company, at least the Government would not have access to the records for the purpose of finding out what their production costs were?

Mr. LARSON. This is true, and this was understandable in the field of dealing with natural resources where you have the imponderables of a mining operation, opening up a new mine and everything involved, this is understandable.

But the thing that influenced us most of all was that it appeared at the time that I recall we discussed the dropping of the provision, it was tied in with the price redetermination which Hanna was adamant against, and I can understand that for reasons which I have stated.

They were not subject to renegotiation as a result of the Renegotiation Act. If they wouldn't take price redetermination and it was a fixed price, why it was redundant, it would have been a redundant clause in the contract anyway.

The Comptroller General would like to have it because he likes to look into everything that is going on.

(Laughter.)

Mr. LARSON. But we couldn't satisfy him and get the nickel.

Mr. COBURN. Now, as I understand it——

Mr. LARSON. If we had gotten it in Canada or Venezuela—excuse me for interrupting you—it wouldn't have been in there and the Comptroller General wouldn't have the right to look into it, so we did the next best thing.

Mr. COBURN. As I understand it, too, you also tried to get into the contract a price redetermination clause; didn't you?

Mr. LARSON. Yes, just as I have indicated.

Mr. COBURN. And the Hanna people were adamant just as you say, against that?

Mr. LARSON. That is my recollection.

Mr. COBURN. And finally the Government had to accede to their demands in that respect; is that correct?

Mr. LARSON. That is correct.

Mr. COBURN. Now, with reference to the price of the ore that was sold by the mining company, $6 a ton, that, too, was a source of con-

tention, was it not, between the Government and the Hanna Mining Co. people?

Mr. LARSON. Yes, I believe it was. I am sure it was. I don't get into that this very deeply because it was highly technical—the determination of what is a fair price was certainly no affair of mine, I was not trained nor disciplined on that.

But my staff did. They had a certain formula which they applied. They had examined the engineering, they had examined it on the ground, they had examined the plans for the operation and on a basis of all of these technical considerations, the price was evaluated.

Mr. COBURN. I have in mind here, Mr. Larson, a memorandum of September 25, 1952, which is in the record on page 1918, relatively late in the negotiations, signed by John G. Ford.

He was your, I believe he was the, head of the negotiating——

Mr. LARSON. Division.

Mr. COBURN. Division of your organization, was he not?

Mr. LARSON. That is correct.

Mr. COBURN. And had prime responsibility as far as negotiations were concerned for negotiating this Hanna contract?

Mr. LARSON. That is correct.

Mr. COBURN. He says here in a memorandum to Mr. Howard I. Young, your deputy administrator, "We have been unable to prevail on the company to reduce this price," the price being $6 a ton.

So, evidently as late as the latter part of September 1952, the Government and Hanna were still contesting with each other of whether this $6 price was the price that should be put into the contract, isn't that right?

Mr. LARSON. It would appear so from what you have just indicated.

Mr. COBURN. Another matter of contention that lasted right down almost to the end of the negotiations was the question of whether the contract or contracts in this case, the two, should contain a liquidated damage provision, isn't that right?

Mr. LARSON. I recall that this was one of the things that we finally took that we didn't like.

Mr. COBURN. This was something, of course, that the Hanna people wanted written into these contracts?

Mr. LARSON. Yes. As I recall that is true.

Mr. COBURN. As a matter of fact, it was a rather unusual provision, wasn't it, in a stockpile contract? You didn't customarily have those liquidated damage provisions in the stockpile contracts.

Mr. LARSON. I don't believe we ever had them in the stockpile contracts. But when you say stockpile contract to me I am thinking about a contract that was negotiated and obligated under the authority of the Stock Pile Act. This act had no emergency provisions whatsoever, and those contracts generally followed straight purchase type of contracts because that is what they were.

There was no authority for incentives and that sort of thing.

Mr. COBURN. Well, all right, let's not call it a stockpile contract because actually these contracts were made under the Defense Production Act. But with reference to these Defense Production Act contracts, this was a rather unusual provision, wasn't it, for the Government to pay liquidated damages to the contractor?

Mr. LARSON. Well, it was something that we didn't want to do in this case, and I don't recall—it is difficult for me to organize all of

these hazy recollections in my mind because of the many responsibilities I had in other areas of procurement where liquidated damages was and is an ordinary acceptable clause in a contract.

I don't remember whether we had liquidated damage provisions in any of the other DMPA contracts or not.

Mr. COBURN. At any rate——

Mr. LARSON. At any rate it was something we didn't want.

Mr. COBURN. You didn't want to do it. You didn't want to do it, I suppose, because you and I as lawyers can agree that these liquidated damage provisions in a contract are a pretty drastic thing, aren't they?

Mr. LARSON. Well, they indicate that the contractor is trying to get all the support and guarantee that he can against loss.

Mr. COBURN. And representing the obligor, let us say, in contract negotiations you never like to agree to a liquidated damage provision——

Mr. LARSON. That is right.

Mr. COBURN. In the contract if you can possibly avoid it, isn't that true?

Mr. LARSON. It makes a difference of which side you are representing.

Mr. COBURN. Yes.

Now, at any rate, as I recall it in the course of these negotiations Hanna first wanted to have a liquidated damage provision in here in the event that Hanna terminated the contract itself, isn't that right?

Mr. LARSON. Well, I don't remember that detail. All I remember is that it was like losing a homecoming game when we had to accede to putting this liquidated damage clause in; it finally went in.

Mr. COBURN. I see.

You did finally agree to that although you scaled down the liquidated damages, isn't that about the substance of it?

Mr. LARSON. I think we had some pretty good negotiators, I think they squeezed everything down they could.

Mr. COBURN. So you did get the liquidated damages reduced so far as what Hanna first wanted?

Mr. LARSON. If the record shows that I am happy about it.

Mr. COBURN. Well, that is what the record shows.

But you finally did agree to a liquidated damage clause in the contract?

Mr. LARSON. This is correct.

Mr. COBURN. Mr. Larson, may I ask you, you have said in your statement here that you had a meeting late in the negotiations with the Hanna people with the Director of ODM, you and your assistant who, I think, was Mr. Howard Young and perhaps somebody else from your organization.

I refer to the statement that you made on page 2383.

Do you find that?

Mr. LARSON. Yes.

Mr. COBURN. And it was at that meeting that you were told to increase this, to step up the nickel procurement program, is that right?

Mr. LARSON. Yes.

To the best of my recollection it was that this meeting was devoted to, largely to, nickel, and that the Assistant to the Director of ODM who had been riding herd for the Director on this, was very insistent.

He was quite familiar with the whole nickel program, quite familiar with the nickel requirements, and he was most insistent that we go forward as was the Director.

Mr. COBURN. As a result of which you came back to your people and said, "Well now, we have got to go ahead and move these Hanna contracts forward," is that right?

Mr. LARSON. This is correct. I don't mean to imply here in this statement or what I might say here that anybody held a gun on me and made me do what I did. But as a result of this meeting I became convinced it was my duty to do what I did.

Mr. COBURN. Who was the Deputy Administrator of ODM at that time?

Mr. LARSON. I don't remember if they had a Deputy Administrator of ODM. What did I say here? It was an Assistant to the Administrator, wasn't it?

Mr. COBURN. Well, the assistant then. I am just trying to identify the person who took——

Mr. LARSON. Dr. Bill Elliott, affectionately known as Wild Bill Elliott.

Mr. COBURN. Was the man who took such an emphatic position at that time?

Mr. LARSON. That is right.

Mr. COBURN. All right.

Mr. Larson, on page 2383 in your statement you make reference to the overriding and crucial need for additional nickel production. Do you see that?

Mr. LARSON. Yes.

Mr. COBURN. And you say there it left you no alternative except to pay a higher price to a producer outside the boundaries and outside the control of the United States. I think it might be helpful if we had in the record just what you allude to there.

Now, this Hanna nickel supply out in Riddle, Oreg., was the only domestic supply, wasn't it, in the United States?

Mr. LARSON. Except the Missouri deposits, the southeast Missouri deposits which I referred to at Fredrickstown, Mo., area, National Lead developed or had under lease and attempted to develop a beneficiation process which the Government financed.

Mr. COBURN. By which nickel would be produced as a byproduct of lead, is that right or not?

Mr. LARSON. Well, it was taking ores, I think that something had been extracted from, lead and zinc.

Senator SYMINGTON. It was cobalt, too, was it not?

Mr. LARSON. And they produced both, the byproduct was to be nickel and cobalt.

Mr. COBURN. I see.

Mr. LARSON. I am not sure that this ore wasn't treated in its initial capacity. I don't recall. But I know that the National Lead Co. made a very valiant effort to make it work and unfortunately, I think, it didn't work.

Mr. COBURN. Now, where were the principal nickel deposits of the world?

Mr. LARSON. Canada.

Mr. COBURN. Where were they?

Mr. LARSON. The free world in Canada, yes.

Mr. COBURN. And who was by far the biggest nickel producer?

Mr. LARSON. International Nickel, Inco.

Mr. COBURN. They have large mines just across the line from Niagara, do they not, in the Sudbury district?

Mr. LARSON. I wouldn't say just across the line. Maybe I am still thinking in terms of the farm that I grew up on, but it is quite a piece as I remember. [Laughter.]

Mr. COBURN. It was down the road a "fur" piece? [Laughter.]

Mr. LARSON. Seriously, I think Sudbury is up there toward the center of Ontario, isn't it?

Mr. COBURN. Well, not so I am informed. My understanding is it is only a short distance across the boundary line over there, not that that makes a great deal of difference. But they did have——

Mr. LARSON. It does make a lot of difference if it is across the boundary line; the boundary line could be an obstacle.

Mr. COBURN. International Nickel was by far the biggest producer of nickel at that time, was it not?

Mr. LARSON. That is correct.

Mr. COBURN. Do you know about how much they produced—so far as their percentage of the world production—they produced at that time?

Mr. LARSON. I don't know, the world production must have been 90, 85 percent, I think they furnished about 95 percent of American consumption.

Mr. COBURN. And world production was about 80 or 85 percent?

Mr. LARSON. This is off the top of my head; I am not a statistician nor am I a rememberer of unnecessary information. [Laughter.]

Mr. COBURN. The nickel that they produced, of course, was a different grade from the nickel in the Hanna contracts, was it not?

Mr. LARSON. Well, the Hanna contracts provided for the production of material which I am sure has been covered here, ferronickel which is usable only in the steel industry, primarily in the steel industry, I believe. Ferronickel. International Nickel Co. to the best of my knowledge produces a nickel ingot which is pure nickel.

Mr. COBURN. Called electrolytic nickel?

Mr. LARSON. Yes.

Mr. COBURN. And it is a purer form of nickel than the ferronickel produced by the Hanna Co.?

Mr. LARSON. That is my impression.

Mr. COBURN. Now then, in addition to International Nickel which had such a large proportion of the world's supply, there also was the Falconbridge Co. which was a Canadian company that was a producer of electrolytic nickel, was there not?

Mr. LARSON. Yes.

Mr. COBURN. At the time these contracts were entered into?

Mr. LARSON. That is correct; and we had negotiated some contracts with Falconbridge. I believe they were—I don't remember whether they were DMPA contracts or whether they were strategic stockpile contracts. I am sure that at least one of them was a strategic stockpile contract. But in any event we had, and I had, some considerable previous superficial knowledge anyway of the Falconbridge operation prior to this time, because we had dealt with them.

Mr. COBURN. And then there was the Sherritt-Gordon Co. in Canada, too.

Mr. LARSON. The Sherritt-Gordon contract I am sure was a stockpile contract.

Mr. COBURN. So the great bulk of the nickel of the world was produced in Canada then at this time?

Mr. LARSON. Still is.

Mr. COBURN. Mr. Chairman, I believe that is all I have of this witness at the moment.

Senator SYMINGTON. Senator Beall?

Senator BEALL. Mr. Larson, I am sorry I was not here at the beginning of your testimony. I just notice you happened to have been appointed in 1947 Administrator of War Assets Administration.

Who appointed you to that job?

Mr. LARSON. President Truman.

Senator BEALL. And then you were appointed later Administrator of Federal Works in 1949?

Mr. LARSON. President Truman.

Senator BEALL. And then you were later appointed to the General Services Administration in 1951; who appointed you there?

Mr. LARSON. In 1949 I was appointed GSA Administrator, President Truman.

Senator BEALL. And then you were later appointed to Defense Materials. Just a little observation I would like to make, Mr. Chairman.

I take it you are a resident of the District of Columbia, a man without a party, been pretty much independent and I happen to have been your Congressman during those days and I still am.

Mr. LARSON. Yes; I remember you quite pleasantly.

Senator BEALL. And we have had plenty of conversations together about many different things.

Mr. LARSON. Yes, Senator.

Senator BEALL. Then you would say that, and my question is that you were pretty much a person without a party. You have been doing these things on a nonpartisan basis in the service of your country.

Mr. LARSON. In the distinguished company of the chairman of the committee and my good friend, his colleague, Senator Cannon, it would be difficult for me to answer that statement as you have indicated. [Laughter.]

I have been, well, at least up to the present, I have been, rather happy in my party. [Laughter.]

Senator BEALL. Just to make an observation; I notice you were here before 1953 in an official capacity. That is when the controversy seems to be about and I just make the observation that you have held Government offices before that.

I think in your statement you mentioned that you were authorized to pay up to $2 a pound for nickel. If you had done so do you think that anybody would have bought the nickel?

Mr. LARSON. You mean that a user would have bought it, resale by the Government?

Senator BEALL. Yes, sir.

Mr. LARSON. Well, it depends on what time, Senator. There was a period when people were paying, to my personal knowledge, $3 a pound for it in the black market.

Senator BEALL. And glad to get it.

Mr. LARSON. And glad to get it; yes, sir.

Senator BEALL. And it went higher then after that?

Mr. LARSON. Well, I have no knowledge of it having been a different price, but it was black market. It was gray market or whatever you want to call it. It was a material that was in such short world supply and such limited production and such limited control of distribution due to the fact that practically all of the free world nickel is controlled by the one company.

So the customers of that company, which have been long customers, naturally they were taken care of and the people—if you had to go into a business or you wanted to go into a business involving the use of nickel in 1951, 1952, 1953, 1954, 1955, you just couldn't get the nickel for $10 a pound.

Senator BEALL. You couldn't get it anywhere?

Mr. LARSON. This is my opinion.

Senator BEALL. Then do you feel that the Government lost any money on the resale of nickel at any time when they were selling it?

Mr. LARSON. I don't know what the figures show, Senator, at all. I think I can best comment on your question this way: To me we never entered into these contracts or I never entered into these contracts with the thought of the Government making any money. Our overriding responsibility to making money was to prosecute the war and keep the economy going; that is what the Congress wanted, that is what they said in the Defense Production Act.

Senator BEALL. What they told you to do at that time; what the Congress told you to do at that time?

Mr. LARSON. That is right.

Senator BEALL. Get the nickel?

Mr. LARSON. That was a policy that Congress laid down.

Senator BEALL. Thank you, Mr. Chairman.

Senator SYMINGTON. Senator Cannon.

Senator CANNON. Thank you, Mr. Chairman.

Mr. Larson, I want to compliment you for a very fine, forthright statement, and for your fine appearance here today, and I want to say that we are happy to have you as a member of our party——

[Laughter.]

Mr. LARSON. If I had a little more voice in some things to say I might be a little happier.

Senator BEALL. It isn't my fault.

Senator CANNON. Mr. Larson, as I understand it, and with reference to this contract of Hanna, you state here that some of the main items in dispute were normally you tried to get one contract covering the entire transaction, and Hanna Co. wouldn't agree in that respect and you had to take their conditions or not get the nickel, is that right?

Mr. LARSON. This is the way I analyzed the situation at the time I made the decision.

Senator CANNON. And the second point that you normally required a standard clause providing for examination of records in this type of a contract, and Hanna Co. would not agree in this instance and you had to go ahead on Hanna's conditions to get the nickel?

Mr. LARSON. Well, after we couldn't get a price redetermination, the dropping of the books and records examination was not such a sacri-

fice, in my opinion. But we did—they insisted on it—we would have put it in anyway, as I said a while ago if for no other reason than to please the Comptroller General.

Senator CANNON. My next point was going to be that normally you tried to get a price redetermination provision, you tried in this instance and the Hanna Co wouldn't agree. To get the nickel you had to go ahead on their conditions.

Mr. LARSON. That is correct.

Senator CANNON. And fourth, the liquidated damage provision. Normally you did not agree to that type of a provision; this was insisted on by Hanna, and you finally had to take their somewhat modified condition in that respect?

Mr. LARSON. That is correct.

Senator CANNON. Were those the main, the major points in dispute that you had to concede to the company to get them to go ahead with this contract, as you recall now?

Mr. LARSON. That is correct, with the addition of the price, the staff had negotiated very strongly on the price, I believe, and what price the staff was asking, I don't recall, but this is quite natural, this is as natural as trading is natural. You just try to get a better price.

Senator CANNON. Was the price asked by the Hanna Co. based on a representation by them as to the cost to them of producing the metal?

Mr. LARSON. Well, I was not present in those negotiations, but my knowledge and recollection of Government procurement negotiations in light of all of my experience is that cost of production is one of the things, one of the items certainly, if you are sitting on the Government side of the table, you want to know as much about it as you can.

Senator CANNON. Do you have any recollection as to any major points that Hanna Co. did concede or did withdraw on the part of the Government so far as it is concerned?

Mr. LARSON. No, I don't because there only stands out in my recollection these points which were contested most seriously because the decision on those as an indication of an attitude on what my decision might be in the end, made these all come up to me eventually.

Senator CANNON. And they were considered as major points as far as you were concerned?

Mr. LARSON. So far as the staff was concerned and as far as I was concerned also.

Senator CANNON. And this was one of the things which resulted in long drawn out negotiations prior to your instructions that you had to get, had to go ahead and make some nickel available?

Mr. LARSON. Yes. That is one of the things.

Of course, two things went on simultaneously. One of the things, as I said in my statement, that was most disturbing to me about this was whether or not the process would work, because if the process hadn't worked you people who are unhappy with this whole thing would have been a lot more unhappy now than you are, and we would have been subject to criticism.

If a Government official in a capacity such as I was, let the fear of criticism guide his decisions he is not, in time of an emergency he is not, going to get very far. I was honestly concerned about it

because to me if this thing worked, this was one of the justifications for this contract.

In other words, to me then and now, it was not a waste of Government money to spend it on trying to further a scientific process that would add to the general knowledge, technical knowledge, of the country, and to the economy. Here was an opportunity to get, admittedly on a small scale, but to get in operation in this country under the control and jurisdiction of the laws and the requirements of this country, a process of beneficiating nickel ore and producing a form of nickel that could be used in some vital element of our economy, that hadn't existed before.

So, I was keenly interested in whether that would work or not and a lot of time was spent by the technical people on investigations and examination.

Senator CANNON. You negotiated many contracts of a similar nature during this same period of time, did you not?

Mr. LARSON. Well, I didn't negotiate but very few contracts.

Senator CANNON. Your agency?

Mr. LARSON. My staff did. I was aware of the negotiations.

Senator CANNON. And you were the executing party on many of the contracts?

Mr. LARSON. Well, there was delegated, I delegated authority to execute contracts to other people, but as I said a while ago if they were controversial they usually ended up with my name on them. That is why I am here today.

Senator CANNON. With respect to these major controversial positions from which Hanna would not retreat, were those conditions that you normally got in contracts; other contracts with other people?

Mr. LARSON. As I previously stated over the long experience of the Government in negotiating procurement, these are items which are considered in the interest of the Government, and any good negotiator worth his salt is going to try to get them. As a matter of fact most of them are required, I think, by law or regulation.

Senator CANNON. Then the failure to get these provisions would certainly react to the advantage of the company in any instance?

Mr. LARSON. Well, I can't comment on that. It would react to the detriment of the Government.

Senator CANNON. To the disadvantage of the Government.

Now, I think you stated that no one held a gun at your head in connection with the execution of this contract. Actually, isn't that in effect what happened. You were in the same position of having a gun held at your head because you had to have the nickel, and you had to agree to these terms and conditions with which you didn't want to agree, to get the contract?

Mr. LARSON. Well, if you want to put it that way: I felt that it was more important to get this project going than it was to continue to haggle or disregard or eliminate this project from our program altogether.

Senator CANNON. In the contracts in which you had a redetermination provision, normally how much profit would be allowed by the Government in those contracts.

Mr. LARSON. Well, it varied. I can't say, Senator.

Senator CANNON. Let me ask you this. In your experience as a Government representative over a long period of time, are you familiar

with any contract in which the profit on cost amounted to as much as 135 percent?

Mr. LARSON. Well, you are asking me if I am familiar. My answer to that is going to have to be no, but I think in fairness to this industry that you are encompassing in your question and the inference of my answer that I should say this: That in my opinion, and my experience, my honest conviction, both as a Government official and as a practicing attorney and a businessman, I think that when—that the Government should proceed to regulate profits very carefully, if at all, except in those areas where regular regulatory, established agencies and precedents are in force.

Now, when you come down to an ore deposit, and say that you are going to limit the amount of profit that the owner of that deposit can make if he deals with the Government, you are faced with a very serious situation, because, as you know coming from a mining State, there are a lot more prospectors than there are prospects and you can't judge a man's profits or a company's profits on one ore deposit.

You have to take into consideration, if you are going into it at all, their whole operation, and what they plan to do in the future.

My familiarity is more in the oil business, and you get about 1 producer out of about every 10 wells that you drill.

Now, you have to pay for those dry holes out of the ones that are drilled.

Now, I think you have to allocate the costs of those dry holes when you figure a profit and how much a man is making out of that one well and this same thing would apply to an ore deposit. We tried to get a price redetermination clause in this. We got price redetermination clauses in some. I don't remember what the details were. But this was something that was always of some concern to me.

Senator CANNON. Let me ask you whether or not a price redetermination provision would have permitted a profit as high as 135 percent?

Mr. LARSON. Well, I certainly don't think so, not the kind of people I had negotiating this contract. They would never have stood still for anything like that and I think this would have been a little bit too much for me to swallow, too. Let me hasten to remind you, I think this should be said because I fear, and I know the committee never intended it so, but out of these meetings, the whole mining industry feels that it is on trial. That it is—that it has come under a lot of criticism that is not due it, and if that is an honest conviction and feeling, I think this should be said, and I hate to stick my neck out.

The admonishment to myself was when I got up here, "Don't talk too much, Larson." But I must say this, that in my opinion, if you follow a policy of strict redetermination, price redetermination, and attempt to hold natural resource profits that are made from the exploitation of natural resources, that you are not going to get any natural resources, because the people who own them are just not going to let them be developed under those circumstances.

Now, you take the uranium business, for instance. There is nobody you can sell uranium ore to except the U.S. Government, and the Atomic Energy Commission has, in my opinion, developed, done one of the finest jobs of developing, the production of uranium that has

ever been accomplished by a Government agency. It is a tremendous job, it really is.

They did it by offering a high price for this stuff, a flat price. "This is it, come one, come all," and come one, come all have come. I have represented some people who lost their shirt at that price.

Unfortunately, I haven't represented any of those who made 135 percent but some of them have made as much as 300 percent.

So are you going to say that 135 percent on one mining project is fair or unfair? I would hate to have to say it.

Senator CANNON. Would the provisions of this contract insisted on by Hanna, to which you objected, indicate to you a disregard by the contractor of the Government's interest?

Mr. LARSON. Well, "disregard," if you want to use the word, yes.

Senator CANNON. Now, Mr. Larson, let me ask you whether or not the provisions insisted on by Hanna in this contract indicate a philosophy consistent with that attributed to Mr. Humphrey by Mr. Sherman Adams, when he says that:

> Eisenhower asked him [Humphrey] if it were not possible for American businessmen to make some sacrifices in such a situation in the interest of world peace.
>
> "No," said Humphrey candidly, "the American businessman believes in getting as much as he can while the getting is good."
>
> "Maybe that is the trouble with businessmen, George," Eisenhower said seriously.

Do these provisions in this contract indicate a philosophy consistent with that attributed to Mr. Humphrey?

Mr. LARSON. Well, I do not want to be facetious, Senator, in my answer to that.

I am tempted to say to you, are you trying to get me also to say that all businessmen are "SOB's"? Please do not force me to.

Senator CANNON. Let me say that I am certainly not trying to get you to say that because I do not subscribe to that philosophy myself, and I hope you do not, and I do not know of anyone else who does.

Mr. LARSON. I know you are not, Senator, and I do not want to be facetious. I want to be serious a minute. I think that the proper answer to your question is that this indicated to me that those enterprises which are managed by the Honorable George Humphrey are managed on a pretty tight basis, and they are not letting anything fall between the cracks in the table so far as the interests of that company are concerned.

In other words, it is run obviously with an iron hand, and when we sit on the Government side of the table and negotiate with these kind of people, the exasperation we go through is something, I can tell you that.

But after the smoke of battle is cleared away, after all, this is one segment of this great system of free enterprise that we think is the best system in the world. We have all kinds of people that take part in it.

I do not think, I did not think it was my responsibility to regulate profits. I do not think the Government should regulate profits any more that I have indicated. I do not think it is my responsibility to formulate or enforce business ethics that do not already exist. I am too old to go on that kind of a crusade.

But it is tough, and this was tough. And the philosophy which was expressed in negotiating this contract with my agency was a philosophy of toughness. That is the best way I can put it.

Senator CANNON. And when you were trying to negotiate a redetermination provision, you were, in effect, trying to negotiate a limit on profits, were you not?

Mr. LARSON. This is correct.

Senator CANNON. And that was the position you took in connection with other Government contracts at that time?

Mr. LARSON. This is correct. I might say——

Senator CANNON. And this was at the time when the Korean conflict was in process, and American boys were losing their lives in Korea, were they not?

Mr. LARSON. This is correct.

And I have been a commander on the battlefield when I could not get any ammunition up, and I was told I could not get any ammunition because some labor union was on strike or somebody would not open up a factory or something like that, and I know how the people on that end feel. I can testify from personal experience.

Senator CANNON. And the nature of that emergency was one of the reasons that you finally decided to go ahead with this contract under these conditions that you felt were adverse to the interests of the Government?

Mr. LARSON. That is correct.

I might say, Senator—and I am talking too much and prolonging this—but when I was younger and more hopeful, I was a debator of questionable ability, but, anyway, this was right after World War I, and the favorite subject in those days was:

Resolved, That the United States should enact legislation that would take the profit out of war.

My State sent a man to the U.S. Senate on that platform that he was going to take the profits out of war, and every time I debated the affirmative side of that subject, I won.

But when I became War Assets Administrator at the end of World War II, following the chairman's fine stewardship of the predecessor agency there, I realized and recognized the fallacy of that subject for debate under our system; that it is foolish to think about taking the profits out of war, if you are going to operate under our system.

We had an inventory left over after the last war of Government-owned facilities; the chairman knows what it was, it was over $35 billion; and it cost an awful lot of money to feed a small part of that back into the economy to try to get it into some constructive production. I do not see how you can audit the profitmaking of a war on any kind of basis at all.

Senator CANNON. In spite of that view, had you been able to negotiate a redetermination provision, you would not have permitted a profit of 135 percent in this instance?

Mr. LARSON. We sure would not have, and we sure wished we could have had that provision in there.

Senator Cannon. Thank you very much.

Thank you, Mr. Chairman.

Senator SYMINGTON. Senator Bush?

Senator BUSH. Mr. Chairman, I want to say to Mr. Larson that I congratulate you upon a very splendid statement that you made here.

I think your statement and your testimony is one of the most refreshing experiences I have had since I have been on this committee. I wish that the committee could have had the benefit of your statement may weeks or even months ago.

I think it would have helped to put this investigation in proper perspective, but I am sure it is not too late to have us gain very considerable advantage from your testimony.

Listening, as I have, for many weeks to the alleged assaults upon our Treasury by the giants of American industry, I wondered whether the Government had a caretaker under President Truman back in the days when you served. I am convinced now that it did have one, a conscientious one, an able one, and I congratulate you upon what you did then, your philosophy about the situation, and the way you did the best that you could in the interests of the Government. I think your testimony is very convincing.

I want to ask you just one or two questions.

First, let me ask you this:

At any time during this period, 1952, during the negotiation on the Hanna contracts, were there ever any inducements offered to you by any representative of the Hanna organization directly or indirectly to persuade you—I mean any emoluments of any kind to persuade you—that you ought to relax on any of your positions respecting the contract, or otherwise influence you in your decisions?

Mr. LARSON. None whatsoever, Senator, at any time, nor was there ever any intimation of anything of that sort.

As a matter of fact, I did not personally come face to face with the people in the Hanna company until the day we executed the contract, and I did not know that I knew anyone in the Hanna company until I walked into this room today, and there is a boy sitting back there that is on the staff of the Hanna company that the last time I saw him before today was just at the time that a German machinegun bullet had gone through his jaw on the beaches at Sicily when he was a naval lieutenant attached to my artillery battalion at the invasion of Sicily in July of 1943.

So I cannot say I did not know anybody in the Hanna organization. I now find that I do.

Senator BUSH. And you were not aware of it at that time?

Mr. LARSON. And I might say that he was——

Senator BUSH. Did you ever have any reason to suspect that any inducements of the nature I suggest were made to any of the members of your staff who were negotiating with the Hanna people in connection with this contract or these contracts?

Mr. LARSON. No, I did not, nor would I expect anything from this—from a company with the reputation that the Hanna company bore.

Senator BUSH. Mr. Larson, your deputy was Mr. Howard Young; was he not?

Mr. LARSON. Yes.

Senator BUSH. And you must have had considerable confidence in Mr. Howard Young, or he would not have been your deputy; is that right?

Mr. LARSON. This is correct.

I did not know him very well when he became my deputy, but every day I knew him, I developed more confidence in him.

Senator BUSH. Was he a man who was knowledgeable in mining matters?

Mr. LARSON. He is a man who spent his entire life in mining, and headed a very successful and large mining company.

Senator BUSH. Were you aware of the fact that he had a good reputation in the mining industry?

Mr. LARSON. I was; yes, sir.

Senator BUSH. And you considered him a man of good character and good reputation?

Mr. LARSON. I did and do.

Senator BUSH. Otherwise, you would not have had him as your deputy?

Mr. LARSON. That is correct.

Senator BUSH. Now, Mr. Young advised you, did he not, in midsummer that this deal with Hanna was underway, and he urged you to push this to the greatest possible extent? I say that because I have in here in the record, which is on page 1937 of the hearings, in which an office memorandum was directed to Mr. Ford, Director of Contract Negotiations Division, and signed by Tom Lyon and Howard Young, and a handwritten postscript said: "Dear Jess: Push this all possible."

Do you recall that?

Mr. LARSON. No; I do not recall it specifically, Senator, but it was not unusual to get that kind of a note from Howard Young.

Senator BEALL. Will the Senator yield?

What year was that?

Senator BUSH. July 9, 1952.

Mr. LARSON. 1952.

Senator BUSH. About the time this thing was beginning to warm up.

Senator Cannon raised a question of concessions and implied by his questioning, I thought, that the Hanna people were unyielding and made no concessions whatever from their original point of view.

I was under the impression from Mr. Humphrey's testimony here that they did make some important concessions. First, that they really did not want to run the smelter operation, but were persuaded in their negotiations that they should. Do you recall that or not?

Mr. LARSON. No, I do not recall that. I remember reading the New York Times account of that, but I do not recall that.

To me, we always had the smelter and the mine together, and there was never any thought in my mind of the Government running the smelter, or I certainly would not have thought it practical to have some other company running the smelter, one company running the mine, since they were both located together.

Senator BUSH. Mr. Humphrey testified that they thought it would be better in an operation of this kind to start it with a pilot plant, but they were persuaded by your negotiators to abandon that and to go right into the operation, as they later did?

Mr. LARSON. I think that is correct, Senator Bush. We did this in several instances. This was really taking a calculated risk, as I indicated, but time was of the essence.

Senator BUSH. Of course, they were taking some risk, too?

Mr. LARSON. Yes, they were taking risk insofar as having their staff and so forth tied up in this sort of thing, but not much financial risk because we always assumed—and it is still, I think, customary for the Government to assume—financial responsibility under those circumstances.

Senator BUSH. Mr. Humphrey said:

> The Hanna people stated that they proposed to put up $3.5 to $4 million in the minimum part of the venture using the corporate name "Hanna Development," provided that about 85 percent tax amortization could be obtained, but that they expected the Government to build the smelter to be operated by Hanna on a management fee basis. They stated they were not interested in the V loan.
>
> It was explained to them by Mr. Lyon that under the law the Government could not build a plant and any aid would have to come within the Government framework of a V loan, RFC loan, or an advance against production. No conclusions were reached as to how the smelter could be financed. Hanna planned to deliver ore to the smelter on the basis of 20 cents a pound.

Well, I do not think that is particularly relevant to the question I raised there.

But my point is, I got the impression from Mr. George Humphrey's testimony here some time ago that they had abandoned their original position and did accommodate the situation by waiving their position on the pilot plant and running the smelter, although they would have preferred it otherwise.

Mr. LARSON. I just cannot testify with any degree of recollection that would be worth while on what took place. I am, however, under this impression.

There were a lot of talks that went on informally before the proposal, the proposal that was submitted, as Mr. Coburn has indicated in his questioning of me, was in June of 1952. I think that proposal remained pretty much intact all through.

Now, these things that Mr. Humphrey spoke of that you are recounting now, certainly, it would have been logical that this would have been in that period of informal discussions which I refer to as still negotiation before formal proposal was submitted.

Senator BUSH. Do you feel, as you look back on this situation, that this Hanna contract did what you hoped it would do, and that it worked out to be a satisfactory contract from the standpoint of the Government?

Mr. LARSON. Well, as I said in my statement, I do not want to be put in the position of defending the actions of any contract because I do not know what they were. But my impression is—and this is important to me because part of my philosophy at the time, one of the things I expressed when I testified before the Senate Banking Committee, I believe it was on the Defense Production Act——

Senator BUSH. That is right.

Mr. LARSON. That in light of my experiences in surplus property, that if we had to make vast expansion of industry, whether it is in raw materials field or wherever it was, processing of any kind, that the plants be built by incentives and be the responsibility of private industry, rather than being built by the Government and in Government ownership and some kind of a management contract, because when hostilities are over, the management walks out, and the Government has a big, white elephant on its hands.

No one is interested or—the Government is not organized to put this into constructive operations so that it creates wealth, it creates jobs, it creates taxes, it consumes goods, and it becomes a part of the economy.

Well, if private industry owns it, it has some incentive to bridge that gap; rather than go through that horrible experience we went through in the disposal of surplus property, that this would reduce it some.

Now, it seems to me that the whole Hanna deal, whatever might be criticized of it, it is still in this country. It is under the jurisdiction of our laws. If it is successful, it is a source of labor, it is a source of wealth, it is a source of taxes, and it is something.

This is the way I see it.

Senator BUSH. In this case, it was a source of nickel which was very much needed at that time?

Mr. LARSON. That is right.

Senator BUSH. I have no further questions at this time, Mr. Chairman.

Senator SYMINGTON. Mr. Larson, is it your testimony that you think the Government should be careful in its control of profits?

Mr. LARSON. Is it my testimony?

Senator SYMINGTON. Yes, is that what you said?

Mr. LARSON. Yes, this is my opinion.

Senator SYMINGTON. Have you heard of the Vinson-Trammell Act?

Mr. LARSON. Of the Virginia?

Senator SYMINGTON. Vinson-Trammell Act?

Mr. LARSON. Yes.

Senator SYMINGTON. The allowed profits in the Vinson-Trammell Act, as I remember it, were 10 percent on ships and 12 percent on airplanes. That was considered too high, and so the Renegotiation Act came into effect.

Mr. LARSON. That is correct.

Senator SYMINGTON. Is that, to the best of your knowledge, correct?

Mr. LARSON. Generally, yes.

Senator SYMINGTON. Are you saying that you were not interested in the profits people were making who were attempting to obtain contracts from you under your administration?

Mr. LARSON. No, that is not what I said.

Senator SYMINGTON. Will you clear us up on that?

Mr. LARSON. I said that it was my opinion that the Government should approach the control of profits very carefully and with great caution, and I think in the enactment of these laws which you have referred to, and in the buildup of the regulatory agencies that do regulate profits, that they have made a very cautious approach.

I said that we wanted to regulate the profit of this contract, and we tried desperately to get a redetermination clause in there.

What Senator Cannon asked me was would I have agreed to a profit of 135 percent, and I said no, I would not.

Senator SYMINGTON. I noticed in the Kiplinger letter, I believe the last one, that the average profit of manufacturing was 5.3 percent some 10 years ago. That now has dropped to 4.3 percent, after taxes.

The largest manufacturer in my State, with most of his business from the Government, last year made 7 percent before taxes. Do you

think these figures, in general, are typical of what American business is doing?

Mr. LARSON. Well, you are talking from statistics. I would have to think about that for a moment.

Senator SYMINGTON. Let me rephrase the question.

Mr. LARSON. You can run the whole gamut of types of business.

Senator SYMINGTON. Let me rephrase the question. When you make a contract with the Government where you do not have the risk of not being paid, what do you think is a fair profit?

Mr. LARSON. I do not know. I cannot answer that.

Senator SYMINGTON. All right, sir.

Now, you said at one point that the determination of a fair profit was not up to you, that you relied on your staff, is that correct?

Mr. LARSON. No.

I said I did not think it was my——

Senator SYMINGTON. I beg your pardon, did you not say that determination of a fair price was up to your staff?

Mr. LARSON. Yes.

I said I did not think it was my job to ride herd on the ethics of American business.

Senator SYMINGTON. Right.

Now, the staff, to the best of our knowledge, at least up through the 7th of October, your staff were opposed to this contract, were they not?

Mr. LARSON. Some of them were. Some of them are still opposed to it. But I think a majority of my staff recognized the situation as it existed then, and they felt that our responsibilities—I say "our," the whole agency, it had to be determined finally by me—were such that we could not afford to wait any longer. We had to go forward.

Senator SYMINGTON. I want your thinking.

You believe that the profits in a contract of this character, where the Government put up the money required, nevertheless, because it is a contract in the mining industry, should give more than the profit allowed by the Government to a manufacturer?

Mr. LARSON. No.

I think that to determine what are fair profits in the field of the development and the processing of natural resources is not comparable to manufacturing.

Now, I am not saying that I am happy about these people having made 135 percent profit, but I am saying that when you deal in the field of development of natural resources, you are going to have some big profits, and you should have some big profits to make up for the projects that do not work out, ore bodies that do not work out, for the dry holes, so to speak.

Now, I am not saying what that should be. I hope I never have the job, and I do not think I ever will, of having to determine what that should be.

Senator SYMINGTON. Assume a contract, a mining contract, where the Government put up all the money and agreed to take all the production at a premium price over the market, and higher authority instructed you to make that contract.

What do you think would be a fair profit?

In all sincerity I am asking for information, not being critical.

Mr. LARSON. I know you are, Senator.

Any answer I gave you would not be fair to the question, to you, or to me, because I am not equipped to answer that.

Senator SYMINGTON. Then I withdraw the question. Now as I understand it, the economic difference between the system of the Communists and our way of life is they produce for use and we produce for profit, and are proud of it. Certainly I am proud of the profit motive.

But when we produce for profit, if we do not regulate to some extent that profit on Government work I do not see how our system could go on.

This morning I pointed out that if the same percentage of profit as obtained in this contract—I might say against your wishes, according to your statement, also the wishes of many people who worked under you who have previously testified here—if that profit percentage was given on our defense contracts alone, not including NASA or the AEC, the additional cost to the American taxpayer would have been $10.7 billion in fiscal year 1962.

And in many of these other defense contracts there is great risk, risk taken by the people who contracted with the Government. Whereas, in the Hanna contracts there was no risk whatever.

Now, I gather you do not approve entirely the report of the General Accounting Office.

Let me say I have no brief for them one way or the other, although I do think that the Comptroller General is trying to do a good job, and is doing a good job.

Mr. LARSON. I think so, too, and I would hate to see the Government try to operate without him. I did not mean to be critical of him. But he has one job to do and I had another.

I did not say that I was critical of the report. I am not at all. I think it is a very good report. I have it here, as Senator Williams put it into the record, and I think it is a very good piece of work.

And it is natural that, looking at it from the standpoint of the Comptroller General's responsibilities, that he would be critical of the contracts not containing these items which he sets forth.

Now, I am not criticizing him for saying that. What I am saying is that he did not have that responsibility, and it is easy to criticize, to make that criticism.

Senator SYMINGTON. I understand.

Mr. LARSON. However, I do not think even the Comptroller General was unaware of what my responsibilities were. I do not want to take the time of the committee to go into it, but he refers to the fact that there was an overriding need for nickel at this time.

Now, it would be desirable to do that, but let me ask you something, Senator. If you had been in my place, and there was no other nickel available anywhere else in the United States, and the circumstances were the same, would you have refused to bring that nickel into the inventory? Would you have refused to start the production going so that it could be brought into inventory?

Senator SYMINGTON. It would be difficult for me to answer that question here at this time. I would be very glad to discuss it with you privately.

Mr. LARSON. Well, I——

Senator SYMINGTON. Just let me finish, if I may.

Mr. LARSON. Excuse me.

Senator SYMINGTON. The General Accounting Office made a report in April 1961. In that report they recommended that the Congress look into the Hanna contracts. Later that speech was made on the Senate floor by Senator Williams—the one you referred to.

You commend the committee for its constructive moves, and we appreciate that, and you say it is to be regretted that this investigation came so many years after the events.

I agree with you on that, but I became chairman of this committee in January 1955, and every year from January 1955 until now I asked that this information be declassified. The record shows I took this up with the full committee, along with statements made to me by Mr. Irving Gumbel, whom I know you thought highly of. I often attempted to get this information declassified, so we could look into these matters and clear them up once and for all.

As I understand your testimony, you do not criticize the General Accounting Office report. You do say that they did not have the responsibility of getting the nickel, and that you did. You felt that some of the points in the contract, from the standpoint of the interest of the Government you would like to have changed; but since you thought obtaining the nickel in wartime was more important, you could not afford to wait; is that correct?

Mr. LARSON. That is correct, Senator, and I certainly do not mean to imply any criticism of the committee by saying it is regrettable. I think it is regrettable. I think one of the finest jobs that has been done in this Government has been done by the Atomic Energy Commission, and one reason, if not the biggest reason, not to take away from the very fine people who have administered that area, is the fact it has a Joint Committee of the Congress whose sole responsibility is to ride herd on that agency.

So the Congress knows at all times what is going on, and the agency can move with a confidence that the average agency just does not have, and this is unfortunate.

Now, I think the Congress recognized that when they put up the Joint Committee under the Defense Production Act, a Joint Committee so that both Houses do this. But because the functions are performed in a lot of different agencies, it just has not worked out as well as it has in the case of the Joint Atomic Energy Committee, and if we ever have another emergency, I hope that this——

Senator SYMINGTON. Mr. Counsel?

Mr. COBURN. Mr. Larson, just one or two more matters that were referred to me.

You say that Mr. Howard I. Young was the Deputy Administrator of DMPA during the time that you were the Administrator of DMPA.

Did Mr. Young participate at all in the negotiations that led to the Hanna contract?

Mr. LARSON. I do not know, Mr. Coburn, whether he did or not. He might have. He did not on a formal basis, I know.

Mr. COBURN. He what?

Mr. LARSON. He did not on a formal basis because we were organized with a negotiating division headed by Mr. Ford, as you know, and they, with their appropriate comptroller, staff and engineering, technical people and so forth, carried on a formal negotiation.

It might have been Mr. Young was in and out of it, that sort of thing, I do not know. Maybe in the preliminary. There were preliminary stages of a lot of this.

The preliminary stages of the Falconbridge contract, Mr. Young and I were in personally, because this was the biggest potential source of nickel we could get. We tried to get them to go twice as big as we finally managed to get them to go. We started this off and then passed it on down to the negotiating staff.

Mr. COBURN. Normally, he would not have engaged in the negotiations on these contracts, the Hanna contracts?

Mr. LARSON. Not in the day-to-day, item-by-item negotiations.

Mr. COBURN. That was not his responsibility?

Mr. LARSON. No, sir.

Mr. COBURN. Now, one other thing, Mr. Larson:

You have said that people who are in the mineral or in the oil business must protect themselves against bringing in dry holes, so to speak.

Of course, the cost of drilling any dry hole or going into any mining venture that does not work is a deductible cost as far as the income tax is concerned, it is not?

Mr. LARSON. Yes, but it is wealth, it is money. It has got to be made before it can be deducted.

Mr. COBURN. Yes, that is true, but when you have taken your loss, it is a deductible item, is it not, for tax purposes?

Mr. LARSON. As it is in any business enterprise.

Mr. COBURN. Yes. Well, I mean your answer, then, is yes, is it not?

Mr. LARSON. Yes.

Mr. COBURN. Thank you.

Senator BEALL. Mr. Chairman?

Senator SYMINGTON. Senator Beall?

Senator BEALL. Mr. Larson, the chairman referred to the Kiplinger report, 4 and 5 percent profits. That, I presume, is for manufacturing, was it not, Mr. Chairman?

Senator SYMINGTON. No, it was for all business.

Senator BEALL. All business?

Senator SYMINGTON. All.

Senator BEALL. I do not know anything about the nickel business, having been born on top of the coal mines in western Maryland, and, as we know, in that business it is feast or famine.

We do know that you have these times when you do make excessive profits. If there is a war, there is a sudden demand for coal, and it is about the same with any other mineral, is it not?

When you want it, you have to go out and get it, regardless of what the cost is?

Mr. LARSON. Well, you have to deal with the man who owns it. If he does not want to deal with you, why, you either do not get it or you come to his terms.

Senator BEALL. And was it not a fact that these people were reluctant? They knew they had a deposit they could keep for years and sell to the buyers, principally the steel companies, that they could have sold to a pretty much their own price.

Mr. LARSON. Senator, I was not aware of that at the time this was going on, what their attitude was in that regard or what their willing-

ness was. I knew, or I might have assumed that from the toughness of their proposal, that they were reluctant to go ahead with it. That appears to have been the case.

Now, I do not know.

Senator BEALL. The Hanna contract was never classified, was it? That was all——

Mr. LARSON. I do not think any DMPA contracts were classified when I was in the Government. They might have been for some reason afterward.

Senator BEALL. As far as I know—and I stand to be corrected, Mr. Chairman—as far as I know, this was declassified and it was public knowledge. Everybody knew it.

Senator SYMINGTON. If the Senator will yield, there are two kinds of stockpiling: the national stockpile—as a matter of fact, three—the DPA inventory and the supplemental stockpile.

We did not want to start this investigation when some were classified and some were not. Some of the inventory would move from the DPA into the national stockpile, and vice versa. In any case, it was a partially classified setup; and, after discussing it in the full committee in June of 1955, we decided we would not go ahead until it was agreed the entire picture would be declassified.

Senator BEALL. But is it a fact that there were excessive profits made up to 300 percent in uranium?

Mr. LARSON. Yes; I know of profits that would approach that area in the field of uranium mining.

I read a report from—God knows what the Union Miniere of the Belgian Congo made on the first uranium they sold to this country at the time of the Manhattan project—but I read a report in one of the financial papers the other day of an English mining company where the profit for the previous year had been around 450 percent.

But I did not mean to imply, Senator, and I would not want to leave this—you and I are old and dear friends, and I would not want to leave this table with any misunderstanding between us—that I am critical of you or this committee, in light of my comments, gratuitous comments, so to speak, about profits.

And let me get the record straight on that.

I think if you or anybody else attempts to control the profits of a development of raw materials, that this is a very difficult thing.

Now, I happen to believe that in time of war or emergency, that this country should be able and should be equipped so that it can defend itself or survive, resorting to whatever means it has to resort to do it, whether it is elimination of profits or not.

But the formula for doing it, outside of such drastic action as the circumstances I indicated might require, is a very difficult one.

Senator BEALL. Mr. Larson, I would say, along with you, that I have a very high personal regard for the chairman. We have known each other for many years. Fortunately, he was born in Maryland, and I congratulate his parents.

Senator SYMINGTON. I am not ashamed of it, believe me.

Senator BEALL. It is not, as far as I am concerned, anything personal. I am just trying to develop the facts in this because I am really getting an education myself. As I say, I am an old coal miner.

Senator SYMINGTON. Are you comparing the coal mining business with the nickel mining business?

Senator BEALL. I understand that.

We know that there is a difference in the product. But I am interested in the statement that was made——

Mr. LARSON. I want the record to show that I do not object to uranium miners making 300 percent, either.

Senator SYMINGTON. I think you have made that clear.

What I am worried about is whether you want all manufacturers to make 300 percent.

Mr. LARSON. No.

Senator SYMINGTON. There is some tin in the stockpile today that was purchased at a thousand percent profit to the producer.

I do not happen to think that is right.

You may be interested in 300-percent profit on uranium, and think it justified, but the American people have a great problem today, the problem of the heavy tax burden in order to maintain an adequate defense shield.

You are on a different side of the fence. I am working for the Government; you are working for the oil people and the uranium people, and, naturally, have a different philosophy. I want to be clear as to your philosophy in this matter.

Do you think, when a company sells to the Government, it should make more money than if it sells to private industry?

Mr. LARSON. No; I do not think it should. I think the Government should be able to buy on the same basis as anybody else can buy.

Senator SYMINGTON. Now I am asking several questions for Senator Cannon, who had to leave to go back to his State.

The profits of the mining division of the Hanna Mining Co. in the Michigan division averaged 12 percent over these years in question; and the profits of the Minnesota division averaged 10 percent.

Mr. LARSON. Of what company?

Senator SYMINGTON. Of the divisions of the Hanna Mining Co., the Minnesota division and the Michigan division, 12 and 10, respectively.

Senator BEALL. Is that nickel, Mr. Chairman?

Senator SYMINGTON. No. I am coming to that.

Now, the profits of the nickel company averaged 135 percent.

Do you think a company should do its normal business with private enterprise at profits of around 10 and 12 percent; then, when it comes to selling the Government, make a profit as high as 135 percent?

Mr. LARSON. No, looking at it from the point of view that you have expressed and from the Government's side of the table, I think that my actions in trying to better the Government's situation in this particular contract expresses my philosophy.

Senator SYMINGTON. I thought you had expressed yourself on that.

In this same room not too long ago we had the question of the profits of the A.T. & T. They are allowed 7.5 percent, after taxes, on investment.

The profits on investment, according to the auditors of the General Accounting Office, of this corporation, the Hanna Mining Co., were over 400 percent on investment. The GAO report came out, recommending we look into it. We are looking into it. I am glad your testimony is that you objected to this contract; and only signed it because the Government needed the nickel in wartime.

Mr. LARSON. I think the record will bear that out.

Senator SYMINGTON. Right.

Senator BEALL. Mr. Chairman, I would like to ask one more question, if I may.

Senator SYMINGTON. Senator Beall?

Senator BEALL. I am reading from the record page 1918, a letter from Mr. John G. Ford, Director of Contract Negotiations Division. That is what he was doing, was he not?

Mr. LARSON. Yes.

Senator BEALL. To Mr. Howard Young, and I read from the third paragraph:

> The conditions of the contract with respect to prices to be paid for the ore provided for a net return of 28 percent per year on proposed fixed investment of a total of $11.3 million on a $3.8 million investment by June 30, 1962, assuming that only 3,634,000 tons of ore were produced.

Then they go on.

They admitted they were going to make $11 million, did they not? That is what they said they were going to make?

Mr. LARSON. I am not familiar with that, Senator Beall.

Senator BEALL. This letter is dated September 25, 1952. That was when you were negotiating, when Mr. Ford was negotiating.

Mr. LARSON. Whatever the record shows. I have no recollection of it.

Senator BEALL (reading):

> The prices to be paid for the finished product are to be derived through methods which afford the Government adequate protection and appear fair and reasonable, conceding the need for the product and the price of the ore.

You knew about the letter at that time, did you not, in 1952?

Mr. LARSON. Who was that addressed to?

Senator BEALL. That was addressed to Mr. Young, Howard I. Young, Administrator, from John G. Ford, Director, Contract Negotiation Division.

Mr. LARSON. I remember that it was in October when I made the decision that we would move forward with this proposal.

Senator BEALL. And you knew there would be about $11 million made?

Mr. LARSON. I think we went ahead and asked for tax amortization certificates at that time. The reason it was not signed until January was, as I have stated, the staff still wanted to continue to negotiate.

So far as I was concerned, I was ready to execute the contract as soon as it could have been executed after my decision in October and after it was ready for execution.

Senator BEALL. Which staff, your staff?

Mr. LARSON. My staff.

Senator BEALL. Thank you, Mr. Chairman.

Senator SYMINGTON. Mr. Counsel, have you anything further?

Mr. COBURN. Mr. Larson, may I ask you this:

You are engaged in the private practice of law here in Washington, are you not?

Mr. LARSON. Yes, I am.

Mr. COBURN. Are any of your clients in the mining business?

Mr. LARSON. Yes.

Mr. COBURN. They are?

Mr. LARSON. Yes.

Mr. COBURN. Any clients in the oil business?

Mr. LARSON. Yes.

Mr. COBURN. Do you mind telling us what type of mining your clients are in?

Mr. LARSON. In metal mining, uranium mining.

Mr. COBURN. By "metal," you mean iron or nonferrous metal?

Mr. LARSON. Nonferrous.

Mr. COBURN. I think that is all, Mr. Chairman.

Senator SYMINGTON. Thank you, Mr. Larson.

Mr. LARSON. Thank you, Senator.

Senator SYMINGTON. Mr. Marting, would you and Mr. Chapman Rose come up a minute. It is 25 minutes of 5.

Mr. COBURN. I am sure we cannot finish before 5 o'clock, perhaps substantially later.

Senator SYMINGTON. We will recess at this time until 10 o'clock, Tuesday.

(Whereupon, at 4:50 p.m., the hearing was adjourned, to reconvene at 10 a.m., Tuesday, October 9, 1962.)

STOCKPILE INVESTIGATION

TUESDAY, OCTOBER 9, 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, Beall and Bush) met, pursuant to recess, in room 235, Old Senate Office Building, at 2:30 p.m.

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

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 (presiding). The hearing will come to order.

Mr. Counsel, will you proceed?

Mr. COBURN. Yes, Mr. Chairman. We were examining Mr. Marting.

Senator SYMINGTON. Mr. Marting, will you consider yourself sworn.

TESTIMONY OF W. A. MARTING, PRESIDENT, HANNA MINING CO.—Resumed

Mr. MARTING. Yes, sir.

Mr. COBURN. Mr. Marting, the other day when we recessed, as I recall it, I was at the point of asking you how it was that you allocated the administrative expenses, this item of $211,000 here on this chart, in arriving at the figure that you say represents the net income of the Hanna Mining Co. after taxes as a result of this nickel contract. Is that not your recollection of where you and I were?

(The chart is printed on p. 2543.)

Mr. MARTING. Yes, sir.

Mr. COBURN. In discussion at the time?

Mr. MARTING. Yes, sir.

Mr. COBURN. And I was asking you how you allocated this figure of $211,000 between the different divisions, or, rather, how you allocated the entire administrative expense so as to allocate $211,000 to the Nickel Division. That is what I really should have said.

Now, since that time, I believe you have secured some more figures for me, and are prepared now to discuss that matter, are you not?

Mr. MARTING. Yes, sir.

Mr. COBURN. What was the total administrative expense of the mining company during this period of the contract—about $900,000?

Mr. MARTING. Yes, sir, a little over $900,000.

Mr. COBURN. A little over $900,000?

Mr. MARTING. Yes.

Mr. COBURN. That was such general expense, now, as I remember your having testified, as accounting expense, legal expense, banking expense, and perhaps some other things; but principally those?

Mr. MARTING. Yes, sir.

Mr. COBURN. Is that right?

Mr. MARTING. Auditing, annual reports, and normal, general, corporate expenses.

Mr. COBURN. Yes.

Now, I believe you testified, too, the other day, that the Hanna Mining Co., for accounting purposes, was divided; that is, your books were set up on the basis of several different divisions?

Mr. MARTING. Yes, sir.

Mr. COBURN. You have a General Division?

Mr. MARTING. Yes, sir.

Mr. COBURN. You have a Minnesota Division and a Michigan Division?

Mr. MARTING. Yes, sir.

Mr. COBURN. And a Missouri, or sometimes called Ozark, Division?

Mr. MARTING. Yes, sir.

Mr. COBURN. And then you had a Nickel Division?

Mr. MARTING. Yes, sir.

Mr. COBURN. And then you had a Steamship Division, is that it?

Mr. MARTING. Yes, sir. I think we call that Dock and Vessel Division.

Mr. COBURN. Dock and Vessel Division?

Mr. MARTING. Yes.

Mr. COBURN. Those are all of the divisions, then?

Mr. MARTING. Yes, sir.

Mr. COBURN. Now, in allocating this—well, put it this way:

There were a good many administrative expenses on the books of the company that were set up in such a way as to be charged against the divisions to which they were directly related; is that not correct?

Mr. MARTING. That is correct, sir.

Mr. COBURN. In other words, your books show that there were administrative expenses charged to the General Division and some administrative expenses charged to the Minnesota Division, for instance, and some to the Nickel Division, for that matter?

Mr. MARTING. Yes.

Mr. COBURN. Is that correct?

Mr. MARTING. That is correct.

Mr. COBURN. But then you had, in addition to those, this item of $900,000 that you have allocated to the different divisions for the purpose of arriving at your profit on this contract?

Mr. MARTING. That is correct, sir.

Mr. COBURN. And you did it, I understand, on the basis of the income after taxes, the profits after taxes, of each of the divisions of the Hanna Mining Co.; is that right?

Mr. MARTING. That is correct, sir, except, as you know, we excluded the Dock and Vessel Division on the general administration and also on the latter ones we come to, exploration.

Mr. COBURN. Yes. But I believe you and I agreed yesterday, or the other day, that, if you really wanted to do this thing right, you would put the Dock and Vessel Division in, would you not?

Mr. MARTING. I think you are absolutely right.

Mr. COBURN. A small matter?

Mr. MARTING. A small matter, that is right.

Mr. COBURN. But it should be there, anyway?

Mr. MARTING. That is right.

Mr. COBURN. By using this basis of allocating this administrative expense on the basis of income, what percent of the administrative expense was allocated to the Nickel Division?

Mr. MARTING. As you know, Mr. Coburn, we took it year by year, and did it on a year-by-year basis.

Mr. COBURN. Yes.

Mr. MARTING. When we were finishing up our discussion last time we, however, lumped it all together. So it came out that really the amount allocated was around 22.7 or 23 percent.

Mr. COBURN. Let us take it for the entire period of time.

Mr. MARTING. Yes.

Mr. COBURN. Without going into too much detail.

Mr. MARTING. That is right, because it was year to year, or 8 years involved.

Mr. COBURN. So that would mean, then, that you allocated 22 percent of this administrative expense to the Nickel Division because the Nickel Division made 22 percent of the profits after taxes of the mining company during this entire period of time?

Mr. MARTING. Yes. If you average it out on a year-to-year basis, some years it was lower than 22.

Mr. COBURN. We are not doing that.

Mr. MARTING. That is right.

Mr. COBURN. So let us not do that. Let us treat it all uniformly, now.

That is correct, is it not?

Mr. MARTING. That is correct.

Mr. COBURN. What I have just asked you?

Mr. MARTING. That is correct.

Mr. COBURN. All right.

Now, then, let us take some other division of the company like, say, the Michigan Division. What percentage of this administrative expense was allocated to it?

Mr. MARTING. I have that right on a sheet, sir.

Mr. COBURN. You may take time to look for it. My figures here show 10 percent. Does that sound about right?

Mr. MARTING. Yes, sir.

Just a second, I have it all here now. That would be approximately correct, 10 percent, yes, sir.

Mr. COBURN. About 10 percent?

Mr. MARTING. Yes.

Mr. COBURN. For the Michigan Division?

Mr. MARTING. The reason for my delay, sir, I have this on a year-to-year basis, and I am taking the total.

Mr. COBURN. But, Mr. Marting, if you take any other basis than income after taxes, such as, say sales or revenue or expenses, the operating expenses of these different divisions, it means that the share of the Nickel Division will be very much lower, does it not?

Mr. MARTING. Well, it would be quite different yes, sir, because it would be a completely different basis.

Mr. COBURN. And lower, too, would it not, Mr. Marting?

Mr. MARTING. I have just been looking at your chart up there, and that is what you show there.

Mr. COBURN. Well, we took this off your books.

Mr. MARTING. Oh, these are our figures that we gave to you?

Mr. COBURN. We took these off the books.

Mr. MARTING. Yes, sir.

Mr. COBURN. And so if you allocate this administrative expense on the basis of sales or revenue from whatever source of each division, you come up with a very much smaller figure for the Nickel Division, do you not?

Mr. MARTING. Yes, you do.

Mr. COBURN. Or if you take the expenses, the operating expenses, of the different divisions, you come up with a very much lower figure for the Nickel Division, do you not?

Mr. MARTING. That is correct, sir.

Mr. COBURN. So you picked the highest figure, did you not?

Mr. MARTING. No, sir.

Mr. COBURN. What?

Mr. MARTING. No, sir.

Mr. COBURN. You did not?

Mr. MARTING. May I answer that my own way?

Mr. COBURN. I would be glad for you to. We could not find the higher way to figure it than the way you did.

Mr. MARTING. I tell you, Mr. Coburn, on that, the way we figured it was this:

We are taking expenses which have been paid and have to be paid. The only way we can get money to pay these various expenses, administrative expenses and exploration, is to pay them out of money we make from our operating divisions. Now, if we use any such figure as sales or costs, to us that would be quite misleading, because what we have to get in our pocket are dollars to pay these.

Now, as you know from our figures, we have substantial sales on which there is no money. Therefore, if we allocate a part of our administrative or exploration expense to these sales on which there is no profit, the way we look at it as a businessman we would have no money to pay those, and particularly if you turned to a cost basis.

I just want to carry on one more moment.

Mr. COBURN. Go ahead.

Mr. MARTING. We have to get the money to pay these expenses.

Now, what our costs are in any division, our costs might be higher. We might have a loss division. There, if you followed the cost basis, you might allocate practically all of these to a division that had high costs, which had no money to pay them.

So our own thinking, sir—and this is the only reason we did this—was that the only fair way we could see, these were expenses that we, that our profitable operations have to carry on in exploring all

of the world for mineral deposits, and the only way we can see to do it logically, sir, is to take it on a profit basis because we have to make the profits before we can have the money to spend looking for these new mineral deposits.

Mr. COBURN. Then, Mr. Marting, as I understand you, you decided that it was only fair to allocate the greater part of these general expenses to the division that had made the most money, to the richest division, was that i?

Mr. MARTING. That is exactly the way we run our exploration program.

Mr. COBURN. That is the Nickel Division?

Mr. MARTING. If we have money, when we make money, we take that money and we go looking for other minerals. It is obvious that whatever division makes the highest profit will pay the highest share of those expenses. We have to make the money before we have it to spend. That is our whole point, sir.

Mr. COBURN. And the Nickel Division of the Hanna Mining Co., during this period of time, made substantially more money, percentagewise, than any other division in the company, did it not?

Mr. MARTING. No. The total dollars made by the various divisions, sir——

Mr. COBURN. I do not mean that. I mean percentagewise.

Mr. MARTING. We made $16 million in the Minnesota Division and in the General Division we made about $14.8 million.

Mr. COBURN. I am talking about——

Mr. MARTING. In the 7.5 years.

Mr. COBURN. I am talking about profits relative to expenses or to sales.

The Nickel Division was by far the most successful, was it not, during this period of time?

Mr. MARTING. Well, I wish you would just clarify what you mean by that, profits as a percent of cost?

Mr. COBURN. Well, if you would take the profits and relate them to the sales of the same division, or profits and relate them to the expenses of the same division, is it not a fact that the Nickel Division made far more money than any other division in the company?

Mr. MARTING. Well, somewhat more, but I would not say an astoundingly lot more, no, sir.

Mr. COBURN. Certainly somewhat more, then?

Mr. MARTING. Somewhat more but some were awfully close to it.

Mr. COBURN. Because you say you decided that the only fair way to allocate these general expenses of some $900,000 was to do it in the way you did because the Nickel Division could afford to pay more. It had made more. Now, that was about it, was it not?

Mr. MARTING. We took each division's share of our total net profits and allocated on that basis. But, as you see, the General Division, making $14 million out of $50 million, would pay at a higher percent than, say, the Nickel Division, which made $7.5 million or $10 million out of $50 million.

Mr. COBURN. Now, Mr. Marting, I am pointing here to a chart that was prepared from your books, that was prepared by the investigators for the committee from your books, and it shows of this total administrative expenses of some $930,000 that we have been talking

about, that you allocated $211,000 to the Nickel Division on an income basis, which was 23 percent.

I will pass over this next figure until later because it is not clear at the moment.

Had you done it on the basis of sales of the different divisions or revenues, however you want to put it, of the different divisions, the Nickel Division would have been allocated only 6 percent of this item.

And had you done it on the basis of costs, operating expenses, of the different divisions, the Nickel Division would have been allocated only 3 percent of this administrative expense.

Does that look about right to you?

Mr. MARTING. Well, as to those last two columns, we have not computed it that way, Mr. Coburn, so I cannot really answer that until our people have checked it. As you know, we did it on one basis and you are asking another one, and I really cannot answer that unless we check it all out, sir.

Mr. COBURN. All right.

Now, actually, Mr. Marting, on your books, on the books of the Hanna Mining Co., this entire figure of $930,882 was charged to the General Division of the company, was it not?

Mr. MARTING. That is correct.

Mr. COBURN. And nothing at all was charged to the Nickel Division?

Mr. MARTING. No, or to any of the operating divisions.

Mr. COBURN. None at all?

Mr. MARTING. None at all.

Mr. COBURN. Now, Mr. Marting, I want to go into with you the matter of the exploratory expense which was treated in very much the same way as the administrative expense.

This exploratory expense is very largely here in your calculations by which you reach the result that you only made $7.5 million after taxes—here this exploratory expense represents an item of $2,173,779 that has been allocated to the Nickel Division of the Hanna Mining Co., much the largest item of any of these others that we have been talking about here, that tends to reduce the income of the Nickel Division to $7.5 million.

Now, first, will you explain to us what this item means? Here it is, exploration, research, carrying ore reserves, and other expenses of nonproducing properties. What does that mean?

Mr. MARTING. These are the expenses we incurred.

As you know, we are in the mining business, and in that we are dealing, of course, with a wasting asset. Some of our property, some of our mines last 5 years, 10 years, 20 years. And, of course, if we rely only on the mines we now have in existence in a short time we would be out of business and certainly going downhill.

So we spend a substantial amount of money every year looking for new ore bodies, exploring all over the world in various places for iron ore and other materials.

At the same time we pick up properties which we think have a long-range future, but which we say we may not develop for 10 or 15 years.

This is to protect our future, so that when our properties, our active properties, are mined out, we will have some new ones, we hope, and better ones, to continue, and that is the way we hope to grow. And, really, lumped all together, those are the bases of most of the figures in the $2,173,000.

Mr. COBURN. All right.

Mr. MARTING. I think you have a breakdown up there of it on your next chart.

Mr. COBURN. On this chart that is called a Comparison of Allocation of Expenses to Nickel Division, I have here a total figure of $9,556,234.

What is that, now, Mr. Marting?

Mr. MARTING. That is a total of all of these expenses I described above earlier, except it is the grand total spent over this period of time.

Mr. COBURN. Yes.

Now, let me see that we all understand that. The $9,556,000 figure represents the total amount of exploration expense by the Hanna Mining Co. during the period of the nickel contract?

Mr. MARTING. The total amount that we charged off on our books.

We have substantial other amounts paid out, but we do not charge them off against our income on the books.

Mr. COBURN. All we can do——

Mr. MARTING. Yes.

Mr. COBURN (continuing). Is go by your books.

Mr. MARTING. That is right.

Mr. COBURN. These figures were taken from your books.

Mr. MARTING. That is right.

Mr. COBURN. And, as a matter of fact, you used that figure yourself, did you not, in reaching this $7.5 million?

Mr. MARTING. Oh, yes, the very same figures.

Mr. COBURN. Then let us not complicate something that is otherwise fairly complicated in itself. So this $9.5 million here is the total exploration expense of the Hanna Mining Co. during the period of this nickel contract?

Mr. MARTING. That was charged off on the books.

Mr. COBURN. That was charged off on the books.

Mr. MARTING. Because we have spent $8 million in Brazil on exploration and things that are not charged off. It would be over and above that amount, you see.

Mr. COBURN. All right. But, anyhow——

Mr. MARTING. I have to make that clear.

Mr. COBURN. This was on your books and this is the figure you took?

Mr. MARTING. That is correct.

Mr. COBURN. In arriving at your income tax.

Senator SYMINGTON. Let me make a suggestion, Mr. Marting. Please try to answer the question as it was asked.

Mr. MARTING. Yes, sir.

Senator SYMINGTON. That would be of assistance to counsel.

Mr. MARTING. Yes, sir.

Senator SYMINGTON. What is being attempted is to break these figures down to get the reason why you showed in recent weeks a profit of $7.5 million, while your company records show a profit of $10 million after Federal income taxes.

We want the facts with respect to these figures, and do not worry about any additional charges that you may not have included, either in what you paid in income tax, or that you did not include in the profit figures now revised downward some $2.5 million.

Is that clear?

Mr. MARTING. Yes, sir.

Senator SYMINGTON. Help us on that, if you can.

Mr. MARTING. I will try my very best. I apologize.

Senator SYMINGTON. Proceed, Mr. Counsel.

Mr. COBURN. I think we are together on this, now. Let us take this $9.5 million figure.

In the first place, was any of that, any of this $9.5 million, spent out there at Riddle, Oreg., after this nickel contract was signed?

Mr. MARTING. No, sir, not one bit of it, no, sir.

Mr. COBURN. On your books was any of that $9.5 million charged to the Nickel Division?

Mr. MARTING. Not on our books, not on the Nickel Division books itself, no, sir.

Mr. COBURN. Not on your books?

Mr. MARTING. No.

Mr. COBURN. It only was allocated, as we have been talking about here, after you wanted to try to reduce your income after taxes down to a lower figure, is that not it?

Mr. MARTING. No, sir.

It was an attempt to show what we think our real profit was on the nickel transaction.

Mr. COBURN. Tell me this, Mr. Marting: In view of the fact that not 1 cent of that $9.5 million was allocated to the Nickel Division on your books, when was it you got up this set of figures, which resulted in the claim that you only made $7.5 million in the Nickel Division from this contract?

Mr. MARTING. We did that this summer, sir.

Mr. COBURN. You did that this summer?

Mr. MARTING. That is right, sir.

Mr. COBURN. When you were preparing for these hearings?

Mr. MARTING. When we were preparing for these hearings.

Mr. COBURN. All right. Now, then, let us take this $9,556,000. Although none of it was spent at Riddle, and although none of it on your company books was allocated to the Nickel Division, you did allocate more than $2 million of it to the Nickel Division in reaching the conclusion that you only made $7.5 million after taxes, is that not right?

Mr. MARTING. That is correct, sir.

Mr. COBURN. And how did you do that?

Mr. MARTING. We did that on the basis of allocating those total expenses on the net profits made by these active divisions that make money for us, Michigan, Minnesota, General, because we get profits in the General Division, and Ozark, which is our Missouri Division.

Mr. COBURN. In other words, you allocated this very large figure of $9.5 million exploration expense among the different divisions according to your profits after taxes?

Mr. MARTING. That is correct, sir.

Mr. COBURN. And that resulted in 23 percent of the total figure being allocated to the Nickel Division?

Mr. MARTING. That is correct, sir.

Mr. COBURN. And that reached the result of $2,173,000 which you claim as a credit, in effect, to reduce the income of the Nickel Division, right?

Mr. MARTING. That is correct.

Mr. COBURN. If you had used sales or revenues instead of income after taxes, our investigators say that the result would have been only 6 percent of that, or $585,000, being charged to the Nickel Division, and if you had used expenses as the basis of allocation, only 3 percent, or $298,000, would have been allocated.

Does that look right to you?

Mr. MARTING. Well, as I say, we have not checked those, but I assume they are correct, from what you have said. We have made no calculation on that basis.

Mr. COBURN. Actually, Mr. Marting, on your books this exploration expense was allocated according to the particular division of the company for which the exploration was made, is that not a fact?

Mr. MARTING. No, sir, because this is exploration that is all over the world, and what we tried to charge into our various divisions there are the exploration expenses that occurred in that particular divisional area.

But all of these items are for new properties, whether they are located in Brazil, Guatemala, or anywhere in the world.

Mr. CORURN. I notice that on your books, now, on your books, before you started getting ready for the hearing, you had charged $6,772,000 of this exploration expense to the General Division.

Mr. MARTING. That is right, because it has to appear somewhere on our books.

Mr. COBURN. Yes. Why did you put it there? Why did you not put some of it in the Nickel Division?

Mr. MARTING. Because on our books nickel is the only expense spent in the Oregon area.

Mr. COBURN. You did not have any expenses in Oregon?

Mr. MARTING. No.

Mr. COBURN. That is what I had in mind.

Mr. MARTING. That is right.

Mr. COBURN. And I noticed that in the Michigan Division you charged $226 million of this exploratory expense on your books to the Michigan Division.

Now, you did that because you spent $226 million exploring properties owned by the Michigan Division, is that not right?

Mr. MARTING. No, sir. I think that is $226,000.

Mr. COBURN. Oh, I beg your pardon, $226,000 it is, $226,000.

Thank you for correcting me. That was charged to the Michigan Division because you spent $226,000 exploring on lands owned by that division, right?

Mr. MARTING. Well, not lands owned by that division. That would be spent by that office. The lands might be in Michigan or some of them would be in Canada.

Mr. COBURN. I do not mean in the State of Michigan.

Mr. MARTING. Yes.

Mr. COBURN. But I am talking about lands either owned or maybe under a mineral lease held by that division, is that right?

Mr. MARTING. Well, it would be spent by ——

Mr. COBURN. By that division, is that right?

Mr. MARTING. It might be people from the home office exploring, I do not know all of that, but it would be mainly spent in the Michigan area, yes.

Mr. COBURN. I am just trying to find the basis on which you allocated this exploratory expense to the different divisions of your company. That is my only reason for asking that.

I notice that you allocated $1,996,000 to the Minnesota Division. Was that because that amount of exploratory expense was incurred by the Minnesota Division?

Mr. MARTING. Yes, in the Minnesota area; yes, sir.

Mr. COBURN. On its properties?

Mr. MARTING. Well, on looking for new properties primarily. This is all looking for new ones.

Mr. COBURN. I see. All right, thank you.

(The charts referred to are printed on pp. 2543 and 2544.)

Now, actually, Mr. Marting, we are trying to arrive at how much the Nickel Division—well, how much the Hanna Mining Co. made as a result of this nickel contract, and if this nickel contract had never been entered into, these same administrative expenses we have been talking about would have been incurred by the Hanna Mining Co., would they not?

Mr. MARTING. Probably the bulk of them; yes, sir.

Mr. COBURN. And if this nickel contract had never been entered into, these same exploratory expenses would have been incurred by the Hanna Mining Co., would they not?

Mr. MARTING. I could not be sure of that, sir, because the amount we spend on exploration depends a lot on the amount of money we make, and certainly this $7.5 million would be considered by us in how much we can afford to spend in other countries looking for other minerals.

Mr. COBURN. Well, you mean because you had done so well in the Nickel Division, you were inclined to sort of set sail as far as exploration is concerned and spend a little more money?

Mr. MARTING. No, sir.

We just take a look at what our total profits are, and that tells us how much money we have available to carry on this exploration work.

Mr. COBURN. Well, as far as anyone can tell with any definiteness at all, this same exploratory expense would have been incurred even though the nickel contract had never been signed; isn't that true?

Mr. MARTING. Well, I wouldn't say so; no, sir. I really don't think that is right.

Mr. COBURN. I see, all right. But in any event none of this exploratory expense was incurred out at Riddle?

Mr. MARTING. No, sir.

Mr. COBURN. Now, Mr. Marting, there is one other item that I want to ask you about if that can be seen well enough. Handouts, I think, are in the possession of everybody here, which are copies of this chart. The last figure that represents a credit here from the standpoint of reducing the income the Hanna Mining Co. claims it made after taxes is item 3, $667,534, which on this chart says that it represents a deduction of income taxes paid on the smelter.

Do I understand it that the smelting company, which was not supposed to make any income or have any income, paid a tax, Federal income tax, of $667,534?

Mr. MARTING. That is right, sir.

Mr. COBURN. And you are taking credit for that, too, in order to reduce this income after taxes to $7½ million?

Senator SYMINGTON. Will you repeat that? I can't see it. What was the figure?

Mr. COBURN. This figure of $667,534 which represents the income taxes paid during the period by the Hanna Nickel Smelting Co.

As I understand it, that is right about that figure, isn't it?

Mr. MARTING. That is right, sir.

Mr. COBURN. Yes.

Now, then, let's see about that, Mr. Marting. You are entitled to take that as a reduction of your income from this contract only if the mining company and the smelting company in its operations can be put together in one; isn't that right?

Mr. MARTING. Would you——

Mr. COBURN. If you consider the whole thing as one operation?

Mr. MARTING. Would you please repeat that, Mr. Coburn?

Mr. COBURN. Yes, all right, sir.

Mr. MARTING. I want to be sure I understand it.

Mr. COBURN. Some of this is not too easy but I will say it again.

You are only entitled to take that deduction so as to reduce the net income after taxes on this nickel operation, you are only able to do that if you are able to put the smelting operation and the mine together into one; isn't that right, and consider all as one?

Mr. MARTING. No, sir. The tax due for the year 1960 by the Hanna Nickel Smelting Co. was due whether we put them together or not.

Mr. COBURN. I realize that.

Mr. MARTING. We had to pay that, and, of course, the Hanna Nickel Smelting Co. had no money, it would be the cost of operations, so we advanced that to the Hanna Nickel Smelting Co. and we thought that was a very proper expense we have on this whole nickel contract, because that is something we have paid and had to pay it.

Mr. COBURN. Here is my point, Mr. Marting.

Mr. MARTING. Yes?

Mr. COBURN. We are trying to determine, because the committee investigation has stated heretofore that the Hanna Mining Co. made $10½ million, approximately, on this nickel contract after taxes.

Now, the only way that you can consider this $667,000 to reduce your income after taxes is to consider both the Hanna Mining Co. and the smelting company; isn't that right?

Mr. MARTING. Well, sir, Hanna Mining Co. had to pay the $667,000. We had to pay it and we paid it.

Mr. COBURN. Do you mean that was the tax of the Hanna Mining Co.?

Mr. MARTING. No, it was the tax of the smelting company, our wholly owned subsidiary, and we had to pay the dollars. The dollars came from Hanna Mining Co.

Mr. COBURN. It was the tax paid by the Hanna Nickel Smelting Co.

Mr. MARTING. Yes, sir.

Mr. COBURN. Is that right?

Mr. MARTING. That is right, sir.

Mr. COBURN. And the Hanna Mining Co. loaned the smelting company the money to pay that, didn't it?

Mr. MARTING. Of course that is right; yes, sir. It is a wholly owned subsidiary and we advanced the $667,000 to pay the tax; yes, sir.

Mr. COBURN. But my point is that, in order to take that credit, you have to put these two operations together, haven't you, these two com-

panies? You have to consider them as one, the smelting company and the mining company?

Mr. MARTING. Well, we were trying to show—I am not trying to be evasive in this answer.

Mr. COBURN. I know you are not but I want you to state frankly now——

Mr. MARTING. I will try to, sir.

Mr. COBURN (continuing). What the facts are. Go ahead.

Mr. MARTING. We looked at this—what we were trying to do in our $7,534,000 was to show what we call our real net economic profit after taxes on this whole nickel contract.

Mr. COBURN. I realize that.

Mr. MARTING. Now, we had to pay this $667,000, and we think that is a proper deduction.

Mr. COBURN. Now, let's not fall back to the word "we." Let's be a little more careful.

Mr. MARTING. I am sorry, Hanna Mining Co.

Mr. COBURN. Let's quit talking about we. We are trying to find out how much the Hanna Mining Co. made net after taxes as a result of this nickel transaction, and I put it to you again that before you are able to take credit for that $667,000 item there, which was a tax item of the smelting company, then you have to put the smelting company and the mining company together, don't you, and consider them as one?

Mr. MARTING. Well, sir, my job is president of the Hanna Mining Co. and when Hanna Mining Co. has to pay the $660,000 to the Government for those taxes, I think it is a valid deduction for Hanna Mining Co. whether the nickel smelting is put together or not. It is a wholly owned subsidiary.

Mr. COBURN. It is not a tax, though, of the Hanna Mining Co., is it?

Mr. MARTING. No.

Mr. COBURN. That is my point.

Mr. MARTING. It is a tax of the Hanna Nickel Smelting Co.

Mr. COBURN. Listen to me. Haven't you put the two companies together to take that computation?

Mr. MARTING. Well, I am trying to explain.

I look at it entirely from Hanna Mining Co. that we had to pay the dollars.

Mr. COBURN. In other words, you look on it as one operation, don't you?

Mr. MARTING. I am trying to see what was the net profit to the Hanna Mining Co.

Mr. COBURN. So you looked——

Mr. MARTING. From this whole nickel contract, sir, and when we pay the $660,000——

Mr. COBURN. You look on this whole thing as one operation, don't you?

Mr. MARTING. Well, that is a hard answer——

Mr. COBURN. It is as easy as anything could possibly be.

Mr. MARTING. It is certainly a wholly owned subsidiary.

Mr. COBURN. What?

Mr. MARTING. It is a wholly owned subsidiary and it is tied right in with the mine. There is no question of that, sure.

Mr. COBURN. My point is that during your negotiations with the Government you negotiated throughout on this basis that you were only willing to enter into this deal on the basis of making two contracts dividing these two companies up, and now when you are questioned as to how much money the Hanna Mining Co. made net after taxes, you want to put the two back together again.

Now, isn't that about it? Isn't that just about the substance of the matter?

Mr. MARTING. The substance to me, sir, is we had to pay the $660,000 and I don't know how we could get out of paying it from the Hanna Mining Co. standpoint, sir.

Mr. COBURN. You loaned the money to the smelting company?

Mr. MARTING. That is right.

Mr. COBURN. Did you?

Mr. MARTING. Yes.

Mr. COBURN. Is the smelting company going to pay it back?

Mr. MARTING. At the moment I am not sure it can.

Mr. COBURN. But it is making money now, isn't it?

Mr. MARTING. We had an operating loss for the year 1961 in the Hanna Nickel Smelting Co.

Mr. COBURN. But do you carry that loan as an obligation of the smelting company on its books?

Mr. MARTING. Sure.

Mr. COBURN. Well, of course. That is exactly what I had in mind.

Now one more thing, Mr. Marting, and then I think I will not tax you further with this state of affairs here as to the income.

As I understand, you say from the standpoint of a kind of fireside equity or something of the sort that it is right that you should be able to allocate this exploration expense—some 9½ million altogether during the period of the contract—that you should allocate that among the different divisions according to their income after taxes, is that right?

Mr. MARTING. That is right, sir.

Mr. COBURN. All right.

If that is the case here is an item of $403,000 up here at the top of this table that represents development expenses before the contract was entered into in 1953, development expenses, of course, that were used out at Riddle this time as distinguished from these other development expenses.

If you are going to allocate the development expenses that are not even used at Riddle, then, of course, you would have to allocate this item up here that was used at Riddle, wouldn't you?

Mr. MARTING. No, sir; because once we bought the Riddle mine—that was in 1953, and the way we do it in 1953 we had the contract, and on any of our properties once we started operation on them, any expenses incurred on those properties are properties put on the books of that particular mine.

In other words, if——

Mr. COBURN. I understand.

Well, didn't I understand you to say that these other development expenses of $9½ million were precontract expenses? They were things that were being used before you ever got into the mining business, isn't that right?

Mr. MARTING. They are on properties, Mr. Coburn, that have not been brought into production or where we were starting development on an actual mining basis.

Mr. COBURN. Yes.

Mr. MARTING. Now, anything in that would be on a mining basis, the minute we get into that type of activity then they start right on the mine itself, and they would not be included in something like the $9.5 million.

Mr. COBURN. But my point is that on this item of $403,000 up here, this was development expenses that was incurred before you got into the mining business.

Why didn't you allocate that among the different divisions of the company on the basis of income, just like you have undertaken to allocate the $9½ million.

What is the difference?

Mr. MARTING. Well, we signed the contract in January of 1953, so we were—this is money spent after the contract was signed.

Mr. COBURN. No, no.

Mr. MARTING. At Riddle, 1953.

Mr. COBURN. I am referring to the wrong—I beg your pardon, I am referring to the wrong figure. What I should be referring to is this figure of $440,000 that is down here in development and research from 1949 to 1952.

That is what I should be referring to. I beg your pardon for the confusion.

Mr. MARTING. Yes, those expenses were incurred of course before we had any Government contract on the mine at all.

Mr. COBURN. Yes.

Well now, then, shouldn't they be allocated among the different divisions of the company just like you allocated the $9½ million of exploratory expense?

Mr. MARTING. Well, they would be, sir, if it hadn't been for the fact that we went ahead with the nickel mine, and we often make up expenses like that and put them when we have our mine start operating.

Certainly if we had never developed the nickel mine, there would be no arguments on my part, sir, that the whole $440,000 shouldn't have been allocated on our profitable mines because that is the only way we get the money to pay that.

Mr. COBURN. Well, the $440,000 is clearly exploratory expense, isn't it?

Mr. MARTING. Yes, sir.

Mr. COBURN. And it was incurred before there ever was a nickel division?

Mr. MARTING. That is right, sir.

Mr. COBURN. And so if you follow the same principle that you used on the $9½ million of exploratory expense, you would allocate it among the existing divisions at that time on the basis of income after taxes, isn't that right?

Mr. MARTING. That is right, sir.

Mr. COBURN. And since there was no nickel division then at all, there wouldn't be anything allocated to the nickel division, would there?

Mr. MARTING. No. The only difference is we have a nickel mine operating and we pick it up and put it on there now.

Mr. COBURN. I see.

Now, Mr. Marting, you say in your statement that with reference to the expensing of capital items, you say simply that you hired good accountants and relied on their views with reference to what you should expense and what you should charge to capital items, is that right?

Mr. MARTING. That is right, sir.

Mr. COBURN. As a matter of fact, the Ernst & Ernst people tell us that it was the Hanna Mining Co. that first decided whether a given item should be expensed or should be set up as a capital item, is that right?

Mr. MARTING. That would be correct; yes, sir.

Mr. COBURN. So the Hanna Mining Co. made the decision first?

Mr. MARTING. The Hanna Mining Co. made the decision.

Mr. COBURN. And Ernst & Ernst simply checked your records and then either approved or disapproved, is that right?

Mr. MARTING. That is right, sir.

Mr. COBURN. So these disputed items between the investigators here and your company are all items that were expensed by the Hanna Mining Co. itself in the first instance?

Mr. MARTING. That is right, sir.

Mr. COBURN. Now, I want to ask you a few questions, Mr. Marting, about the destruction of records with reference to which you made quite a long explanation in your prepared statement.

The fact is that there was a period of time as I recall it, the latter part of 1953 and all of 1954, during which the original checks of the Hanna Mining Co. were destroyed?

Mr. MARTING. That is right, sir.

Mr. COBURN. You have the copies of those checks, do you not?

Mr. MARTING. Yes, sir.

Mr. COBURN. But, of course, they do not bear the endorsements.

Mr. MARTING. They do not bear the endorsements; that is right, sir.

Mr. COBURN. But in addition to the checks themselves, you had a system of vouchers, didn't you, to support the checks?

Mr. MARTING. Yes, sir.

Mr. COBURN. And vouchers, of course, give more detail about what the check is spent for than the check itself?

Mr. MARTING. Quite often, yes, sir.

Mr. COBURN. Usually do?

Mr. MARTING. Usually do.

Mr. COBURN. And for that same period of time those vouchers were destroyed, too, weren't they?

Mr. MARTING. Of the Hanna Mining Co.?

Mr. COBURN. Yes.

Mr. MARTING. Nickel Division?

Mr. COBURN. The Hanna Mining Co., the General Division I recall it but certainly the Hanna Mining Co.?

Mr. MARTING. We have had this checked and I am quite sure for the Hanna Mining Co. Nickel Division we do have all the vouchers.

Mr. COBURN. But I am talking about the General Division now of the Hanna Mining Co.?

Mr. MARTING. May I just refresh my recollection on that, sir?

Mr. COBURN. Sure; go ahead.

Mr. MARTING. Yes, sir.

On the General account, the General Division checks, the vouchers detail according to our records here, the June through December of 1953, were destroyed, and the voucher detail for the year 1954 was destroyed.

Senator SYMINGTON. Read those dates again, please.

Mr. MARTING. June through December of 1953. This is Hanna Mining Co. General Division. Those checks, those voucher details as well as the checks, were destroyed. And the year 1954, all of the voucher detail was destroyed.

Senator SYMINGTON. Thank you.

Mr. MARTING. But our Nickel Division was what I thought he was talking about. We do have all——

Mr. COBURN. I am speaking of the General Division.

All right, for example, this trip to Riddle, Oreg., which was paid for by the Hanna Mining Co. when the two Government men went out there, and their expenses were paid, the investigators were not able to find that situation at all in your records, and only happened to run across it by accident by some collateral reference out in Riddle.

Can you tell us now how much was spent on that trip?

Mr. MARTING. No, sir.

The last time we were here, I think Mr. Spang was going to check into that, and he is to get that information, if he can, and submit it to the committee here.

Mr. COBURN. Have you been able to find it?

Mr. MARTING. I have not checked with Mr. Spang on that point.

Mr. COBURN. Mr. Spang is sitting right there. Has he been able to find it?

Mr. MARTING. He says he does not have it yet, and he has not had a chance to check it all out.

Mr. COBURN. With those vouchers missing, the chances are you will not be able to find it?

Mr. MARTING. I would think there might be a very good chance we would not find it, yes, sir.

Mr. COBURN. Would not find it?

Mr. MARTING. Would not find it.

Senator SYMINGTON. As I understand it, the checks and vouchers were destroyed. If the vouchers and original checks were destroyed, where are you going to find the information?

Mr. MARTING. We would have that, normally, sir, in a cashbook or our general ledger account.

Senator SYMINGTON. But the cashbook would only show an amount of cash issued, and then a portion of that would be returned, would it not, presumably?

Mr. MARTING. We would have, and should have, on our books somewhere, you know, the fact that this expense was incurred. Now, how much detail, Mr. Chairman, we would have on that, that would be probably not, certainly not as much as we would have from the vouchers.

Senator SYMINGTON. If you destroy the checks and destroy the vouchers, I do not know of any entry you could have where you would know what the cost was.

Mr. MARTING. Well, you would have certainly a record that a certain amount of money was spent from your journals and cashbooks. It would not show the detail, though.

Senator SYMINGTON. Thank you.

Mr. COBURN. That is what I had in mind. It would not show what the money was spent for; would it?

Mr. MARTING. Not necessarily. It might show something like travel or airplane expense, but it might include many people.

Mr. COBURN. Now, let me ask you one other thing about the destruction of the records, Mr. Marting.

When Mr. Pfeiffer, who was the man, as I understand your statement, when Mr. Pfeiffer came into your company and started doing this record-disposal work, was he advised by anyone in the Hanna Co. that under both the mining company and the smelting company contracts, the records that could be inspected by the Government had to be retained for 3 years after the termination of the contract?

Mr. MARTING. I do not think he was advised of that, on that basis specifically, as far as we can tell. No one said that.

He, as you know, checked through to check the retention periods and checked with the various division heads.

Now, our accounting man, and also our man who is the chief accountant for Hanna Mining Co., put hold orders on destroying these vouchers and carbon checks of the Nickel Smelting Co. and the Nickel Division, because under our program of retention, I think I am correct in that for 6 years you would not destroy voucher detail.

Mr. COBURN. Now, when these checks and vouchers were destroyed—when were they destroyed?

Mr. MARTING. They were destroyed in 1962, January, February, March.

The first destruction started on January 23, and this was carried on during the months of February and March.

Mr. COBURN. The vouchers and checks were destroyed in January?

Mr. MARTING. We cannot tell the exact date on that. I can check that for you, but I do not think it was January, no.

Mr. COBURN. You think that was in February and March?

Mr. MARTING. I think so; yes, sir.

Mr. COBURN. Now, Mr. Marting, with reference to the price of nickel at the present time, there has been a recent drop in the price of electrolytic nickel; has there not?

Mr. MARTING. That is right.

Mr. COBURN. Two cents a pound, I believe?

Mr. MARTING. That is right.

Mr. COBURN. When did that occur?

Mr. MARTING. That was this summer sometime. I cannot think of the exact date now. I could check it for you very quickly.

Mr. COBURN. And I suppose the market price of electrolytic nickel is immediately reflected in the price of ferronickel, too, is it not?

Mr. MARTING. Yes, sir.

Mr. COBURN. They go up and down in relationship to each other?

Mr. MARTING. That is correct, sir.

Mr. COBURN. And is it rather common knowledge, or, rather, a common viewpoint among the people who are in the nickel mining business that the market is pretty soft at the present time?

Mr. MARTING. Quite soft, softer than we would like to see it, sir.

Mr. COBURN. Because of the fact that steel production is down?

Mr. MARTING. That is one of the major considerations, plus the fact there has been a large expansion, as you know, in the nickel business, and the two together, I think, account for this softening of the market.

Mr. COBURN. The steel companies are the largest of the nickel consumers, are they not?

Mr. MARTING. I would think so. I am not so clear on electrolytic nickel because our product, you know, is ferronickel, and certainly they are by far the largest and really the only, or the major, customers of ours—the steel industry.

Mr. COBURN. Of the ferronickel?

Mr. MARTING. Of the ferronickel.

Mr. COBURN. The steel companies are?

Mr. MARTING. Yes.

Mr. COBURN. And, of course, it is common knowledge that the steel production is down, and so it tends to weaken the market of ferronickel, does it not?

Mr. MARTING. Yes, sir.

Mr. COBURN. Now, Mr. Marting, I want to ask you about two or three things that are in the statement that Mr. George Humphrey read to the committee.

He said at one point in his statement that the Government had received $5.8 million in taxes from the money that was made out of this nickel contract, did he not? This is on page 2107 of the record.

He said:

> In addition to the foregoing items reflected in the cost of nickel, the Government has also received income taxes paid to it by Hanna of $5.8 million.

Is that right?

Mr. MARTING. That is correct, sir.

Mr. COBURN. Of course, any company that is making money pays income taxes to the U.S. Government, does it not?

Mr. MARTING. Yes, sir.

Mr. COBURN. They did not pick out the Hanna Mining Co., in order to impose those taxes on them, did they?

Mr. MARTING. I do not think so, no, sir.

Mr. COBURN. And it says here that withholding taxes, $2 million for its employees at the nickel operation have also been withheld.

Well, everyone withholds taxes for the employees these days, do they not?

Mr. MARTING. Yes, sir.

Mr. COBURN. So they did not single you out there either, did they?

Mr. MARTING. No, sir.

Mr. COBURN. And then he said approximately $7 million for power from the Bonneville Dam has been paid, by the smelting company in this instance, to the U.S. Government, is that right?

Mr. MARTING. That is correct, sir.

Mr. COBURN. Well, of course, that $7 million item of power that you bought from the Bonneville Dam went into the cost of your operations, did it not?

Mr. MARTING. That is right, sir.

Mr. COBURN. And the Government paid that back to you, then, when they bought the nickel?

Mr. MARTING. That is right.

The Government paid us and we paid it over to Bonneville Power, yes, sir.

Mr. COBURN. Now, Mr. Marting, when did you become president of the Hanna Mining Co.?

Mr. MARTING. In May of 1960, sir.

Mr. COBURN. So you did not participate, did you, to any extent, in the negotiations that led to these contracts?

Mr. MARTING. No, sir, because I came with the company in January or February of 1953, which was my first——

Mr. COBURN. Mr. Humphrey, George Humphrey, also said in the course of his testimony that Hanna had to make numerous changes in the smelter.

By that, I mean the Hanna Nickel Smelter Co. had to make numerous changes in this smelter after you had taken the smelter over, is that right, or perhaps even before?

Mr. MARTING. You mean after we have taken over?

Mr. COBURN. Since you have been operating the smelter.

Mr. MARTING. You mean since March of this year?

Mr. COBURN. I do not think that he restricted you to that. I think he stated, generally, you had to make numerous changes in the smelter, and said, generally, once or twice, that if it had been left to the smelting company, they would have built a better one.

Do you remember that?

Mr. MARTING. Is this in the statement, sir, or in his testimony?

Mr. COBURN. No, this was in his testimony.

Mr. MARTING. Testimony?

Mr. COBURN. Yes.

Here is what I have reference to right here. He said this, and I am quoting now:

> And then we came along and instead of just saying "keep your plant," we paid you $1,722,000 for it and took a plant that is not as good as one we could build, and we are trying to fix it up. Now, that is the whole story, and all the rest of this stuff is just thrown in here to confuse you.

Do you remember his saying that?

Mr. MARTING. Yes, sir.

Mr. COBURN. So he says here that "this plant is not as good as one we could build".

Who, under the nickel smelting contract, was required to design and construct the plant?

Mr. MARTING. Well, that was certainly the Hanna Mining Co., or the Hanna Coal & Ore Corp. at that time.

Mr. COBURN. The Hanna Smelting Co.?

Mr. MARTING. Yes, Hanna Smelting Co.

Mr. COBURN. The contract expressly provides that, does it not?

Mr. MARTING. That is right.

Mr. COBURN. Mr. Humphrey also said at another point that profits in the mining business had to be considered on a different basis than in the manufacturing business because the mining company was selling its capital assets in the course of its business.

Do you remember that?

Mr. MARTING. Yes, sir.

Mr. COBURN. Well, of course, that is the reason why you get a tax depletion, is it not?

Mr. MARTING. You mean a Federal income tax?

Mr. COBURN. Yes, Federal income tax depletion.

Mr. MARTING. Well, that is one of the reasons, yes.

Mr. COBURN. Well, is that not virtually the only reason: Because you are selling a capital asset? Is that not the whole basis of the depletion concept?

Mr. MARTING. I think that is the whole basis for it. I am not a complete expert on why the tax laws are as they are, but that is our general understanding.

Mr. COBURN. And manufacturers, of course, do not get any depletion, do they?

Mr. MARTING. No.

Mr. COBURN. I believe that is all I have to ask at the moment, Mr. Chairman.

Senator SYMINGTON. Mr. Marting, you heard the testimony that Mr. Spang did not know who it was that refused the Government request to have a redetermination clause which would allow the Government to redetermine these contract profits in case they were found to be excessive.

He mentioned four names. Do you know who was the one that refused to let the Government redetermine any possible excess profit?

Mr. MARTING. No, sir. That was ahead of my time, as you know.

Senator SYMINGTON. I knew that. I was wondering, inasmuch as you are now president, if it has ever been discussed.

Mr. MARTING. No, so I really do not know. I know what my own opinion would be. I am sure that would be probably a joint decision of the three who really were sort of the bosses at the time. That would be——

Senator SYMINGTON. Do you remember when that was brought up before?

Mr. MARTING. Sure.

Senator SYMINGTON. Mr. Spang said he felt fairly confident it was not Mr. George Humphrey. Correct me, Mr. Spang, if I am wrong. He felt it was either the gentleman who is dead, Mr. Fish, or Mr. Gilbert Humphrey, or——

Mr. MARTING. All I could say, the way we would normally do it today, sir, would be——

Senator SYMINGTON. You would do it today how?

Mr. MARTING. The normal thing on something like that would be 2 or 3 of the top executives involved would talk it over and decide.

Ultimately, now that I am president, if two could not agree, then I would decide it. It would be my responsibility, yes, sir.

Senator SYMINGTON. Now, as I understand it from the questioning of counsel, on this $211,000, you expensed it out based on profits in the various divisions, regardless of where the actual expense occurred, is that correct?

Mr. MARTING. That is correct, sir.

Senator SYMINGTON. And on the $2,173,000, although none of the money was incurred as expense by the nickel division, you decided to allocate it to the nickel division, is that correct?

Mr. MARTING. That is correct, sir.

Senator SYMINGTON. On the $677,000 of income taxes, you say you felt that you had the right to do that because it was paid by the Hanna Mining Co.

Did you so express your position when you filed your income tax returns?

Mr. MARTING. No, sir.

You mean on that?

We showed the tax paid because we had to pay it under the tax return on the Hanna Nickel Smelting Co., sir.

Senator SYMINGTON. Was it an allocation to the smelting company, and expressed that way, and deducted from profits?

Mr. MARTING. Yes, sir.

Senator SYMINGTON. The first announcement of these hearings was on the 31st of January, 1962. Am I correct that these original checks, and the vouchers, were destroyed after that time?

Mr. MARTING. That would be our best guess, yes, sir. They would be destroyed after that time of the Hanna Mining Co., General Division.

Senator SYMINGTON. One more point, Mr. Marting:

In this statement, sent out in the pamphlet, you show a profit of $7,535,000 as against the profit you filed with the Government of $10,469,000.

Relative to the deductions counsel has been discussing with you, what was the position of your auditors, Ernst & Ernst? Did they approve of this reduction that you made only this summer?

Mr. MARTING. Yes, sir. We talked this over with them, and they know the nature of these expenses, and they assured us they thought this was a fair presentation we were trying to make of what our net profits were under this whole contract.

Senator SYMINGTON. Do you plan to file for a tax refund; have they advised you to that effect?

Mr. MARTING. No, sir, we do not.

Senator SYMINGTON. I must say this is unique. Most people file as low a tax return as possible, in order to pay as little taxes as possible.

I cannot yet understand how you filed a profit return of over $10 million with the Government; and then, just prior to these hearings decided to cut that profit $2.5 million.

You say you did this with Ernst & Ernst approval?

Mr. MARTING. Yes. We went over with them our computations of bringing the $10 million figure down to the $7,534,000.

Senator SYMINGTON. And even though none of that expense of $2,173,000—I will just pick the large figure—actually had anything to do with the nickel company, they approved your taking that as a deduction?

Mr. MARTING. Yes, sir. Some of the expenses of exploration should be allocated, sir.

Senator SYMINGTON. Senator Beall?

Senator BEALL. Thank you, Mr. Chairman.

Mr. Marting, the Hanna Co. has been in business for a number of years, in the mining business, is that right?

Mr. MARTING. Yes, sir.

Senator BEALL. And is it not natural in the mining business, if you are going to stay in business, that you must keep developing and prospecting for new ore?

Mr. MARTING. Absolutely, sir, yes, sir.

Senator BEALL. So it would be the natural thing, if you were depleting your property, to keep on developing, would it not?

Mr. MARTING. Yes, sir.

Senator BEALL. And looking for new ore?

Mr. MARTING. Looking for new ores.

Senator BEALL. I understand that clearly.

But, now, the smelting company, as I understand it, the Hanna company did not want to go into the smelting business. That was in the record.

Mr. MARTING. That was in the record, yes, sir.

Senator BEALL. It did not make any money but, at the same time, you were making a profit, so, at the same time, you had to pay taxes, did you not?

Mr. MARTING. Yes, sir.

Senator BEALL. And in paying your taxes, you had to go somewhere back to the parent company to get the money to pay the taxes?

Mr. MARTING. Yes, sir.

Senator BEALL. Thank you, Mr. Chairman.

Senator SYMINGTON. Thank you, Senator.

Senator Thurmond?

Senator THURMOND. Mr. Marting, I want to ask you this: Some of the witnesses have testified along this line, and I want to get your opinion directly on this point.

How does the profit on this contract, the nickel contract with the Government, compare with your other contracts existing at that time?

Mr. MARTING. The other contracts, sir? Do you mean——

Senator THURMOND. The other contracts that your company had at that time.

Mr. MARTING. That was a little ahead of my time, Senator, but put it this way:

The way we look at our property, sir, I have tried to——

Senator THURMOND. In other words, did you make a larger percent on your investment in this nickel contract with the Government than you did on other contracts, or a smaller percent, or about the same?

Mr. MARTING. I would say we undoubtedly made a larger percent, but not a great deal larger percent.

It all depends on the way you compute it, sir.

I might answer it this way, Senator:

The way we look on our own operations now as the head of the company, we look on it mainly from the standpoint of how much profit we make on the mines on a pro tem basis. There would be good mines and poor mines, and we do not normally get comparing things like our nickel division and our Minnesota division.

Senator THURMOND. I want to ask you this:

Did you use one set of figures in computing the taxes due the Government and another set of figures in computing the profit that you made from this Government contract?

Mr. MARTING. Senator, our——

Senator THURMOND. And, if so, would you attempt to reconcile why you did that and the purpose of it?

Mr. MARTING. Senator, may I answer it this way:

On our tax returns and our books, there is always a reconciliation, but, certainly, in every year what we show as our taxable net income for Federal tax purposes and what we report in many years as our income has to be adjusted, and there are adjustments, and we make those on our tax returns.

In other words, we might write off certain items, say, on some of these properties that we think no longer have any real value, and where we would not be able to take tax credit for the write-off, so, to that extent, our books and tax returns would be different, but we have a complete reconciliation on our tax returns between tax and book figures, sir.

Senator THURMOND. You have not shifted your figures in connection with your business with the Government in any way that would indicate that you took advantage of one set of figures in computing profit as compared with another set of figures in computing taxes?

Mr. MARTING. No, sir.

We certainly did not in any way intend to. The only point of this, sir, was to try, for us to try to say what we really thought we made out of this, and these figures do check with tax return figures and also our book figures.

Senator THURMOND. Do you feel that the manner in which you have made your computations is fair and just to the Government?

Mr. MARTING. We do, yes, sir.

Senator THURMOND. You do not feel that the Government in any way was taken advantage of in this contract you had with the Government?

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

Senator THURMOND. And you justify a larger profit of this Government contract on what basis, since it is larger than the profit you made on other contracts?

Mr. MARTING. Well, I think there are two things, Senator; a nickel ore and an iron ore are two different types of materials.

This nickel ore, nickel is a much more expensive part in steel. They are really the basic raw materials. And we had this one deposit and not a very large one, and you are getting into the early days of negotiations, Senator, when I was not part of the company, but knowing it now from hindsight, seeing what the results have been, in my own personal opinion it was a fair price.

Senator THURMOND. It has been brought out here that you used two corporations instead of one. Just why did you do that?

Mr. MARTING. Well, I was not with the company at the time, sir, as you know. I did not come until after the contract had been signed, so I am repeating what I heard, and the basic reason we did that is that the mine had always been a Hanna Mining Co. property.

The smelter was one that was going to be mortgaged to the Government for the loan the Government gave to the smelting company to build the plant.

It certainly was much easier from the standpoint of keeping the records straight. All of the records and all of the transactions in the nickel smelting company were subject at all times to the auditing

of the Government that these costs were correct costs while they were not in the mining company. So I think the very logical way to do it, in order so there would be no crossovers of worrying about, if you had only one company, whether a certain expense ought to be charged to mining or smelting, I would think, sir, if I were president and we had the same thing again, I would insist on two contracts primarily for that reason, because, otherwise, you could see the allocation problems you would get into.

One was on a cost basis and one was on—I think it is primarily simplicity of handling both of the contracts, sir.

Senator THURMOND. There is an old saying that a man has to appear right as well as be right, and, in looking back over the contract now, in looking back over this deal with the Government, do you think it would look better and appear better if you had just one contract, if you had to do it today?

Do you think you would just use one contract instead of two?

Mr. MARTING. Senator, I am afraid, if I had to do it, I would really want two contracts and two companies, because all this problem that you have where one is on costs, subject to full audits, and the other is just a fixed-price contract, and I would think the allocation problems, if you had one contract and one company, would be—you have seen some allocation problems we had here.

I think they would just be continuous.

Senator THURMOND. I want to ask you this question:

Since the entire amount of development expense incurred between 1949 and 1952 with regard to the Riddle mine was charged off to the property, isn't it possible that some portion of the $9½ million which has been allocated will at some time in the future be written off to some specific, successful project?

Mr. MARTING. Conceivably, sir, when the writeoff is $9½ million, Senator, that is a decision, when we write it off on our books, that is when, in the opinion of many, that thing is very unlikely we will have any operating properties out of this $9½ million.

When we spend money, sir, and we feel there might be an opportunity that there will be a development, we do not write it off and that is not included.

I think a fair example is money we are spending now in Brazil, a tremendous amount, and you know the critical situation in Brazil. We have little production down there, but we don't think we are justified in writing it off because we are going ahead, and that, from a business, from our standpoint is the method we will use, sir.

Senator THURMOND. Would not this in turn reduce the amount allocated to the Riddle property and increase the amount of profit?

Mr. MARTING. Yes, sir, because we start with $10 million, which I think we all have agreed on, and we come down to the $7.5 million, sir, and part of this is a reduction.

Senator THURMOND. I think there was something said by Mr. Humphrey or someone connected with the company that one reason that the profit, I am not sure that is correct, but I seem to have a recollection that it is, but one reason possibly the profit was larger was because the nickel mine was being depleted. In other words, you had an asset there and once you use the nickel it is gone forever, and therefore your investment is gone, and I want to get your reaction to that.

Is that line of argument a justification for receiving a larger percentage of profit on investments than an average investment or does that line of thinking enter into it at all?

Mr. MARTING. Well, I think it does this way, Senator Thurmond, in the sense that the mining industry, dealing with a wasting asset, has to rebuild their mines or find new mines and that, I think, is a general justification why the profits in the mining industry would be higher as a rule than manufacturing, because one is dealing with a wasting asset, and the other is not.

Senator THURMOND. Thank you, that is all, Mr. Chairman.

Senator SYMINGTON. Mr. Marting, how much refund did you get on that $667,000 credit you show—how much refund in taxes later on?

Mr. MARTING. On the $667,000?

Senator SYMINGTON. The next to the last figure——

Mr. MARTING. That is right, sir.

The nickel smelting company had an operating loss for the year 1961 and as a result of that we got a carryback of $120,000, part of which is allocated to the $667,000.

Senator SYMINGTON. If you were actually given credit later on for over $100,000 of that amount, don't you think you ought to bring out that fact in your statement if you are going to use the figure at all?

Mr. MARTING. Well, sir, our only thought on that was, we did discuss that, sir, was as a part of that same thing. We also had an operating loss in the nickel smelting company. If you take one, then it seems to us you ought to take them both.

Senator SYMINGTON. But you take the same reduction twice; first the full reduction, then $127,000 of that back in refund.

Mr. MARTING. But at the same time you had a larger operating loss in the nickel smelting company.

Senator SYMINGTON. I don't understand this. If you use the figure at all, which would seem wrong, surely you should deduct what was refunded to you.

One other question. You show on your income tax return, profits on sales of $26 million, before taxes, of roughly $15 million.

Mr. MARTING. $15 million, yes, sir.

Senator SYMINGTON. Right.

Mr. MARTING. That is the top figure there, yes, sir.

Senator SYMINGTON. Normally, the income tax is 52 percent, on a corporation, is it not?

Mr. MARTING. Not on mining company.

Senator SYMINGTON. Yes, but the general figure?

Mr. MARTING. Yes, sir.

Senator SYMINGTON. So, if it wasn't for the depletion you were allowed as a mining company, you would show a profit after taxes of about $7.4 million, instead of $10 million, isn't that correct?

Mr. MARTING. That is correct, sir.

Senator SYMINGTON. We have done a lot of talking about the difference between a mining company and a normal company. The fact is that that difference is recognized in the tax law.

Mr. MARTING. It certainly is recognized in the tax law, yes, sir.

Senator SYMINGTON. Thank you.

Senator Bush?

Senator BUSH. Thank you, Mr. Chairman.

There has been so much discussion about the question of profits that I want to ask you a few questions to clear up some of the statements that have been made about the relative profit to costs and sales and investments and so forth.

My first question is this: Speaking only of the nickel division, what was the percent of profit compared to cost and expenses?

Mr. MARTING. Well, Senator, the way we look at that is this way: We sold to the Government approximately $27 million worth of nickel on which we made a profit of $7.5 million, I believe, which means that we have left, which had to be cost and expenses including our taxes, around $19.5 million.

So the way we look at it, which is that is the full costs of it, was we sold $27.5 million, $7.5 million and we had to spend the other $19.5 million for costs and our percent of profit based on total costs was around $7.5 million into $19 million, into $7.5 million which would be roughly 38 percent, sir.

Senator BUSH. What is the percent of profit in respect to costs and expenses that I have just said the difference between your $7.5 million and your $27 million.

Mr. MARTING. Is our total costs, sir.

Senator BUSH. What is the percent of the profit to the cost and expenses?

Mr. MARTING. That would be approximately 38 percent on that, sir.

Senator BUSH. Thirty-eight percent?

Mr. MARTING. Yes, sir.

Senator BUSH. That is after taxes?

Mr. MARTING. That is all after taxes, yes, sir.

Senator BUSH. That is over a period of 8 years?

Mr. MARTING. Eight and one-fourth years is the period we used in that.

Senator BUSH. All right.

What is the difference between this 38 percent that you mentioned and a figure of 135 percent which has been quoted here several times? What is the difference? How do you reconcile the difference between the 38 percent and the 135 percent that you have heard discussed here?

Mr. MARTING. Well, I think the 135 percent, sir, is based on profit before taxes and is related to costs but no taxes are included in costs.

Senator BUSH. So that to call a profit of 135 percent neglects the fact that the Government got back a large part of the 135 percent or a large part of that profit, so that really wasn't profit at all.

The Government got it so the company only got its 38 percent, is that right?

Mr. MARTING. That is right, sir.

You would be increasing your costs by the tax and you would be reducing the total profit by the tax.

Senator BUSH. So the 135 percent is not valid because in it are figures, money which the Government got back?

Mr. MARTING. We would not look that way, Senator, the way we would look at it as ordinary businessmen.

Senator BUSH. As cost?

Mr. MARTING. Yes, because taxes to us, they are just as much a cost to us as rent, royalties, labor, material, or anything.

Senator BUSH. Straight costs?

Mr. MARTING. Yes, sir.

Senator BUSH. What was the percentage of profit for the 8¼-year period that you mentioned to March 31, 1961, as compared to the investment in the Nickel Division?

Mr. MARTING. Well, sir, you recall we had a capital investment of $3.8 million. According to the figures we have submitted over the 8¼ years we made roughly $7.5 million.

The way we would look at it if you divided the $7.5 million which is the full 8-year period you would come up with an average of, 8½ into your 7½ would be around $900,000 a year.

Senator BUSH. So this represents the annual return?

Mr. MARTING. The annual profit; and based on our investment of $3.6 million we were looking at it we were earning each year roughly 25 percent on our investments.

Senator BUSH. So the annual return would be $900,000?

Mr. MARTING. Well, it was an 8½-year contract and we just divided that over the full $7.5 million, sir.

Senator BUSH. How do you compare that 25 percent annual return with the figure of 419 percent which was mentioned in the hearings last session and before, I believe, the figure of 419 percent, how do you compare those two figures?

Mr. MARTING. Well, I think the 419 is a cumulative figure.

In other words, each year you add on, and also it is taking profit, as I recall it, before taxes, which again we would not. I mean in our own thinking we would not do it that way.

Senator BUSH. I don't believe people generally compute their return on investment, their return on business, on investment, they don't generally compute it on investments before taxes, do they?

Mr. MARTING. Well, certainly we don't and I would say most businessmen do not.

Senator BUSH. Return on investment is ordinarily calculated on an annual basis, too, is it not?

Mr. MARTING. That is the way we always look at it, yes, sir, so much money and you make so much money on that per year.

Senator BUSH. I have one more question.

Many comparisons of profit have been made in the record here between the rates of profit on your Minnesota and Michigan iron ore, mining operations, and the nickel division.

How valid do you think these comparisons are?

Mr. MARTING. Well, what strikes us on that is this: In our Nickel Division, we only have one mine, in our Minnesota and Michigan Divisions we have several mines, but we also have a very large item which distorts quite seriously our costs, our sales and our expenses in the fact that we run through these divisions purchases and sales of ore to our steel customers and on which the profit is very small, if anything.

That is done as an accommodation to our customers and also includes ores that we buy from companies in which we have an interest. I might just give you an example of that.

Taking in Minnesota for the full period of time here, our total sales were $224 million, but of that $224 million, $137 million of it was purchased ore. We purchased it. We sold it but we had purchased it and the costs of the purchased ore was a little over $136 million, and so when you get comparing Minnesota, Michigan Divisions where you have these other factors, it is very hard to compare because I don't feel, we don't feel we are comparing like things.

Senator BUSH. Like comparing apples and watermelons.

Mr. MARTING. There is quite a difference because you see, $224 million, $137 million of that is this type of transaction.

Senator BUSH. Mr. Chairman, I want to call attention again to a letter by John G. Ford, who was Director of Contract Negotiation Division, to Mr. Howard Young on September 25, 1952, and he said in part in that, the letter is in full in the record on page 1918, he said in part this:

> The conditions of the contract with respect to prices to be paid for the ore provides for a net return of 28 percent on the proposed fixed investment total of $11,300,000 on a $3,800,000 investment by June 30, 1962, assuming that only 3,934,000 tons of ore are produced.

and then he goes on to say—

> The prices to be paid for the finished product are to be derived through methods which afford the Government adequate protection and are fair and reasonable conceding the need for the production and the price of the ore.

I have no further questions.

Senator SYMINGTON. I would put in the record the audited figures sworn to by the General Accounting Office auditors. They show, in the Minnesota Division, for the years 1954 to 1960, sales of $227,767,000; income, profit, was 9 percent. On sales of $51 million in the Michigan Division, profit was 11 percent. On sales in the Nickel Division profit was 57 percent.

Net profit as a percentage of cost based on this audit were 12 percent in the Michigan Division, 10 percent in the Minnesota Division, and 135 percent in the Nickel Division.

Net profits on sales after provision for Federal income taxes were 10 percent in the Michigan Division, 7 percent in the Minnesota Division, 39 percent in the Nickel Division.

They also got up average profits in various leading industries for the years 1958, 1959, 1960, 1961. They show an average combined profit for autos, aircraft and shipbuilding, percentage of sales after Federal income taxes, of 2.7, 3.4, and 2.9.

No figures were available for 1961 shipbuilding.

Machinery, profits, same basis, were, 4.4, 4.6, 4.0, 4.2.

Metal products, 3.2, 3.7, 3.0, 3.1.
Metal manufacturing, 4.2, 5.7, 4.7, 4.9.
Glass, 9.1, 10.4, 8.4, 7.3.
Rubber, 3.6, 4.6, 3.7, 3.9.

There are many others, I won't take the Committee's time on them. Other than Glass, the only one that does go over 10 percent is mining. It was 10.5 in 1958 and 10.8, 10.9 in 1960 and 1961, respectively.

Now, the figures on your Nickel Division: 49, 47, 42, and 45 percent, respectively, for these 4 years.

I would put these figures in the record, and would like you to look at them. If you have any comments, criticisms, or suggestions we would be glad to receive them.

Senator BUSH. Mr. Chairman, reserving the right to object, which I won't do, I would like to comment I don't see the relevance of those figures at all. We are talking about an entirely different kind of business operation.

There are some elements, even in the mining business, losing money heavily.

Senator SYMINGTON. I read the mining figures.

Senator BUSH. I know you did. And I say there are some elements of the mining divisions which are losing money heavily, and this fact has come out in these hearings before.

The lead and zinc business had to be kept alive, partly by the operations of the stockpile, in order to preserve the national mobilization base; otherwise, they would likely have lost so much money that they would have gone bankrupt. So I want to protest, for the record, that the figures which you wish to enter and which I certainly shall not object to, do not have any relevance with respect to the Hanna contracts, which are a very highly specialized enterprise under very special conditions.

Senator SYMINGTON. I think the Senator has made his position clear.

The Hanna Mining Co. financial statement is one source for these figures.

Another sources is an article written on the subject in Fortune magazine, the July issue.

My point in bringing this up was to show that profits in this Hanna nickel operation, with no risk, were 5 times, roughly, average mining company profits, and as much as 20 times the profit of other major industries in this country.

In most of the companies in these other industries, considerable risk is involved. The General Accounting Office reported there was no risk in the nickel contracts we have under discussion. That fact would seem most pertinent to me.

(The charts are as follows:)

HANNA MINING COMPANY
SCHEDULE OF PROFITS REALIZED BY THE
THREE MINING DIVISIONS, 1954-1960

PER AUDITED STATEMENTS

	NICKEL DIVISION	MINNESOTA DIVISION	MICHIGAN DIVISION
2/ TOTAL INCOME (GROSS RECEIPTS)	$26,263,478.86	$227,767,266.39	$51,492,538.14
3/ TOTAL COSTS	11,200,268.71	206,668,860.81	45,820,929.18
1/ NET PROFIT	15,063,210.15	21,098,405.58	5,671,608.96
PROVISION FOR FEDERAL INCOME TAX	4,893,900.00	5,294,240.78	721,400.00
4/ NET PROFIT AFTER PROVISION FOR FEDERAL INCOME TAXES	10,169,310.15	15,804,164.80	4,950,208.96
1/ NET PROFIT AS A PERCENTAGE OF:-			
2/ TOTAL INCOME	57%	9%	11%
3/ TOTAL COSTS	135%	10%	12%
4/ NET PROFIT AFTER PROVISION FOR FEDERAL INCOME TAXES AS A PERCENTAGE OF:-			
2/ TOTAL INCOME	39%	7%	10%
3/ TOTAL COSTS	91%	8%	11%

HANNA MINING COMPANY
SCHEDULE OF PROFITS REALIZED BY THE
THREE MINING DIVISIONS, 1954-1960

PER FEDERAL INCOME TAX RETURNS

	NICKEL DIVISION	MINNESOTA DIVISION	MICHIGAN DIVISION
B/ TOTAL INCOME (GROSS RECEIPTS)	$26,296,099.95	$229,989,874.10	$51,255,610.28
C/ TOTAL COSTS	11,199,653.70	207,862,762.54	44,800,449.88
A/ NET PROFIT	15,096,446.25	22,127,111.56	6,455,160.40
PROVISION FOR FEDERAL INCOME TAXES	4,893,900.00	5,294,240.78	721,400.00
D/ NET PROFIT AFTER PROVISION FOR FEDERAL INCOME TAXES	10,202,546.25	16,832,870.78	5,733,760.40
A/ NET PROFIT AS A PERCENTAGE OF:-			
B/ TOTAL INCOME	57%	10%	13%
C/ TOTAL COSTS	135%	11%	14%
D/ NET PROFIT AFTER PROVISION FOR FEDERAL INCOME TAXES AS A PERCENTAGE OF:-			
B/ TOTAL INCOME	39%	7%	11%
C/ TOTAL COSTS	91%	8%	13%

NET PROFIT AFTER FEDERAL INCOME TAXES
AS A PERCENTAGE OF SALES.
(RETURN ON SALES)

	1958	1959	1960	1961
A. NICKEL DIVISION	49.0	47.0	42.0	45.0
B THE INDUSTRY MEDIANS				
MINING	10.5	9.7	10.8	10.9
FOOD AND BEVERAGE	3.0	3.0	2.6	2.8
TOBACCO	9.6	9.4	9.0	8.9
TEXTILES	3.1	4.0	3.9	3.0
LUMBER AND WOOD PRODUCTS	4.2	5.0	3.6	2.6
PAPER AND ALLIED PRODUCTS	5.6	6.8	6.0	4.3
PUBLISHING AND PRINTING	3.6	3.3	3.7	3.7
CHEMICALS	6.4	8.0	5.4	5.3
PETROLEUM REFINING	5.5	6.3	6.8	7.2
RUBBER	3.6	4.6	3.7	3.9
GLASS, CEMENT, GYPSUM CONCRETE	9.1	10.4	8.4	7.3
METAL MANUFACTURING	4.2	5.7	4.7	4.9
METAL PRODUCTS	3.2	3.7	3.0	3.1
MACHINERY	4.4	4.6	4.0	4.2
APPLIANCES, ELECTRONICS	3.5	4.4	4.0	4.1
AUTOS, AIRCRAFT, SHIPBUILDING	2.7	3.4	2.9	N/A

SOURCE: A. HANNA MINING COMPANY FINANCIAL STATEMENTS
B. FORTUNE MAGAZINE JULY ISSUES 1958 – 1961

Senator SYMINGTON. Senator Engle?

Senator ENGLE. Mr. Marting, when did you get these figures together which show $7.5 million profit instead of a $10 million profit?

Mr. MARTING. That was done this summer, Senator.

Senator ENGLE. Were those figures prepared as a normal program in your operation or were they prepared specifically for this investigation?

Mr. MARTING. They were prepared primarily for this to how what we made out of the whole nickel contracts. It would not be a normal corporate procedure, because we do not allocate, except to the general division, all of these expenses.

Senator ENGLE. In other words, these figures were put together for the specific purpose of indicating that this contract did not embody the excessive profits that had been charged in the GAO report; is that correct?

Mr. MARTING. Would you please repeat that, sir; I am sorry.

Senator ENGLE. What I am trying to find out is whether or not you are trying to show, by these figures, that the excessive profits which have been mentioned were not in fact true, is that right?

Mr. MARTING. No, sir, we were trying to show here what we thought we really made out of this.

Senator ENGLE. I am not challenging your bad faith; what I am trying to find out is whether or not you are trying to demonstrate that this contract wasn't in fact an unconscionable contract.

Mr. MARTING. No, sir; the only purpose we have is to show just what we made on this contract, sir, and that is the purpose of it.

Senator ENGLE. Do you concede that the Internal Revenue Service would not permit or allow these deductions which you have made to reduce the $10 million profit to $7.5 million?

Mr. MARTING. Well, many of them have been allowed by the Internal Revenue Service, Senator. These are just taking and applying them against the Nickel Division, because, as I said on many of these, the only way we get the money is from our profitable operations, our mines.

Senator ENGLE. I understood you to say to the chairman, however, that you did not contemplate filing for a refund.

Mr. MARTING. No, sir.

Senator ENGLE. Well, isn't that a concession that the Internal Revenue would not allow those deductions?

Mr. MARTING. No, sir, because we got them on the company as a whole and what we have done is taken various of these expenses and put them against the divisional profits of the Nickel company, the Nickel Division.

Senator ENGLE. What I am trying to say is that if they are deductible, why don't you go back and ask for a refund?

Mr. MARTING. Well, I think we have already deducted them in the Hanna Mining Co. tax return, and in the Hanna Mining Co. tax return they have—they have the Nickel Division as part of it.

But most of these expenses were deducted on the General Division, as shown here on the books, and we are saying that they should be applied into trying to get the true profit from our profitable mines. These costs should be allocated to our various operating properties.

Senator ENGLE. It looks to me like, in that instance, you are taking them twice; that is, you have taken them on the set of income tax figures already filed.

You do not intend to ask to have them deducted, or ask for a refund from the Treasury Department because they have already been entered into other income tax returns and now you put them on this chart.

Isn't that taking them twice?

Mr. MARTING. I don't think it is, sir; no, sir.

Senator ENGLE. Well, maybe you have a different way of getting at it from the way I do, but if you have a return coming to you, it seems to me that you owe it to your stockholders to go get it; and if you don't have, then it appears to me that these figures may be only for the purpose of demonstrating that this is not as bad a contract from the Government's standpoint as it might appear.

One other question, I would like to ask:

The GAO report came out in April 1961. When did you call in this firm to look over your records?

Mr. MARTING. The first contact was made with them, sir, in September 1961.

Senator ENGLE. When was the time, previous to that, when you called in a firm to look over your records?

Mr. MARTING. Well, it started in 1953 when they made a big study and gave us the first program and the second time they were out was

in 1958 and in between they did not come out until we asked them in September of 1961.

Senator ENGLE. Did the destruction of these records have anything to do with the GAO report?

Mr. MARTING. No, sir.

Senator ENGLE. None at all?

Mr. MARTING. None at all.

Senator ENGLE. Thank you very much, Mr. Chairman.

Senator SYMINGTON. Mr. Counsel?

Mr. COBURN. No further questions.

Senator BUSH. I would like to ask just one more question, I should have asked it before.

But I read you what Mr. John G. Ford wrote to Howard Young on September 25, with respect to return on investments and I want to repeat it.

He said:

The conditions of the contract with respect to prices to be paid for the ore, provided for a net return of 28 percent per year on the proposed fixed investment or a total of $11,300,000 on a $3,800,000 investment by June 30, 1962, assuming that only 3,934,000 tons of ore are produced.

So he predicted a return of 28 percent in his letter to Howard Young apropos of this contract. I understood you to say your return was actually 25 percent on the investment.

Am I correct?

Mr. MARTING. That is correct, sir.

Senator BUSH. My point is, then, that his estimate at that time, September 25, 1962, was very close, was it not?

Mr. MARTING. Well, I think one thing on that, Senator; I think that $11.3 million is the profit before taxes.

Senator BUSH. Yes.

Mr. MARTING. Yes.

And what our figures show from our tax returns and all here is that the profit we made out of the whole thing was $15 million before taxes, the difference being mainly that he used sales of around $3.9 million, I think I am correct.

Senator BUSH. $3.8 million.

Mr. MARTING. $3.8 million, whereas actually the total sales made were $4.4 million.

Senator BUSH. Profit.

Mr. MARTING. So naturally you would get a much higher profit from more tons sold, but generally that is very close.

Senator BUSH. Tons?

Mr. MARTING. Tons with what we came up with.

Senator BUSH. Yes.

My point is that what he estimated at that time was a pretty close estimate as to what actually happened.

Mr. MARTING. Actually happened——

Senator BUSH. After a period of——

Mr. MARTING. After 10 years.

Senator BUSH. Eight years.

Mr. MARTING. Yes.

Senator SYMINGTON. Let me be sure now.

The estimate referred to by the Senator from Connecticut was an estimate of 28 percent before taxes, is that right?

Senator BUSH. No. That is not what it says.

Senator SYMINGTON. Is that after taxes?

Senator BUSH. It says the net return.

Mr. MARTING. I think that is before taxes, Senator Bush.

Senator BUSH. It says net.

Senator SYMINGTON. The staff tells me it was before taxes.

Mr. MARTING. That is the way we read it, Mr. Chairman.

Senator SYMINGTON. Actually, it was less than half of what you made. You made 57 percent before taxes on sales?

Mr. MARTING. Well, I was looking at it; he said we were going to make about $11 million.

Senator SYMINGTON. You paid income tax on $15 million profit and sales were $26 million.

Mr. MARTING. I think that is right; yes, sir.

Senator SYMINGTON. I have several more questions.

You have been a tolerant witness and we are grateful.

The truth of the matter is you would not allow the Government's oft repeated request to have a redetermination clause. Is that correct?

Mr. MARTING. That is correct, sir.

Senator SYMINGTON. And the normal right of audit of your profits was not given in this contract, correct?

Mr. MARTING. That is correct, sir.

Senator SYMINGTON. Now, as a result of these hearings, after this matter had been opened up, you changed your figures from $10 million after income taxes to $7.5 million, saying after our hearings got underway the latter was the true profit, correct?

Mr. MARTING. That is our opinion, our true profit; yes, sir.

Senator SYMINGTON. If your more recently established profit is true, then, as president of this corporation, with stockholders, isn't it your duty to apply for the tax refund you feel you should have if these are actually your true profits?

Mr. MARTING. Mr. Chairman, I don't think we are entitled to a tax refund, that is what our tax people advise me of that. This is just taking the same items which we showed one place and reallocating them, sir.

Senator SYMINGTON. Thank you.

Mr. Counsel, the next witness.

Mr. COBURN. No further questions from Mr. Marting.

You can stand down, if you please.

Mr. MARTING. All right, sir.

TESTIMONY OF LAWRENCE W. SPANG, SECRETARY, HANNA MINING CO.—Resumed

Mr. COBURN. Mr. Chairman, I had two questions I would like to ask Mr. Spang, who testified the last time we were meeting, and he is here now, and so I would like to ask him these questions, and then we will finish with him.

Mr. Spang, I want to ask you something that I frankly do not understand why it was handled this way, and it also has to do with whether an adequate audit was made of this contract, whether the Government kept in close enough touch with the way the money was spent on the capital items in this contract.

I think you can help us here in deciding whether a closer rein should be kept over contracts of this kind where the Government is putting up a large sum of money for capital expenditures.

First, may I ask you this, just so everyone will understand this problem:

As I understand it, under the contract with the smelter company the Government put up first $22 million for the construction of the smelter; is that right?

Mr. SPANG. That is right. Yes, sir.

Mr. COBURN. And that later, by amendment of the contract, it was increased to $22,875,000?

Mr. SPANG. Authorized capital expenditures, that is right. We did not draw on that amount, you understand.

Mr. COBURN. Yes. Those were the authorized capital expenditures for the construction of the smelter?

Mr. SPANG. Yes, sir.

Mr. COBURN. And under the contract, the contractor, the smelting company, was required to put that money in a separate account, was it not?

Mr. SPANG. Yes, sir; I think that is right.

Mr. COBURN. You kept it in a separate bank account?

Mr. SPANG. Yes, sir.

Mr. COBURN. From your other funds that you may have used in the operation of the smelter business?

Mr. SPANG. Yes, sir.

Mr. COBURN. This was your special bank account for the Government capital expenditures to build the smelter?

Mr. SPANG. Yes, sir.

Mr. COBURN. Mr. Spang, I have a letter here dated October 3, 1957.

Let us see. That was after the smelter was built and in operation, was it not?

Mr. SPANG. Yes, sir.

Mr. COBURN. But from time to time there were certain replacements or new equipment added to the smelter?

Mr. SPANG. Yes, sir.

Mr. COBURN. And the Government was still paying for those capital items, the items that were really capital items, from this capital account, were they not?

Mr. SPANG. Yes, sir.

Mr. COBURN. And before you spent any money of that kind, you, for any specific items, would write the Government and get approval, would you not?

Mr. SPANG. Yes, sir.

Mr. COBURN. For the expenditure of whatever money was allowed by the Government for the purchase of these items?

Mr. SPANG. Yes, sir.

Mr. COBURN. And you always advised them as to the nature of the items that you intended to spend the money for?

Mr. SPANG. Yes, sir.

Mr. COBURN. Is that not right?

Mr. SPANG. Yes, sir.

Mr. COBURN. That was not only the practice, but I think was required under the contract, was it not?

Mr. SPANG. Yes, sir.

Mr. COBURN. All right.

Now, here is this letter of October 3, 1957, which was written by Mr. Earl S. Millard or Mollard?

Mr. SPANG. Mollard.

Mr. COBURN. Earl S. Mollard, of the Hanna Nickel Smelting Co. to you.

Mr. Mollard was the plant manager, was he, out at Riddle, the smelter manager?

Mr. SPANG. Yes, sir. He was the man in charge of the Oregon operations, both the mine and smelter.

Mr. COBURN. Yes.

I offer first this letter for the record, Mr. Chairman.

Senator SYMINGTON. Without objection, it may be received.

(The letter referred to follows:)

HANNA NICKEL SMELTING CO.,
Riddle, Oreg., October 3, 1957.

Mr. LARRY W. SPANG,
The M. A. Hanna Co.
1300 Leader Building, Cleveland, Ohio.

DEAR LARRY: Russ Fish called me from Iron River yesterday and requested that I give you more detailed information on our immediate capital money request for $300,000 to cover the construction of such items as we consider imperative and necessary to improve operations.

The attached statements do not in any way mean that the rest of the items, amounting to over $500,000 as outlined in my letter of June 21, can or should be eliminated but amount to what we consider minimum requirements for good, efficient operation within the next year.

Our request for shop and warehouse building expansion and additional shop tools is primarily necessary because of an underestimate of the amount of shopwork necessary to maintain the operating plant, as well as an underestimate of the inventory of supplies necessarily maintained to effect continuous operation without long delays for parts. A considerable amount of work is being jobbed out to outside manufacturers and fabricators which work can be done far cheaper and with greater dispatch in our own shop. These items are quite numerous and our ability to manufacture them ourselves will result in a substantial operating cost decrease.

The addition of the skull plant to our original flowsheet, plus the necessity for much heavier ferrosilicon production, has increased our shop maintenance load. The use of mild steel in place of refractory lined and cast steel vessels has decreased our overall cost, but has thrown an additional burden on the plate and welding department of the shop. The additional raw material requirements for handling of material to and from the skull plant has necessitated the addition of more mobile equipment and a part of the new addition will be set aside for the service and repair of this extra mobile equipment.

Our original estimate, which frankly was a guesstimate, of warehouse inventory requirements was about 50 percent low. Because of the extremely slow delivery on furnace and other plant parts requirements, we have found it necessary to stock a great many items which were not originally felt necessary.

Our original request to you of a few weeks back did not point out the desirability of immediately increasing our air supply. However, this has been added to the shop and ladle relining facility as our expectation of improved production will require more continuous air. The original process contemplated reasonably small air requirements as only a minimum amount of skull was anticipated or predicted by our licensors; however, as production accelerates, our demand for ladle cleaning air increases and we deem it advisable to replace the number of small compressors we have with two larger, more efficient units.

You will recall that our original plant machinery requirements included a large ladle lining machine. This machine proved inadequate as to quantity output. It did not produce a ladle lining which would last the necessary amount of time.

This machine was replaced by the use of slag lining forms which have proven very efficient and effective, but the method of handling these forms and the hot slag throws an overload on our overhead crane work which makes these cranes unavailable when necessary for changing ladles in the reaction machine and thieving when necessary. The addition of the new ladle lining layout will take the bulk of this load off the overhead cranes freeing them for other necessary duties.

I am attaching herewith a brief outline of the estimated costs of the items mentioned above. Earlier this year we received price quotations and bids for the bulk of the items mentioned; however, none of these bids are longer firm. Price increases on most machinery items, as well as building has gone up substantially since earlier this year and to each group of items I have added 15 percent contingencies which we hope will cover these price increases.

Best regards,

HANNA NICKEL SMELTING CO.
EARL S. MOLLARD.

Desired immediate capital requirements

I. Shop and warehouse:		
(*a*) Foundations and floors		$22,000
(*b*) Building		70,000
(*c*) Overhead crane		11,000
(*d*) Warehouse shelving and equipment		12,000
(*e*) Additional machine tools:		
(1) 36-inch lathe	$25,000	
(2) Plate rolls	10,000	
(3) Metal-cutting bandsaw	1,500	
(4) Miscellaneous machines	5,000	
		41,500
Subtotal		156,500
Contingencies, 15 percent		23,475
Total		179,975
II. Relocation of ladle lining equipment:		
(*a*) 20-ton overhead crane		17,500
(*b*) 2 self-propelled cars		20,000
(*c*) Concrete		2,500
(*d*) Structural steel		10,000
(*e*) Electrical controls and miscellaneous		2,000
Subtotal		52,000
Contingencies, 15 percent		7,800
Total		59,800
III. Compressor installation:		
(*a*) 2 1,100 cubic feet per minute XLF (excluding freight)		42,000
(*b*) 2 200-horsepower starters		1,000
(*c*) Cooling system		5,000
(*d*) Foundations		600
(*e*) Piping, electrical controls, etc		5,000
Subtotal		53,600
Contingencies, 15 percent		8,040
Total		61,640
Grand total		301,415

Mr. COBURN. Now, Mr. Spang, he says to you here in the first paragraph of this letter, dated October 3, 1957:

DEAR LARRY: Russ Fish called me from Iron River yesterday and requested that I give you more detailed information on our immediate capital money request for $300,000 to cover the construction of such items as we consider imperative and necessary to improve operations.

And then he has attached to his letter a memorandum in which he mentions three items, shop and warehouse improvements of various kinds, the estimated cost of which is $179,975; second, the relocation of the ladle lining equipment, which is estimated at $59,800; and then the compressor installation estimated at $61,640, or a total of $301,415.

Do you remember that particular matter?

Mr. SPANG. It is very hazy. I think I have some recollection about it, yes.

Mr. COBURN. Well, apparently what had happened was that you had made a request of the Government for $300,000 more in capital funds to be spent for certain improvements in the plant.

Mr. SPANG. Yes, there was a request and there was an advance of that amount.

Mr. COBURN. And the Government wanted to know what it was for, and so Fish called Mollard out there in Oregon and Mollard was writing you to let you know what the three items were and the estimated cost of them, is that right?

Mr. SPANG. I guess that is right, yes, sir.

Mr. COBURN. That is to say, improvements to the shop and warehouse, relocation of ladle lining equipment, and the compressor installation.

Mr. Witness, I have another letter here dated October 9, 1957, that was signed by Mr. R. C. Fish, then president of the Hanna Nickel Smelting Co., to Mr. Holtz, Commissioner of Defense Materials Service of the General Services Administration, in which the expenditure of this money is particularized, apparently in response to the Government's request, and I offer this for the record, Mr. Chairman.

Senator SYMINGTON. Without objection.

(The letter referred to follows:)

HANNA NICKEL SMELTING CO.,
Cleveland, Ohio, October 9, 1957.

Re contract No. DMP–50.

MR. H. F. HOLTZ,
Commissioner, Defense Materials Service,
General Services Administration, Washington, D.C.

DEAR MR. HOLTZ: Supplementing our letter of September 25, the following is the additional information requested by Defense Materials Service in regard to our request for release of approximately $300,000 of additional capital funds authorized by your letter of August 16.

The amount requested for the ladle lining setup is comprised of the following items:

Overhead crane	$48,000
2 ladle cars	35,000
Steel and installation	17,000
Total	100,000

These of course are estimated amounts.

Our original plant machinery requirements included a large ladle lining machine. This machine proved inadequate as to quantity output and did not produce a ladle lining which would last the necessary amount of time. This machine was replaced by the use of slag lining forms which have proven very efficient and effective, but the method of handling these forms and the hot slag throws an overload on our overhead crane work which makes these cranes unavailable when they are required for changing ladles in the reaction machine or thieving of metal. The addition of the new ladle lining layout will take the bulk of this load off the overhead cranes, freeing them for these other necessary duties.

The proposed shop and warehouse addition is comprised of the following items and estimated amounts:

Building	$106,000
Overhead crane	13,000
Warehouse shelving and equipment	14,000
Machine tools	60,000
Small shop tools	7,000
Total	200,000

This addition is necessary because—

(1) We are required to carry a larger inventory of supplies than was originally estimated. A large enough inventory must be maintained to effect continuous operation without long delays for parts.

(2) The addition of the skull plant to our original flowsheet, plus the necessity for much heavier ferrosilicon production, has increased our shop maintenance load to the point where present facilities are inadequate.

(3) A considerable amount of work now being jobbed out to manufacturers and fabricators can be done cheaper and with greater dispatch in our own shop.

Our dust-collection system installation is about completed and while there may be some additional expenditures for that installation, ample funds will remain after the expenditures for the above projects.

Very truly yours,

R. C. FISH, *President.*

bcc: Mr. E. S. Mollard.
Mr. Lennart Carlson.
Mr. R. E. Beal.
Mr. L. W. Spang.

Mr. COBURN. And this letter says this:

DEAR MR. HOLTZ: Supplementing our letter of September 25, the following is the additional information requested by Defense Materials Service in regard to our request for release of approximately $300,000 of additional capital funds authorized by your letter of August 16.

The amount requested for the ladle lining setup is comprised of the following items:

and you mention that, and the cost is $100,000; and then the warehouse, $200,000.

I understand you prepared this letter. Do you remember preparing the letter?

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

Mr. COBURN. Do you remember the letter at all? I see a copy of it went to you, at least.

Mr. SPANG. Well, I do not remember much about it now. I know I knew something about it at the time, yes, sir.

Mr. COBURN. I notice here that Mr. Mollard out there has said they wanted to spend $300,000 for the improvement of the shop and warehouse and for the ladle lining equipment and the compressor installation, but here in this letter to the Government you report that you want to spend $300,000 for the ladle lining equipment and the warehouse improvement, and you do not mention the compressor installation at all.

Why was that left out?

Mr. SPANG. I could not answer that at all.

Mr. COBURN. You do not know why it was left out at all?

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

I will be glad to review the files on that point to see if I can develop any explanation for it, but I certainly say to you none occurs to me right now.

Mr. COBURN. And the audit of the company expenditures showed that you spent $135,000 for the warehouse improvements, and did not spend anything at all for this ladle lining setup that we could find out, but you spent $68,000 on this air compressor that was not requested, and later on about $84,000 in various kinds of vehicles that were not requested either. I am not trying to make a big thing out of something little, but it is not clear to me why it was that a certain request came in from Oregon for certain improvements and then, when you wrote the Government, the improvements were different; and then, when you spent the money, you spent it for still different things.

Why was that?

Mr. SPANG. I am afraid I cannot help you on that.

Mr. COBURN. The GSA did make an annual audit, did they, of the accounts of the nickel smelting company during the performance of this contract?

Mr. SPANG. I think that is right, yes, sir.

Mr. COBURN. In the course of the audit did it appear what the money that had been advanced for capital expenditures was spent for or was it classified in such a way that the kind of equipment could not be ascertained or learned?

Mr. SPANG. May I just confer for a moment?

Mr. COBURN. Yes, certainly.

Mr. SPANG. It is my understanding all of that detail was available to them. It is also my understanding, to some extent, they relied on the work papers of the Ernst & Ernst firm in making their audit. It is also my understanding there was a resident engineer in behalf of the Government there at the plant during all of this period who kept close track of exactly what was going on and what expenditures were being made and, no doubt, was advising the GSA headquarters here.

Mr. COBURN. I have just been told here by one of the staff investigators that the smelting company made a monthly report to the GSA of the expenditures from the capital account, but the report was in such form that the various items of equipment could not be identified.

Is that true?

Mr. SPANG. I do not know as to that.

Mr. COBURN. You do not know the answer to that?

Mr. SPANG. Not without checking, no, sir. I am not familiar with the details or whether they were incorporated in any particular report.

We can check it out.

Mr. COBURN. All right. I have no further questions.

Senator SYMINGTON. Senator Bush?

Senator Engle?

Senator ENGLE. No questions.

Senator SYMINGTON. Thank you, Mr. Spang, also, for your testimony.

Mr. SPANG. Thank you, sir.

Senator SYMINGTON. The hearing will recess until tomorrow at 10 o'clock.

(Whereupon, at 4:45 p.m., the hearing was adjourned, to reconvene at 10 a.m., Wednesday, October 10, 1962.)

STOCKPILE INVESTIGATION

WEDNESDAY, OCTOBER 10, 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, Beall, and Bush) met, pursuant to recess, in room 235, Old Senate Office Building, at 10:10 a.m.

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

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 (presiding). The committee will come to order.

We have a letter from Senator John Williams of Delaware requesting that we look into a contract the General Services Administration had with the National Lead Co.

It is the same position Senator Williams took last spring with respect to the contracts we are considering this morning.

We would like the record to show we are passing over his letter and his statement to counsel, requesting that this contract be looked into also by this subcommittee.

Mr. Counsel, what is your plan for the morning?

Mr. COBURN. The next witness, Mr. Chairman, is Mr. Gilbert W. Humphrey, who will be sworn, please.

Senator SYMINGTON. Mr. Humphrey, it is the custom of this subcommittee to swear all witnesses.

Will you raise your right hand? Do you swear that the testimony you give the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HUMPHREY. I do.

Mr. COBURN. Will you identify yourself, please, by stating your name and your address?

TESTIMONY OF GILBERT W. HUMPHREY, VICE PRESIDENT, HANNA MINING CO.

Mr. HUMPHREY. My name is Gilbert W. Humphrey, of River Road, Chagrin Falls, Ohio.

Mr. COBURN. Now, Mr. Humphrey, were you at any time president of the Hanna Mining Co., and, if so, state the period of time that you were president.

83502—62—pt. 7——15

Mr. HUMPHREY. Yes, sir.

I was president of the Hanna Mining Co. from December 9, 1952, until—I beg your pardon, December 16, 1952, to June 3, 1960.

Mr. COBURN. And you were succeeded as president of the company by Mr. W. A. Marting, who has already testified before the committee?

Mr. HUMPHREY. Yes, sir; I was.

Mr. COBURN. And he is now the president of the company?

Mr. HUMPHREY. Yes, sir; he is.

Mr. COBURN. Now, Mr. Humphrey, were you at any time an officer of the M. A. Hanna Co., and, if so, when?

Mr. HUMPHREY. Yes, sir; I was.

I was a vice president of the M. A. Hanna Co. from May 5, 1952, to May 3, 1960.

I was president of the Hanna company from May 3, 1960, to September 31, 1961, and I have been chairman of the board since that time, sir.

Mr. COBURN. Were you at any time an officer of the Hanna Nickel Smelting Co., and, if so, during what period of time?

Mr. HUMPHREY. Yes, sir; I was.

I was president of the Hanna Nickel Smelting Co. and a director from January 15, 1953, to April 23, 1953, and I resigned from both positions at that time.

Mr. COBURN. Now, Mr. Humphrey, did you participate actively in the negotiations which led to the contracts between the Hanna Mining Co. and the Government with reference to delivery of nickel to the Government, and also the contract between the Hanna Nickel Smelting Co. and the Government with reference to the same subject?

Mr. HUMPHREY. Yes, sir.

I participated in them on an in-and-out basis. My records show—and I have not had time to check these completely—that I was in Washington on three occasions prior to the time the proposal was submitted, and that I was in Washington on this business four or five more times prior to resigning.

Mr. COBURN. During the course of the negotiations?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And when you were not in Washington, I assume that you were in a situation back in Cleveland where you were participating in the decisions that had to be made with reference to reaching these two contracts?

Mr. HUMPHREY. Yes, sir; I was fully informed.

Mr. COBURN. Throughout the entire time?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Mr. Humphrey, I have here a memorandum, or, rather, a draft of the original; this is the original draft so far as we have been able to discover, but I would like to have you help us in this respect.

It at least is a preliminary draft of the proposal to the Government with reference to the sale of this nickel. It has attached to it a memorandum from you dated June 23, 1952.

Do you remember this original proposal?

Mr. HUMPHREY. Yes, sir; I think I do.

Mr. COBURN. You have in mind what I have in mind, then?

Mr. HUMPHREY. Yes, sir. You have in mind the one that was submitted?

Mr. COBURN. I did not hear you.

Mr. HUMPHREY. You have in mind my draft, not the one that was submitted?

Mr. COBURN. That is right.

I want to ask you some questions about this. Now, this memorandum—and, by the way, this was found in the Hanna files by the committee investigators. That is how we happen to have it.

This memorandum dated June 23, 1952, is to Mr. L.W. Spang, who was secretary of the Hanna Mining Co. at that time, was he?

Mr. HUMPHREY. Yes, sir; I think that is correct.

Mr. COBURN. And it says this:

Attached hereto please find a rough memorandum of the proposed deal on Riddle nickel. Will you please check this and let me have the benefit of any suggestions which you may care to make. I wish you would check particularly for mechanical operating problems and questions of time of payment, weights, and analyses in order to make sure that we will have a workable deal. It might be well to check this against the manganese transaction.

I would like very much to get this in the form of a definite proposal to the Government, to be mailed on Wednesday or Thursday of this week.

And then at the bottom is "GWH" in typing and also in writing, and those are your initials?

Mr. HUMPHREY. Yes, sir; that is right.

(The memorandum and draft are printed on p. 2290.)

Mr. COBURN. Now, this memorandum, or, rather, this draft of the proposal which is attached to the memorandum that I have just read says this with reference to what, I think, are the appropriate provisions.

First, as to mining, it says:

Hanna, through a 100-percent-owned mining subsidiary, hereinafter called mining company, will, at its cost, develop, open, equip, and operate the mine and other facilities required to produce and deliver crude ore beginning in 1954 to a smelter plant, hereinafter called smelter company.

Apparently at the time that you prepared this draft of the proposal, it was contemplated that there would be a separate corporation set up that would take the title to the mining property or your rights in the mining property, whatever they might be.

Mr. HUMPHREY. My recollection is, sir, that at the time the Hanna Development Co., which was a 100-percent-owned subsidiary, did own, did hold the lease to the property.

Mr. COBURN. Well, the testimony, so far as I recall it, in the record is that the Hanna Development Co.—is that the name of it?

Mr. HUMPHREY. I believe so.

Mr. COBURN (continuing). Hanna Development Co. did have the lease on this property throughout and still does for that matter.

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. So that does not represent any change in arrangements, does it?

Mr. HUMPHREY. No, sir.

Mr. COBURN. The Hanna Mining Co. simply had a sublease from the Hanna Development Co. did it not?

Mr. HUMPHREY. That is correct.

Mr. COBURN. For the purpose of performing the contract between the Hanna Mining Co. and the Government to deliver the ore?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. But as I read this original draft of yours, it was contemplated at that time, but maybe I am mistaken, and I want you to help me in that respect, if I am——

Mr. HUMPHREY. Yes, sir.

Mr. COBURN (continuing). That there would be a separate mining company set up for the purpose of operating this mine and delivering the ore, is that correct?

Mr. HUMPHREY. Well, I do not think we really knew whether we do it—just exactly which way we do it, sir, and this memo indicates that there was a choice of ways to do it.

Mr. COBURN. This original draft also says:

The mining company will sell to the smelter company under firm contract for a period beginning in 1954 and ending in 1961.

The ore.

Now, it originally was contemplated, then, that the mining company would sell the ore to the smelting company, rather than to the Government, as it was finally worked out?

Mr. HUMPHREY. I think we had a number of thoughts on it. That memo would certainly indicate that was one of the thoughts we had in mind, sir.

Mr. COBURN. Originally the ore would be sold by the mining company to the smelting company?

Mr. HUMPHREY. Yes, sir, I think that was——

Mr. COBURN. And, subsequently, you changed your plans in that respect and provided in the contract between the mining company and the Government, at least as far as the contract was concerned, that the ore would be sold from the mining company to the Government, right?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And then under the smelting company contract the ore would be sold by the Government to the smelting company?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Which, in turn, would sell nickel metal back to the Government?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Now, I also notice that in this draft, this original draft or early draft, that the price of the contained nickel—and this is the nickel metal—would be 20 cents a pound?

Mr. HUMPHREY. Yes, sir, that is correct.

Mr. COBURN. And that is the equivalent of $6 a ton, is it not, on 1.5 percent contained nickel?

Mr. HUMPHREY. Yes, sir, that is right.

Mr. COBURN. Now, Mr. Humphrey, there has already been introduced in the record another preliminary draft of the contemplated agreement between the Hanna interests and the Government which is not dated, and it had this provision in it which I would like to ask you about, because it is different substantially from the one that we have just been talking about.

This undated draft, which was never submitted to the Government apparently—and, by the way, I should ask you, this draft that I have just been asking you about was never submitted to the Government, was it?

Mr. HUMPHREY. No, sir, I do not believe so.

Mr. COBURN. All right.

Now, then, I have a second draft which is undated, and which apparently was not submitted to the Government, which I would like to ask you about.

This is in the record at page 1977. It says this with reference to the Hanna Mining Co.:

> This they propose to sell in stockpile to a smelter company which Hanna will cause to be formed, the price to be paid by the smelter company to be 15 cents per pound of contained nickel—

Which, as I understand it, would be the equivalent of $4.50 a ton for ore of 1.5 percent nickel.

Now, that is a substantially different price than the price that is mentioned in the draft that we were just talking about, and, in fact, the final proposal that was made to the Government.

Can you explain how it was that that change came about?

Mr. HUMPHREY. Yes, sir, I think I can.

If you will continue with that provision, it is 15 cents per pound based on the present price of 56.5 cents per pound f.o.b. Port Coburn, Ontario, plus 25 percent of any further increase in such price.

Now, if you take a 56.5-cent price for nickel today as against an 80-cent price for nickel currently, 20-cent escalation, and a quarter of that is a little over 5 cents, so that the price under this contract would currently be something over $6 a ton.

I think, probably, we considered many ways of phrasing this and many methods of computing the price. It is the escalation in this price that is basically different from anything that was suggested, sir.

Mr. COBURN. Well, now, Mr. Humphrey, this $6 price that was finally submitted to the Government and agreed on was also subject to escalation, was it not?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. So that there is nothing new about the escalation feature?

Mr. HUMPHREY. Oh, not at all.

Mr. COBURN. And can you tell me when it was that this proposal here was prepared that mentions a price of 15 cents or $4.50 a ton?

Mr. HUMPHREY. No, sir, I cannot tell you. I do not know.

Mr. CORUBN. Was it prepared before the draft that I have just asked you about which we do know is dated June 23, 1952?

Mr. HUMPHREY. Yes, sir, I am sure it was.

Mr. COBURN. You are sure that it was?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Well, was there any marked change in the price of nickel prior to June 23, 1952, that would have resulted in your changing your quoted price on the ore from $4.50 a ton to $6 a ton?

Mr. HUMPHREY. I do not believe this purported to be a quoted price. This was a draft of a proposed contract.

Mr. COBURN. Go ahead.

Mr. HUMPHREY. Yes. There is no quoted price for this ore.

Mr. COBURN. Well, I did not undertake to imply or infer here that this draft of the proposal that has been incorporated in the record that refers to $4.50 a ton was a price that was quoted to the Government.

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. I did not mean to say that.

What I am inquiring about is this:

That it would appear—although, if I am mistaken, I want to be corrected—it would appear that in your own consideration of this problem within the company, that you first had in mind quoting a price of $4.50 a ton for this nickel ore. Later you changed it to $6, is that correct?

Mr. HUMPHREY. I think we probably had in discussions several prices in mind. What we were searching for was the proper price to propose to the Government, and that we thought we did in our June proposal.

Mr. COBURN. Do you recall considering a price of $4.50 that you thought was fair to submit to the Government?

Mr. HUMPHREY. I do not specifically, no, sir.

Mr. COBURN. You what?

Mr. HUMPHREY. I do not specifically; no, sir.

Mr. COBURN. However, you will not say that you did not, will you?

Mr. HUMPHREY. No, I cannot say that.

Mr. COBURN. Because the draft of the proposal here would indicate that at one time you did consider that figure, would it not?

Mr. HUMPHREY. Well, this is not my proposal, sir, and I am not certain that I saw it before.

Mr. COBURN. Well, I was going to ask you whether you had seen this proposal of $4.50 a ton.

Mr. HUMPHREY. I have no clear recollection of that, sir. I am sorry. But I would assume that I probably had, but I have no recollection of it.

Mr. COBURN. Do you know who prepared it, by any chance?

Mr. HUMPHREY. My understanding is, sir, that the initials J.K.G. appear on it, and that would be Dr. John K. Gustafson, our then chief geologist.

Mr. COBURN. Of the Hanna Mining Co.?

Mr. HUMPHREY. Yes, sir.

I beg your pardon, sir. I would like to correct that. I am advised that there is nothing on the memorandum itself, but on the figures that were attached to the memorandum are the initials J.R.G.

Mr. COBURN. That is correct.

Mr. HUMPHREY. Which would be Mr. John R. Greenlee.

Mr. COBURN. John R. Greenlee?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And who is he, now?

Mr. HUMPHREY. He is in our tax department and accounting department.

Mr. COBURN. Of the Hanna Mining Co.?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. All right.

Now, Mr. Humphrey——

Mr. HUMPHREY. Excuse me, sir?

Mr. COBURN. Go ahead.

Mr. HUMPHREY. I would like to make it quite clear that in these two prices—call them calculations or studies—there is a very different method of escalation in the two. The one that we submitted was on

labor and supplies. The $4.50 was on the price of nickel, and it is just two different ways of looking at measures of escalation.

Mr. COBURN. But it would not make the difference of $4.50 and $6, would it?

Mr. HUMPHREY. Well, the way it is worked out, it has on the Port Coburn price.

Mr. COBURN. I am not talking about what your final determination was with reference to arriving at a $6 price. I am not talking about that.

But the two forms of escalation that may be referred to—one, in the $4.50 price and one, $6—would not necessarily relate the $4.50 to $6, would it?

Mr. HUMPHREY. Not necessarily; no, sir.

Mr. COBURN. Now, Mr. Humphrey, we have here a memorandum dated July 23, 1952, by Mr. M. C. Robinson, who was a negotiator for the U.S. Government in GSA and who took part, did he not, in the negotiation of these contracts?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And this memorandum, which has already been incorporated in the record on page 1943, says this:

A meeting was held in Defense Materials Procurement Agency offices on Monday, July 21, 1952, between Hanna and DMPA representatives to discuss a proposed contract with Hanna. The following personnel attended.

And then Hanna representatives mentioned were yourself, Mr. Spang, Mr. Gustafson, Mr. Vedensky, and the DMPA representatives were Mr. Robinson, Mr. Brooks, Mr. Russell, Mr. Sherouse.

Do you recall being at that meeting?

Mr. HUMPHREY. My records indicate that I was there, sir.

Mr. COBURN. This, of course, was after the Hanna interests had made their definite proposal, the original proposal?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. To the U.S. Government?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Which occurred in June of 1952?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And that initiated, did it not, the negotiations between the Hanna interests and the Government?

Mr. HUMPHREY. It did, sir.

Mr. COBURN. Now, this memorandum of Mr. Robinson's says this:

It was pointed out to Hanna that its price of $6 per ton indicated an annual profit after taxes of 28 cents on invested capital, and that a price of $4 per ton would be more in line with general mining operations. Hanna's representatives stoutly defended their price, claiming that it was required to cover other unprofitable operations.

N.B.——

whatever that means—

It is my opinion that this price will be satisfactory, if Hanna will operate the smelter at cost.

You say here:

Hanna's representatives stoutly defended their price, claiming it was required to cover other unprofitable operations.

What does that mean, Mr. Humphrey?

Mr. HUMPHREY. Mr. Coburn, those are not my words. I would not know what he meant by that. I think our position in defending the price was what it always was: that we had concluded that this was the price that we were willing to sell for, and, as far as I know, we never changed on that price. I am not just exactly sure what Mr. Robinson meant by that.

Mr. COBURN. You do not remember, then, in defending this price, claiming it was required in order to cover other unprofitable operations?

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

Mr. COBURN. You do not remember taking that position?

Mr. HUMPHREY. No.

I am sure that we considered our overall operations when we were considering what was the proper price for this particular thing, but I have no recollection at all of defending it on this basis.

Mr. COBURN. It is a fact, is it not, that this price of $6, which was contained in the original proposal, was never receded from or changed in any sense by the Hanna interests?

Mr. HUMPHREY. That is right, sir.

Mr. COBURN. During the course of the entire negotiations?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. On the other hand, the Government people said that the price had to be justified, did they not?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. They told that to you in the course of the negotiations, is that right?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And apparently at one time took the position here that a price of $4 a ton would be more appropriate and fairer, is that right?

Mr. HUMPHREY. Apparently he did, yes, sir, but he said he thought the price would probably be satisfactory if we would operate the smelter at cost.

Mr. COBURN. Now, there is also another matter in this same memorandum that I want to ask you about. It says this:

> Financing of the smelter: DMPA's position was stated that before considering an advance against production, it was Government policy to require prospective contractors to first exhaust their own financial resources. Hanna declined to do this because they needed all such resources for purposes other than the Riddle property. They stated that they were heavily extended in Labrador.
>
> N.B. It is my opinion that if the Government wants the nickel, it will have to advance the money.

Now, do you remember that discussion?

Mr. HUMPHREY. Yes, sir; I do.

Mr. COBURN. In other words, apparently the Government took the position at this time in the negotiations that if the contractor was financially able to build the facilities that were required to deliver the metal, that the contractor should do so?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. I think they stated, did they not, to you that that was the policy of the Government with reference to operating the stockpile?

Mr. HUMPHREY. I know that that is what they said, yes, sir.

Mr. COBURN. And you people refused to finance the construction of the smelter, did you not?

Mr. HUMPHREY. Yes, we did.

I explained to Mr. Robinson at the time that Hanna Mining was very heavily extended in Canada and that we had, in effect, a blank check there. As I recall it, at that time the total company had $5 million or $6 million of working capital.

Mr. COBURN. And so that your resources were heavily committed in Labrador?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And you did not want to enter into any further commitments with reference to mining, is that it?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. At the time, at least?

Mr. HUMPHREY. That is right.

Mr. COBURN. Now, Mr. Robinson also says in his memorandum:

However, the Government will have to stand firm on refusing to include a provision for speculative damages.

By "speculative damages" do you understand him to mean what is more commonly called liquidated damages?

Mr. HUMPHREY. That was what we were talking about; yes, sir.

Mr. COBURN. Liquidated damages being damages that are agreed upon in the contract in advance of any breach of the contract.

Mr. HUMPHREY. Yes, sir; that is right.

Mr. COBURN. So that if a breach of the contract occurs, there can be no question about what the damages will be. They will be calculated from the contract itself.

Mr. HUMPHREY. That is right, sir.

Mr. COBURN. And you by this time had contended, had you, that there should be a provision in the contract to provide for liquidated damages in favor of the Hanna company in the event of a breach of the contract on the part of the Government?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And in fact in the early part of the negotiations you even contended that you were entitled to liquidated damages if Hanna would cancel the contract, isn't that right?

Mr. HUMPHREY. I don't recall that, sir.

Mr. COBURN. Well, I am not just making that up.

Mr. HUMPHREY. No; I assume not.

Mr. COBURN. It comes from some of the memorandums that we have encountered here in the course of this investigation. I wondered if you remembered that?

Mr. HUMPHREY. No; I don't, sir. My recollection of it was that if the contract was not feasible, that the mining company was to be made whole.

Mr. COBURN. Now another thing that was contended for here by the Hanna company in the negotiations, or the Hanna interests, was that there should be two contracts rather than one; is that right?

Mr. HUMPHREY. Yes, sir; that is right.

Mr. COBURN. One with the mining company and one with the smelting company.

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And the Government wanted to put all this in one contract, didn't it?

Mr. HUMPHREY. Yes, sir; they did.

Mr. COBURN. That was their customary way of doing business, and they wanted to put that all in one contract?

Mr. HUMPHREY. I don't know about the customary business. They did want to put it in one contract.

Mr. COBURN. Yes.

Now, why was it that the Hanna interests were so insistent that this matter should be broken up into two contracts rather than one?

Mr. HUMPHREY. Well, the basic reason was, as you know, we were not too anxious to make this deal on the smelter part of it. We were in the mining business and we knew very little about the smelter. We were willing to name a fixed price for our ore, and the smelting company, which was the company that was to do the part of the contract that we didn't know anything about, was to be financed by the Government on the basis of the loan, and was to be subject to a mortgage of the Government.

We didn't want to get the mine subject to the mortgage, and in addition to that, we had quite a lot of experience with jointly operated companies, and I think some of the testimony of yesterday afternoon proved some of the problems of allocations of expense.

We wanted this deal to be just as clean as it possibly could be as far as our use of the Government money and our obligations to the Government in that respect.

I think that was basically the reason that we wanted the two companies.

Mr. COBURN. Mr. Humphrey, isn't it a fact that one of the chief reasons why you wanted to break this deal down into two contracts was to permit you to make an arrangement with the Government that all of the profits of the transaction would be taken or made by the mining company and none by the smelting company, because the mining company was subject to tax depletion, and the smelting company was not?

Mr. HUMPHREY. Well, I am sure, Mr. Coburn, that we took taxes into account.

You always take taxes into account in anything you make. But I think you will find, sir, that the mine would be permitted a percentage depletion allowance under either circumstances, and that the fact that there are two contracts doesn't in any way prevent the Commissioner of Internal Revenue from testing the validity of a depletion allowance. I don't believe there is any substantial tax difference.

Mr. COBURN. If all the profits of the transaction are earned by the mining company, then the depletion allowance would be allowed to the fullest, would it not?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Because only the mining company was permitted depletion.

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. The smelting company had no right to any depletion at all?

Mr. HUMPHREY. Not as it was set up, no, sir.

Mr. COBURN. I notice—excuse me, did I interrupt you?

Mr. HUMPHREY. No profit either.

Mr. COBURN. Yes.

There was this memorandum that we found in the Hanna file which indicates that that certainly was one of the reasons why you wanted to do this. It is a memorandum dated May 13, 1952, printed on page 1984 of the record, and the initials at the bottom of the memorandum are F.G.H.

Who would that be in your organization. P.G.H. it should be, I am advised. P.G.H.; this seems to be a typographical error.

Mr. HUMPHREY. That would be Mr. Perry G. Harrison.

Mr. COBURN. Who is he now?

Mr. HUMPHREY. He was the head of the sales for the Hanna Mining Co.

Mr. COBURN. And it says at the bottom of this memorandum, "Note: All profits ascribed to mining company takes percentage depletion" which, of course was true, was it not?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And shows, I think, that you had this in mind at the time that you were setting up this arrangement with the Government.

Mr. HUMPHREY. Well, I believe, even in my draft, sir, the early draft where we had the mining company selling to the smelting company, the same thing would have been true.

Mr. COBURN. Yes, the same thing would have been true, of course. But the arrangement would have been the same, too. All the profit there would be taken by the mining company and none by the smelting company, wouldn't it, under that arrangement?

Mr. HUMPHREY. Yes, sir. That was always in the basis of our discussions.

Mr. COBURN. The mere fact that there was a change in the method of transferring the ore from the mining company to the smelting company as originally contemplated, too, from the mining company to the Government as finally worked out didn't make any substantial difference in this matter, did it?

Mr. HUMPHREY. No, it didn't.

Mr. COBURN. We have here a memorandum from Mr. M. B. Gentry, one of the GSA negotiators.

Do you remember him? I think he was a consultant for the negotiators.

Mr. HUMPHREY. Yes, sir I do.

Mr. COBURN. An enginering consultant.

Mr. HUMPHREY. I remember him, sir.

Mr. COBURN. And this memorandum is dated July 2, 1952, and he says this among other things:

> Hanna insists on this involved setup of a mining company and smelting company because they concluded that only by this means may they benefit by depletion credits from the mine. They insist that the cost of nickel to DMPA will be less by this setup than by any other method of handling the transaction.

(The complete memorandum is printed on page 1883 of the record.)

Mr. COBURN. Now, that again shows that during the negotiations you were insisting, were you not, that there be two separate contracts and your reason then stated was that the mining company should take all the profits because it was subject to depletion?

Mr. HUMPHREY. I don't believe we ever stated—we had a number of reasons as I have tried to outline for this two-contract system.

As I said earlier, the administrative problem, the mortgage problems, there are a variety of problems that it seemed to us to be much simpler and cleaner to handle with two separate companies.

Mr. COBURN. But evidently this tax question was much in your mind, because these Government people seemed to mention it as having been discussed in the negotiations; is that right?

Mr. HUMPHREY. I probably wasn't present at that time. I don't recall it.

Mr. COBURN. You don't recall whether it was or not?

Mr. HUMPHREY. No, sir.

Mr. COBURN. Were you present at a meeting of the negotiators on August 8, 1952?

Mr. HUMPHREY. My records so indicate, sir.

Mr. COBURN. Your records so indicate?

Mr. HUMPHREY. Yes.

Mr. COBURN. I have here a handwritten memorandum by Mr. Louis Brooks who was one of the Government negotiators and who also was present, in the which he says, among other things, referring to the Hanna interests:

> Still want two contracts for tax purposes.

Do you remember in that particular meeting that the subject was discussed that you insisted on these two contracts because you wanted to get this tax advantage?

Mr. HUMPHREY. I don't recall it, sir, no.

Mr. COBURN. At any rate the final result of the negotiations in this respect was that the Government acceded to your demand that there be a separate contract for the mining company and one for the smelting company?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Mr. Humphrey, I have here a letter dated August 19, 1952, from you, signed as vice president of the mining company, by the way, to the DMPA.

Were you vice president of the mining company on August 19, 1952?

Mr. HUMPHREY. Just one moment, sir.

Mr. COBURN. Would that be right?

It doesn't make too much difference, but I just want to make sure we are correct about this.

That is August 19, 1952.

Mr. HUMPHREY. It doesn't appear that I was, sir. I don't know how that happened.

Mr. COBURN. At any rate you signed the letter that way but it doesn't make any difference. You signed the letter, didn't you?

Mr. HUMPHREY. Yes, sir, I did.

Mr. COBURN. All right.

Now, this really, as I read that at least, was a second proposal that was made by the Hanna people to the Government after negotiations had followed your first proposal in June of 1952.

Am I correct in that interpretation of the matter?

Mr. HUMPHREY. Do you have the page of the record, sir?

Mr. COBURN. I don't have the page of the record, no. I am not sure this has been introduced in the record; as a matter of fact, and to make certain that it has, I would like to offer it at this time.

Senator SYMINGTON. Without objection.

(The letter referred to follows:)

HANNA COAL & ORE CORP.,
Cleveland, Ohio, August 19, 1952.

DEFENSE MATERIALS PROCUREMENT AGENCY,
General Services Administration Building,
Washington, D.C.

GENTLEMEN: In the light of our recent conversations on the subject and with a view to completing our negotiations, Hanna Coal & Ore Corp. (hereinafter referred to as "Hanna") now makes the following proposal covering the mining and sale of ore containing nickel and the refining and sale of ferro-nickel to be produced therefrom from properties controlled by it on Nickel Mountain, near Riddle, Douglas County, Oreg., and for the development, construction, and operation of the facilities therefor:

I. MINING

Hanna, through a 100 percent owned mining subsidiary (hereinafter called mining company) will, at its cost, develop, open, equip, and operate the mine and other facilities required to produce and deliver ore, beginning in 1954, to a smelter plant (hereinafter called smelter company).

The mine will be an open pit, located near the top of a mountain at an elevation of about 3,500 feet, and the ore will be conveyed approximately 2 miles for delivery at the furnace site at an elevation of about 900 feet.

The estimated initial cost of this undertaking is approximately $4,300,000.

II. SALE OF ORE

The mining company will sell to the appropriate Government agency under firm contract for a period beginning in 1954 and ending in June 1962, ore containing a minimum of 100 million pounds of contained nickel and a maximum of 131,600,000 pounds of contained nickel. The contract will contain, in addition to other standard provisions, the following:

(*a*) Term: 1954 through June 1962, or until 131,600,000 pounds of contained nickel have been delivered, whichever first occurs.

(*b*) Tonnage: 1954 (or for the 12-month single furnace operation)—approximately 2,500,000 pounds of contained nickel (some of this will have to be delivered during 1953 to be available for 1954 plant operation) 1955 through June 1962 (or for each 12-month period of multiple furnace operation)—13,700,000 to 19,100,000 pounds of contained nickel per year. Government agency to set annual deliveries at not less than smelter company plant requirements for such year within the above maximums and minimums.

A ton shall be 2,000 pounds avoirdupois.

(*c*) Analysis: The ore is estimated to average approximately 1.5 percent nickel, but the mining company does not make any guarantee as to the average grade.

The Government agency will have the right to cancel the ore contract upon 2 months' prior written notice at the end of any 12 calendar month period of deliveries hereunder, if the ore delivered by the mining company during such period averages less than 1.2 percent nickel.

(*d*) Delivery: F.o.b. ore stockpile adjacent to smelter company plant.

(*e*) Price: (i) For ore analyzing 1.5 percent or less contained nickel per dry ton, 20 cents per pound of contained nickel.

(ii) For ore analyzing more than 1.5 percent contained nickel per dry ton, 20 cents plus 1.25 cents per pound for each one-tenth of 1 percent in excess of 1.5 percent contained nickel (fractions pro rata), for total contained nickel.

The prices for ore as stated above shall be escalated in accordance with the agreement of escalation, a copy of which is hereto attached.

(*f*) Payment: (i) Preliminary payment shall be made on the 20th day of each month for two-thirds of the purchase price of ore delivered during the preceding month to stockpile, based on an estimated analysis of 1.5 percent nickel and on mine weights corrected for 21 percent moisture.

(ii) Settlement of the remainder for any ore in stockpile and not taken into the smelter company plant within 1 year after delivery to stockpile shall be based on mine analyses and on mine weights corrected for 21 percent moisture with final payments to be made as provided below. The Government agency shall have the right to have such analyses and weights independently checked at the time of delivery of the ore into stockpile, and any errors discovered will be promptly adjusted in favor of the party entitled thereto.

(iii) Final payment shall be made on the 20th day of the month for all ore charged into the furnaces during the preceding month, based on plant weights and average analysis of such ore dried at 212° F.

(*g*) Termination: The Government agency shall have the right to terminate the contract for the purchase of ore upon 30 days' prior written notice if after 12 calendar months from the date of completion of the first furnace by the smelter company it is not feasible for the smelter company to produce ferronickel. In such event the mining company will be paid for the remaining ore in stockpile, and will be reimbursed for its then unamortized capital expenditures, with interest thereon to the extent that mining company has actually paid interest.

In such event the Government will then own the ore in stockpile and in process, the movable equipment of the mining company, subject to an option to the mining company to repurchase the same at the reimbursement price, and subject to the Government agency agreement to remove from the mining company's property within 12 months the movable equipment not repurchased by the mining company.

(*h*) Option: The Government agency shall have the option exercisable within 3 years from the date of termination of the ore purchase contract as above provided, to reinstate such contract for the total undelivered tonnage deliverable at the maximums and minimums specified in the contract and upon the other terms and conditions thereof.

(*i*) In the event the Government agency breaches its contract with the mining company, it shall pay the mining company as liquidated damages therefor the sum of $2.818 per ton on the difference between 4 million dry tons, and the sum of all tonnage previously paid for as charged into the furnaces and all ore fully paid for in stockpile, plus the amount of the then unamortized balance of capital expenditures of the mining company as shown on its books.

III. SMELTER COMPANY

The smelter company will have a nominal equity capitalization and the appropriate Government agency will advance from $10 to $22 million as needed for the purpose of engineering, building, and equipping a preparation plant, three to five electric smelter furnaces, refining facilities and all related equipment and facilities required to take the ore from stockpile and to produce ferronickel.

IV. PURCHASE OF ORE

The smelter company and the appropriate Government agency will enter into a contract whereby smelter company will purchase and pay for all ore charged into the furnaces at the Government agency's cost thereof. Payment to be made on the 15th day of each month for all ore charged into the furnaces during the preceding month, based on plant weights and average analysis of such ore dried at 212° F.

V. SALE OF FERRONICKEL

(1) The smelter company will enter into a contract with the proper agency of the Government for the sale and purchase of ferronickel, the contract to contain in addition to standard provisions the following:

(*a*) Term: 1954 through June 1962, or until 125 million pounds of contained nickel shall have been delivered, whichever first occurs.

(*b*) Quantity: The entire production of ferronickel from the furnaces shall not be less than 95 million pounds nor more than 125 million pounds of contained nickel.

(*c*) Analysis: Approximately 25 percent nickel and 75 percent iron, but the smelter company does not make any guarantee as to the analysis.

(*d*) Delivery: F.o.b. Government stockpile near furnace plant or to customers at terms satisfactory to Government.

(*e*) Price: The price per pound of ferronickel each month shall be the lesser of—

(i) The cost of production thereof determined in accordance with generally accepted accounting practice, including as cost the cost of ore in accordance with the terms of the purchase contract, current maintenance and rebuilding costs, and beginning in the year in which the election to

take accelerated amortization is required to be made, an amount equal to 85 percent of the total capital expenditures actually incurred divided by 5, and in the other years an amount equal to 15 percent of such total capital expenditures divided by the number of such other years, plus the interest payable in each such calendar year on the amount advanced to the company for such capital expenditures; or

(ii) Excluding the break-in period (during which cost shall include full interest and depreciation and amortization as permitted by the internal Revenue Code), 91 cents per pound of contained nickel, which price shall be subject to escalation under a provision similar to that contained in the ore purchase contract except that power shall be escalated on the basis of actual contract cost.

(*f*) Payment: Quarterly, beginning in the calendar quarter before the quarter in which ferronickel is to be first produced and delivered, the smelter company and the appropriate Government agency will jointly estimate the cost of production in accordance with paragraph (i) above. All deliveries during the ensuing 3 months shall be based on such estimated cost or the price specified in paragraph (ii) above, whichever is the lesser, with final adjustment for the year to be made on the basis of actual costs or the price specified in paragraph (ii), whichever is the lesser, within 45 days after the close of each calendar year.

Payments shall be made on the 15th day of each month for all ferronickel delivered to the Government agency in the preceding month, based on plant analyses and weights. Either party shall have the right to have such weights and analyses independently checked, and any errors discovered will be promptly adjusted in favor of the party entitled thereto.

(*g*) Default: In the event of default by the Government agency, the amount of liquidated damages shall be the cancellation of the then outstanding advances to the smelter company and indemnification against all liabilities and obligations incurred by it in connection with the expenditure of advances for construction, wages, etc., at the date of cancellation.

In the event of default by the smelter company or in the event it is not feasible to produce ferronickel within 12 months from the date of completion of the first furnace, the Government agency shall have the right to foreclose its lien for the then outstanding advances and smelter company will by appropriate deed transfer fee title to the Government agency to a sufficient area underlying and surrounding the plant site to permit the operation of the plant and disposal of waste, together with proper easements and rights-of-way for ingress and egress of personnel and facilities. The Government agency will give the smelter company an option to repurchase the plant and real estate at an agreed price.

(*h*) Right of prepayment: The smelter company shall have the right at any time to pay off the then outstanding balance of the Government agency's advances, whereupon the contracts with the Government for the purchase of ore and of ferronickel shall be terminated.

VI. CONSTRUCTION AND SALES

Hanna will—

(*a*) Agree to supervise the management of the construction and operation of the smelter company for a fee at the rate of $50,000 a year for the break-in period, and $100,000 a year thereafter.

(*b*) At the request of the Government, agree to act as sales agent for its account, and will use its best efforts to sell to consumers of nickel the entire production of ferronickel at the best price obtainable, and on terms and conditions satisfactory to the Government agency, and any amount so sold will be deducted from the amount to be purchased by the Government pursuant to its contract with the smelter company. All proceeds from any such sales, less a sales comission customary in the trade, based on the sales price of the ferronickel so sold shall be remitted by Hanna to the smelter company for application against the price otherwise payable by the Government agency under its contract for the purchase of such ferronickel. The Government agency shall on monthly billing on the 15th day of each month pay the difference, if any, between the amount received on any such sales and the price which would otherwise be paid by the Government agency under its contract for the purchase of such ferronickel.

The entire proposal is based on both the smelter company and the mining company obtaining, with Government assistance—

(1) Firm power for total furnace operation from the Bonneville Power Administration or other appropriate source.

(2) Certificates of necessity for not less than 85 percent.

(3) The highest possible priorities, particularly for electrical equipment.

If this correctly states the understanding between us, subject of course to the preparation of definitive documents, will you please so indicate by signing and returning the enclosed copy of this letter, and we will then proceed with the preparation of our plans.

Very truly yours,

G. W. HUMPHREY, *Vice President.*

Mr. COBURN. It seems to be a full recitation of this entire matter, and among the other things—I think I can ask you about this without your reading it because it is long—among the other things here it refers to the price of the ferronickel metal now, not the ore, but the price of the ferronickel metal as being an alternative price of the cost of production plus the amortization of the smelter, or in the alternative a price of 91 cents a pound of contained nickel subject to escalation. I wonder, do you recall that now?

Mr. HUMPHREY. Frankly, sir, I don't. I must have known about it.

Mr. COBURN. It evidently was a matter that must have come to your attention, don't you think?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Because it has every appearance of being a formal proposal to the Government covering the entire transaction.

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And as I say, the price of the nickel here is either the actual cost of the product by the smelting company plus amortization of the smelter, or 91 cents a pound for the contained nickel, one or the other, that subject to escalation. Do you remember any such price proposal of that kind?

Mr. HUMPHREY. My recollection of it is very hazy and I think that 91 cents was approximately the price of the alternative ceiling price plus the amortization at the time.

Mr. COBURN. In other words, you arrived at the 91 cents as a sort of a calculation, I must confess, but you arrived at it by taking your estimate of the cost of producing the nickel and throwing in the amortization of the smelting plant?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Is that right?

Mr. HUMPHREY. That is right.

Mr. COBURN. That is the way you arrived at the 91 cents?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. I ask you that because by curious coincidence our investigators' calculation of the actual sale price of this nickel, the price that the Government paid finally, the way this thing worked out, was 91 cents a pound.

Mr. HUMPHREY. Yes, sir; except for the remaining 17 million pounds which could be delivered at 58 cents.

Mr. COBURN. Yes, I note that. That was after the amortization——

Mr. HUMPHREY. Yes, sir.

Mr. COBURN (continuing). But up to today, up to now, our calculation is that the price the Government has paid for this nickel overall

is 91 cents a pound, and I mentioned that simply because it happens to coincide with your own estimates in this letter.

Senator SYMINGTON. What was the date of the letter?

Mr. COBURN. The date of the letter is August 19, 1951.

Senator SYMINGTON. 1951?

Mr. COBURN. 1952, I beg your pardon—1952.

Now one other matter, Mr. Humphrey.

Among the other things that were in contention between the Government and the Hanna interests in the course of negotiating these contracts was whether in the mining contract there would be a price redetermination clause that would permit the Government, after the contract had been performed for a while, to redetermine whether the price was fair.

Do you remember the Government contending for something of that sort?

Mr. HUMPHREY. Yes, sir; I do.

Mr. COBURN. As you have said, throughout the negotiations the Hanna people took the firm position that the price of the ore should be $6 a ton?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. On the other hand the Government said that they would be willing to start out on that basis. They finally said that, but they wanted a price redetermination provision in the mining contract, didn't they?

Mr. HUMPHREY. Yes, sir; they did.

Mr. COBURN. And, as a matter of fact, we have a memorandum here dated October 23, 1952, signed by a Mr. Morris Levinson, which was incorporated in the record (p. 2305), and it says that—

> Mr. Greene advises that both Messrs. Larson and Young feel that a provision such as that should be incorporated in the mining and smelting contract—

referring to redetermination.

Did you ever talk with Mr. Larson or Mr. Young about a price redetermination provision being put in the contract?

Mr. HUMPHREY. No, sir; I never did.

Mr. COBURN. You did not?

Mr. HUMPHREY. No, sir.

Mr. COBURN. Did you ever talk with Mr. Larson at all about the negotiations of this contract?

Mr. HUMPHREY. No, sir. I believe the only time I saw Mr. Larson was on the date of the signing.

Mr. COBURN. The date of the signing of the contract?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. How about Mr. Young? Did you ever talk with him about the negotiations as they progressed?

Mr. HUMPHREY. No, sir. I think I went to his office to say hello to him with negotiators once, or possibly twice, during the time he was there.

Mr. COBURN. At which time the negotiations were discussed?

Mr. HUMPHREY. No, sir; they were not.

Mr. COBURN. They were not discussed?

Mr. HUMPHREY. No, sir.

Mr. COBURN. What was discussed?

Mr. HUMPHREY. We simply stopped to say hello.

Mr. COBURN. It was only a friendly visit and that was all?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And the progress of the negotiations of the contract was in no wise discussed?

Mr. HUMPHREY. No, not that I can recall.

Mr. COBURN. That is, with Mr. Young?

Mr. HUMPHREY. No, sir.

Mr. COBURN. All right.

But you do recall, do you not, that in the course of the negotiations the Government contended strongly for the proposition that they ought to be permitted to redetermine the price of the ore after the contract had been performed for a time?

Mr. HUMPHREY. Yes, sir; I do, indeed.

Mr. COBURN. And the Hanna company refused to do that?

Mr. HUMPHREY. Yes, sir. We felt that that was inconsistent with the 20-cent-per-pound price that we were proposing to sell at.

Mr. COBURN. Well, of course, it was inconsistent with it; there is no question about that. But you people did not want to charge more than you ought to charge for the price of the ore, did you, more than was fair?

Mr. HUMPHREY. Well, we put a price on our property, sir, and, as you know, this was the basis on which we were willing to do it, and we were not too anxious to do it.

Mr. COBURN. You were not too anxious to make this contract?

Mr. HUMPHREY. No, sir.

Mr. COBURN. So that your answer to the Government's contention with reference to price determination, redetermination, was simply: "Well, if you do not want it at $6 a ton, why, you will not get it," is that it?

Mr. HUMPHREY. I do not know whether we put it exactly that way, but I think that would be——

Mr. COBURN. That was the substance of your position, was it?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. With them?

Mr. HUMPHREY. When we made our proposal, that was the basis, and, as I say, the 20 cents was firm. Otherwise, we would not get the contract.

Mr. COBURN. In other words, it was $6 a ton, take it or leave it. Was that it?

Mr. HUMPHREY. It really was not take it or leave it, sir. There were several changes in this pattern of negotiations that went through, but the price was settled.

Mr. COBURN. That is what I am referring to now, is the price.

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. It is your position in the negotiations it was $6 a ton, take it or leave it?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Well, Mr. Humphrey, you did not want to get more than a fair price, did you, in dealing with the Government here for this ore?

Mr. HUMPHREY. Well, this was the price that we set, and we thought it was a fair price.

Mr. COBURN. I say you did not want to get more than a fair price, did you, in dealing with your Government in the sale of this ore?

Mr. HUMPHREY. I think that we set what we thought was a fair price and stuck to it.

Mr. COBURN. I am not challenging that except to say that the Government had never been in the mining of ore before, nickel ore, in this country and had no idea, really, on the basis of any experience at all, what the cost of mining this ore would be.

Under those circumstances, do you not think that it would be fair to put a price redetermination clause in there so that any unfair profits would be avoided?

Mr. HUMPHREY. Well, we thought that the proposal we were making was fair. If the Government did not think it was fair, that was their opinion.

Mr. COBURN. They could just do without the nickel, was that it?

Mr. HUMPHREY. Well, there were plenty of alternative sources, and we were pretty sure that the other suppliers of nickel coming from foreign sources were not under such provision.

Mr. COBURN. Yes, but, of course, this was the only source of nickel in the United States, was it not?

Mr. HUMPHREY. Yes, sir, it was.

Mr. COBURN. And you knew throughout these negotiations that the Government was very anxious to get this nickel from inside the United States. You knew that, did you not?

Mr. HUMPHREY. No. I knew they were very anxious to get nickel.

Mr. COBURN. I gained the impression from statements that had previously been submitted in the record here that you had received a letter which was quoted in one of these statements from Senator Johnson—who was then a Senator, now Vice President—and it was quoted for the purpose of showing how anxious the Government was to get your nickel.

Mr. HUMPHREY. I think he was interested in getting nickel, and he was inquiring about our deposit which happened to be in the United States.

Mr. COBURN. Yes. So you well knew during the course of the negotiations, did you not, that the Government was very anxious to get this nickel that you had out in Riddle?

Mr. HUMPHREY. Well, they were very anxious to get nickel and we had some, yes, sir.

Mr. COBURN. This being the only supply inside the United States?

Mr. HUMPHREY. It is, sir.

Mr. COBURN. Well, you knew, did you not, that they were very anxious to get your nickel?

Is there any question about that? I thought there was not until now.

Mr. HUMPHREY. Well, you say to get our nickel. I knew they were very anxious to get nickel, sir, and we had some nickel.

Mr. COBURN. Do you say, then, that you did not know that the Government was anxious to get this nickel of yours?

Mr. HUMPHREY. No. I think I cannot say that, but I think that the way the question—the way the facts are, that we had some nickel which we were willing to sell at a price, and there was other nickel available.

Mr. COBURN. At any rate, you did turn the Government down on this matter of the redetermination of price, did you not?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. I have here copy of a letter dated November 4, 1952, written by you to Mr. John G. Ford, Director of the Contract Negotiations Division of GSA, in which you say, among other things:

In addition, as was agreed on Friday, the redetermination articles should be deleted from both contracts.

Do you remember that?

Mr. HUMPHREY. Should be deleted?

Mr. COBURN. "Should be deleted from both contracts."

Mr. HUMPHREY. Yes, sir, I do remember that.

Mr. COBURN. I offer this for the record.

Senator SYMINGTON. Without objection.

(The letter referred to follows:)

HANNA COAL & ORE CORP.,
Cleveland, Ohio, November 4, 1952.

Mr. JOHN G. FORD,
Director, Contract Negotiations Division,
Defense Materials Procurement Agency,
Washington, D.C.

DEAR MR. FORD: Since our meeting on Friday, we have given serious consideration to the remaining points of difference which were discussed there. While, as we indicated then, there are many changes that we think are required in the drafts of contracts which you submitted to us with your letter of October 23, 1952, we think that the only matters involving real questions of principle are the following points, and that if they can be resolved as indicated below, the remaining problems can be settled as the detailed drafting proceeds.

1. *Liquidated damages for Government breach of the mining contract.*—If the other points can be resolved, we would be willing to accept your last suggestion for settling this matter, which we understand as follows: Liquidated damages will be $1.15 per dry short ton on the minimum quantity of 3,300,000 tons of ore, less any ore theretofore mined and paid for; but if Government breach occurs before Hanna has completed its development and equipment of the properties, the liquidated damages will be that proportion of foregoing total which expenditures made for those purposes at the time of breach bear to the then estimated total cost of developing and equipping the properties.

2. *The effect on the mining and smelting contracts of failure to meet quality, quantity, and cost requirements under the smelting contract.*—The only appropriate way of resolving this problem with fairness to you and to us is, we believe, as follows:

(*a*) After we have completed the refining furnace and one smelting furnace and operated them for a year (it should be made clear, by the way, that this period as well as the period described in (*c*) below, is extended by the period of any unavoidable delay, such as that caused by difficulty in securing equipment in short supply), we will make a preliminary determination of feasibility or unfeasibility, based on our then estimate of our ability to meet quality, quantity, and cost requirements with the existing and projected facilities.

(*b*) If we determine that the process is not feasible, the smelting company will convey to you all its assets against cancellation by you of liability for all your advances to it; you will repay to the mining company its actual investment (up to $3,800,000, without interest save for interest paid by its on borrowed money) in developing and equipping the mining properties; and the mining company will transfer to you all the personalty and movable equipment procured by that investment, and will grant to you a 3-year option to reinstate the contract, with the same terms and conditions, including maximum and minimum annual tonnages and maximum and minimum total tonnage.

(*c*) If we determine preliminarily that the process is feasible, we will, within 3 months from such determination, complete two additional smelting furnaces (or, if we recommend, and you so agree, the construction of a fourth or a fifth smelting furnace, we will construct them, completion date to be 3 months after delivery of necessary equipment at the site). After 1 year's operation of the completed facility (during which year we will endeavor to deliver to you 13,720,000 pounds of ferronickel, on which the ceiling price will be the agreed figure of 60.5 cents per pound), we will make a final determination of feasibility

or unfeasibility, based on our then estimate of the ability of the completed facility to meet the quality, quantity and cost requirements of the contract.

(*d*) If we determine that the process is not feasible, the same consequences will follow as in (*b*) above. If we determine that the precess is feasible, the smelting contract will thereupon become a firm obligation, and if the smelting company thereafter commits a breach of it, the Government may terminate the mining contract without liability except to pay at contract rates for ore previously delivered.

(*e*) Failure to produce the ferronickel in required quantities below ceiling costs during the period prior to final determination of technical feasibility shall not constitute a breach of the smelting company contract.

For a number of reasons discussed at our Friday meeting, we are firmly convinced that this is a better way, from your standpoint as well as ours, of handling the determination of feasibility, as well as the questions of reimbursement and damages.

3. *Working capital advances.*—We cannot assume the responsibility of restoring working capital losses if the process is finally determined not to be feasible. If, however, the process is determined to be feasible, any subsequent loss of working capital (calculated, as we agreed, on a cumulative 3-year basis) should constitute a default unless we elect to restore the loss at the end of any such period, and the total amount of working capital advances should be added to the payment of 7½ percent or original cost of the facilities as the residual payment which the smelting company has the option to make to free the property of the Government's mortgage.

4. *Escalation.*—The escalation article of the smelting contract will be redrafted to provide for escalation in addition to the items now covered for the following:

(*a*) Escalation in the base price of ore resulting from the escalation provisions of the mining company;

(*b*) State and local taxes actually paid during the period in question; and

(*c*) Direct power costs on the basis of 24 cents per kilowatt-hour.

In addition, as was agreed on Friday, the redetermination articles should be deleted from both contracts.

If you agree in substance to the foregoing, we feel that you should immediately take steps to assist us to extend the power option with the Bonneville Power Administration. Unless that option is extended, there will be little or no possibility to work out any arrangement for the acquisition of nickel from this deposit for the account of the Government.

You will also recall that at the end of our meeting one final point was discussed which you wished further time to consider. This point involved the status of the then outstanding advances to the smelting company in the event of breach of that contract by the Government. We understood that you wanted to consider this matter further, and this letter is, of course, subject to a mutually satisfactory solution of this problem. Assuming that this matter is settled, as we have always understood, by cancellation of these advances, in this event, we will want to discuss with you the handling of our certificate of necessity under section 124(A) of the Internal Revenue Code.

As we explained to you, we are currently conducting various investigations in an effort to further prove the process, and supply information with respect to estimated costs. For our mutual protection we feel that the results of these experiments, which will require a maximum of 60 days from date, should be known pending final execution of the contracts. As a practical matter, this will not delay the transaction because we can proceed with drafting the definitive contracts in the meanwhile. In addition, although the entire negotiations have been reviewed by our board of directors, they cannot, of course, take final action until all of the matters presently under discussion are disposed of.

Very truly yours,

G. W. HUMPHREY, *Vice President.*

Mr. COBURN. Well, then, apparently this matter of redetermination had gone to the point that at one time it was written into the drafts of the contracts that were being negotiated, is that right?

Mr. HUMPHREY. I do not recall seeing the actual draft, sir, but I was advised that almost every time there was a draft presented up to a point it was in the draft.

Mr. COBURN. It was in the contract?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And you finally, late in the negotiations, because November 1952, was late in the negotiations, the Government finally gave up on getting this price redetermination provisions?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Now, Mr. Humphrey, on the other hand, the contract, as it was finally drawn, provided that the Hanna Nickel Smelting Co. could cancel this contract, could terminate it, in other words, if it was determined that the process of rendering the ore into metal was not feasible?

Mr. HUMPHREY. That is correct, sir.

Mr. COBURN. And if you did that, then the advances that were made by the Government for the purpose of building the smelter were to be forgiven, as far as the smelting company was concerned?

Mr. HUMPHREY. I think we turned the smelter back, sir.

Mr. COBURN. Yes, but I mean any obligation on the part of the smelting company?

Mr. HUMPHREY. That is correct.

Mr. COBURN. Because of the construction of the smelter, was forgiven, is that correct?

Mr. HUMPHREY. That is right. They foreclosed their mortgage.

Mr. COBURN. So that the transaction would simply be restored to its original position before performance was begun; the parties would be put back where they were before, is that right?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. The Government would get its smelter back, and the smelting company would be forgiven any obligation whatever to the Government, is that right?

Mr. HUMPHREY. Yes, sir.

But I think they still had to call that ore when they got the smelter back, if they wanted to get sombody else to run it.

Mr. COBURN. Yes, but even as to the advances, the capital advances, made by the mining company in developing the ore body, the Government had to reimburse them for that, too, did they not, if you canceled the contract?

Mr. HUMPHREY. Yes, sir, that was correct.

Mr. COBURN. Now, as I understand it from previous testimony that has been put into the record here by people from your organization, the reason why that right of cancellation existed on the part of the Hanna company was that this operation was being started without the benefit of a pilot plant, and you were uncertain whether the process would work, and, therefore, provision was made for the Hanna company to be able to cancel this contract, is that right?

Mr. HUMPHREY. That is correct, sir.

Mr. COBURN. And cancellation, the right of cancellation, was reserved until after the contract had been performed for quite some time, is that not right?

Mr. HUMPHREY. That is correct.

Mr. COBURN. You began to deliver the nickel metal under this contract, the ore, in 1954, did you not?

Mr. HUMPHREY. On a to-furnish basis, yes.

Mr. COBURN. In 1954, and the contracts provided that the Hanna companies could cancel these contracts because they were not feasible at any time up to March 31, 1956, is that not correct?

Mr. HUMPHREY. I believe that is the date, yes, sir.

Mr. COBURN. A matter of some year and a half after the performance was begun, right?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And actually this right to cancel because the process was not feasible was extended by agreement of the parties?

Mr. HUMPHREY. That is right, sir.

You see, sir, we did not want to go ahead and spend all of the money to build four furnaces before we had some commercial testing. So that what we did was to build two furnaces first and run a test of preliminary feasibility. Then we determined preliminary feasibility, and, based on that, we completed the construction of the plant.

Mr. COBURN. Excuse me.

You did not pay for building those furnaces. You do not imply that?

Mr. HUMPHREY. No, sir.

Mr. COBURN. By your statement you do. It was the Government that did that?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Yes.

Mr. HUMPHREY. But we were very conscious of our obligation in that respect.

Mr. COBURN. Yes.

Now, I started to ask you this: This right to cancel the contract by the Hanna interests was extended by agreement of the parties to the 30th of September, 1957, was it not?

Mr. HUMPHREY. I believe so, sir.

Mr. COBURN. So that as it finally worked out, the Hanna interests here had the right to cancel this contract or these contracts because the process did not work to their satisfaction, as late as 3 years after performance was begun, is that right?

Mr. HUMPHREY. I do not believe it was to our satisfaction, sir.

The Government insisted on a ceiling price here, and they also insisted on very rigid technical specifications of the product, and if we either could not make the product or could not make it within the ceiling price, then we had a right to declare that the process was not feasible.

Mr. COBURN. Yes. But you had the absolute right to decide whether you could make this metal at the price indicated in the contract or not, is that not right?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And if you found or felt that you could not, then you could cancel the contract?

Mr. HUMPHREY. I do not think it was if we felt we could not, because we had a plant in operation. It was if, as a matter of fact, we could not.

Mr. COBURN. All right, if, as a matter of fact, you could not, then you could cancel the contract?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And the Government had no right to second-guess you on that, did it?

Mr. HUMPHREY. No, sir.

The reason for that was that, say, the right of declaring feasibility was in the Government.

Mr. COBURN. What is that?

Mr. HUMPHREY. I just assume, for instance, that the right of feasibility was in the Government, and, say, that our price, instead of being the ceiling price, was $1-something over the ceiling price.

We could not put ourselves in the position of having the Government insist that we perform the full 125 million pounds at a substantial loss.

Mr. COBURN. All right.

But, now, as I asked you a moment ago, that right to cancel the contract for the reason that you have just indicated existed with the Hanna people until September 30, 1957, is that not right?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. A matter of some 3 years after you began the performance of the contract?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Now, Mr. Humphrey, I ask you:

If it was fair to have in this contract that the Hanna company could cancel this contract up to 3 years after performance was begun because you felt that it was not economically feasible, as you have just indicated, do you not think that it was only fair that the Government, as late as that same time, 3 years after performance had begun, would have the right to determine, redetermine whether the price charged for the ore was fair?

Do you not really think that the Government had the same right that you people had here with reference to canceling this contract, if you found the price was not fair?

Mr. HUMPHREY. A good part of the 3-year period that you mention was consumed by actual construction of the second two furnaces, and in running a four-furnace plant it is a very different thing than running a two-furnace plant.

Mr. COBURN. All right, I will concede that to you. That is not my question.

My point is this:

That by September 30, 1957, you evidently had been by that time given every opportunity to determine fully whether this ore could be smelted into ferronickel and sold by the smelting company to the Government at a price that Hanna could operate under, had you not?

Mr. HUMPHREY. Yes, sir; we had.

Mr. COBURN. Yes. All right.

Mr. HUMPHREY. At a price that the Government was willing to pay.

Mr. COBURN. What is that?

Mr. HUMPHREY. It was really a price at which the Government was willing to pay because the smelter was entirely a cost operation.

Mr. COBURN. Yes, Mr. Humphrey, but if it was a price that Hanna could not live under, you could cancel the contract, could you not?

Mr. HUMPHREY. Yes, sir; we could.

Mr. COBURN. And you did not do it?

Mr. HUMPHREY. No, sir; we did not.

Mr. COBURN. You decided, in fact, to go on with the contract?

Mr. HUMPHREY. Yes, sir; we did.

Mr. COBURN. All right.

Now, then, having that in mind, that you had the right 3 years after performance began here, after having tested the matter fully, to

cancel this contract if you found you could not live under it financially, do you not think that it was only fair that the Government should have had the right to redetermine the price of this ore after the contract had been performed for a substantial period of time?

Mr. HUMPHREY. Mr. Coburn, the price that we set on the ore was based on this process being a success. We were to make a profit out of the mine and nowhere else. Everything else was to be done at cost.

So the only way that there was to be any profit made in the mine was to have the process a success, and I do not see that the two cost elements are related.

Mr. COBURN. Well, they are related in this sense, it seems to me, at least:

That if you had the right to cancel this contract because you could not live under it financially, do you not think that the Government had the same right to determine whether this price of ore was fair after the contract had been performed for some time?

Mr. HUMPHREY. I do not believe we looked at it that way.

Mr. COBURN. What is that?

Mr. HUMPHREY. I do not believe we looked at it that way, sir.

Mr. COBURN. Well, why not? Why did you not look at it that way?

The negotiations were conducted between the parties here for quite some time, and during most of that time the Government contended that they should have a redetermination clause in the ore contract, did they not?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Their reason for it was that they knew nothing about the mining of nickel ore, and they, too, wanted to find out, after this contract had been performed for a while, whether the price of $6 a ton was fair.

Do you not think that that same right should have been afforded them?

Mr. HUMPHREY. It just was not. We did not agree on that; no, sir.

Mr. COBURN. What is that?

Mr. HUMPHREY. I say we did not agree on that; no, sir.

Mr. COBURN. You just did not agree on it. You just stuck to $6 a ton?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Remember, now, the country was at war at that time and you people, I am sure, were negotiating with that well in mind.

Mr. HUMPHREY. I think it was the fact that we were in a war that finally made us decide to undertake this for the Government, rather than go the other way; yes, sir.

Mr. COBURN. Well, yes, but strictly on your terms, is that not right?

Mr. HUMPHREY. Yes.

We set the price for the ore, and I think the real test of whether the price was right or not is the price at which the Government received the ferronickel, and, as I understand it, the ferronickel that the Government purchased from Hanna was the lowest priced ferronickel it had purchased under this program.

Mr. COBURN. But I am talking now about the time that this contract was entered into.

Do you not think that, really, in all fairness, considering the fact that you had the right to terminate this contract because it was not

economically feasible to you, that the Government should have had the right to determine whether the price of this ore was fair?

Mr. HUMPHREY. Well, we took our position that it was for sale, and we could not force the Government to take the contract with this provision in it.

Mr. COBURN. Now, Mr. Humphrey, there is one other matter that I would like to ask you about with reference to the negotiations between the parties, and it has to do with this question of liquidated damages in the contract.

I have, Mr. Chairman, a copy of a letter dated December 22, 1952, from John G. Ford, Director of Contract Negotiations Division, to Mr. G. W. Humphrey of the Hanna Coal & Ore Corp., which I would like to offer for the record.

Senator SYMINGTON. Without objection.

(The letter referred to follows:)

DECEMBER 22, 1952.

Mr. G. W. HUMPHREY,
Vice President, Hanna Coal & Ore Corp.
Cleveland, Ohio.

DEAR MR. HUMPHREY: Reply to your letters of November 14 and November 24, 1952, has been postponed to permit a thorough review of the contract drafts which you enclosed. I now understand that conversations between Mr. Robinson of this staff and Messrs. Spang and Greenlee have resulted in the reconciliation of a number of the new issues which were raised in your drafts but that we are still apart on several items of substance.

Your present plan to run another continuous pilot test at the Bureau of Mines station at Albany, Oreg., which is estimated to require a period of 3 or 4 months, seems to affect materially the original concept under which these negotiations have been conducted. As you will recall, the Government's position was that it was "buying time" and willing to assume an unusual number of the hazards connected with the venture because it recognized that possibilities for operating losses were increased because of the lack of testing and adequate pilot operations. It seems, however, that the latest proposal envisions the taking of sufficient time to assure yourselves as to the operating problems that will be encountered before proceeding with commercial scale operation. Under these circumstances, I think the question may very well be raised as to whether or not the Government should be asked to assume the degree of possible risk which we have discussed.

It also seems appropriate to comment that in the drafts of the contracts which are now under consideration the remedies in the event of default or breach of any of the contract terms are unequally distributed. Since it is proposed to spell out the provisions for damages to the contractor, it would be equitable that provision be made for damages to accrue to the Government in the event of default by the contractor. I have discussed this in detail with Mr. Robinson and asked him to explore it with Mr. Spang at their next meeting.

It is my understanding that you are having revised drafts prepared for the mine and smelter contracts as well as drafts of a management contract and a contract covering certain guarantees by Hanna Coal & Ore Corp. Your consideration of the factors mentioned above in connection with these revised drafts will be appreciated. As stated, the new situation in regard to further pilot tests has removed the urgency from entering into these contracts in order to attain full-scale operation at an early date, but we are concerned with conclusion of these negotiations because of the commitment which this agency made to Bonneville Power Administration following your letter of November 4, 1952, and our telephone conversation of November 6, 1952.

Very truly yours,

JOHN G. FORD,
Director, Contract Negotiations Division.

Mr. COBURN. Mr. Humphrey, this letter says this, in part:

It also seems appropriate to comment that in the drafts of the contracts which are now under consideration the remedies in the event of default or breach of any of the contract terms are unequally distributed. Since it is proposed to spell

out the provisions for damages to the contractor, it would be equitable that provision be made for damages to accrue to the Government in the event of a default by the contractor. I have discussed this in detail with Mr. Robinson and asked him to explore it with Mr. Spang at their next meeting.

Do you remember receiving that letter?

Mr. HUMPHREY. Yes, sir; I do.

Mr. COBURN. In other words, as I understand the letter the Government was taking this position, very late, incidentally, in the negotiations, was it not? This is December 22, 1952.

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. This is only a matter of about perhaps 3 weeks before the contract was signed; is that right?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And that time Mr. Ford, one of the negotiators, wrote you, and apparently took the position that if you were going to insist on liquidated damages being included in the contract for the benefit of the Hanna company, that those liquidated damages should also be provided for the benefit of the Government; is that not right?

Mr. HUMPHREY. He suggested that; yes, sir.

Mr. COBURN. Yes.

Now, Mr. Chairman, I have a letter that I offer for the record dated January 9, 1953, to Mr. John G. Ford, signed by Mr. G. W. Humphrey which I would like to offer.

Senator SYMINGTON. Without objection.

(The letter referred to follows:)

HANNA COAL & ORE CORP.,
Cleveland, Ohio, January 9, 1953.

Mr. JOHN G. FORD,
Director, Contract Negotiations Division,
Defense Materials Procurement Agency,
Washington, D.C.

DEAR MR. FORD: This will acknowledge receipt of your letter of December 22. We have recently discussed with you the possibility of adopting the French process of making ferronickel as outlined to you in my letter of December 30, 1952. We feel that the adoption of this process will not necessitate any changes in the time schedule currently proposed in the present draft of contracts.

We also note that in your letter you propose that provision be made for spelling out the damages which would accrue to the Government in the event of default by the contratcor. When our proposal was first made to the Government, it was made clear that we had not done sufficient work to be in a position to guarantee either the ore body or the process for making ferronickel. As negotiations proceeded we did agree to make a firm commitment on the part of the mining company, which was to be entirely financed by ourselves, to mine and deliver specified tonnages of a specified grade of ore. Under the terms of such a contract we are of course answerable in damages if we fail to live up to the rather rigid specifications provided, and this risk we are willing to assume.

Our reasons for asking for definitive damage provisions in the event of breach by the Government are based among other things, on two important factors: (1) because although the Government contracts are firm, it must be recognized that with the changes in administration and personnel, the possibility of a change in program is always present; and (2) because of the difficulty a private corporation faces before a court seeking to prove damages against the Government. We feel that the mining contract as now drawn is not lacking in mutuality, even though the amount of damages for default are not spelled out in one case as the legal right to damages runs both ways. In addition, we feel that the amount of damages in the event of our breach is not sufficiently measurable at this time, in view of the nature of the contract and the work to be performed.

We also do not see how a measured damage provision could be written which would not amount to a guarantee of performance in every detail under the mining contract, and which would not result in very complicated litigation over the question of intent in the event a breach did in fact occur.

We, therefore, have concluded that we would be absolutely unwilling to enter into a mining contract or any modification of the presently proposed contract if provision for predetermined damages in the event of breach by this company is to be made.

Very truly yours,

G. W. HUMPHREY, *President.*

Mr. COBURN. This letter, among other things, says this at the very end:

We, therefore, have concluded that we would be absolutely unwilling to enter into a mining contract or any modification of the presently proposed contract if provision for predetermined damages in the event of breach by this company is to be made.

Do you remember that letter?

Mr. HUMPHREY. Yes, sir; I do.

Mr. COBURN. So that you took the position that what was sauce for the goose was not sauce for the gander, is that it?

Mr. HUMPHREY. No, sir, we did not at all, because in the event of breach, of course, both parties had their rights at law.

Mr. COBURN. Of course, but my point is that the position of the Hanna company finally was this:

That there must be a liquidated damage provision in this contract for the benefit of the Hanna company, but you would not agree to any liquidated damage provision for the benefit of the Government, was that not it, in substance?

Mr. HUMPHREY. That is the way it wound up. The Government was left to its remedy in law, sir, and we spelled it out.

Mr. COBURN. I see.

Now, Mr. Humphrey, you were present when these contracts were signed, were you, here in Washington?

Mr. HUMPHREY. Yes, sir; I was.

Mr. COBURN. They were signed in Mr. Larson's office, were they?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. There was one contract, DMP–49, as I recall it, which is the mining company, that was signed by you as president of the mining company?

Mr. HUMPHREY. Yes, sir; that is correct.

Mr. COBURN. But, on the other hand, DMP–50, which was the nickel smelting company contract, was not signed by you, although you were the president of the nickel smelting company?

Mr. HUMPHREY. That is correct, sir.

Mr. COBURN. It was signed by Mr. Pierce, who was vice president?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And the word "vice" was written in front of "president" to permit Mr. Pierce to sign correctly?

Mr. HUMPHREY. So I have been advised.

Mr. COBURN. That does not indicate, however, that you were not there when the smelting company contract was signed?

Mr. HUMPHREY. Not at all, sir. My reason for that was very simple. We had had a custom in the company of, when a subsidiary was created, to use the same officers that were used in the parent company. This was followed.

Why, I do not know, because I never intended to become the president of this company.

I knew by that time that Mr. George Humphrey was going to be in Washington, and I knew by that time that Mr. George Humphrey, or that this company would have substantial negotiations to carry on while he was there.

I meant to, and I did, resign from the company, both as a director and officer, and I knew that Mr. Pierce was at that time going to become chairman of the board.

Mr. COBURN. I just wanted to make sure that it also did not indicate that this contract, namely, the smelting contract, was signed at a different time?

Mr. HUMPHREY. No, sir.

Mr. COBURN. Than that indicated in the contract?

Mr. HUMPHREY. No, sir.

Mr. COBURN. All right.

Now, one thing more that I would like to ask you. The Hanna Nickel Smelting Co. finally decided to acquire the smelter, did it not?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And paid the residual payment provided for under its contract with the Government of 1 million—well, made the payment of $1,722,000 required by the Government.

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Paid the Government back, is that right?

Mr. HUMPHREY. That is correct.

Mr. COBURN. And took title, both legal and equitable, at that time to the plant?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And has since been operating the plant?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. That transaction occurred by which the smelting company took over the plant on March 31, 1961, did it not? Is that the correct date?

Mr. HUMPHREY. May I check that, sir?

Mr. COBURN. Yes, certainly, of course.

Mr. HUMPHREY. April 1, 1961. We will check it so the record is correct.

Mr. COBURN. April 1, 1961, you say? That means that you began to operate the plant as of April 1, 1961, does it not? Is that correct?

Mr. HUMPHREY. I was not the chief executive officer at this time. I think that is correct. I just wanted the record to be correct, sir.

Mr. COBURN. Yes.

Well, I think the record already shows that that is the case.

Mr. HUMPHREY. All right, sir.

Mr. COBURN. Now, when was it that the Hanna Nickel Smelting Co. first considered taking over this plant, first began to consider within itself whether it might take over the plant?

Mr. HUMPHREY. I think we considered it at various times for quite a while. I cannot tell you when was the first time, sir.

Mr. COBURN. You do not remember how long that matter was under consideration before the company finally acted on it?

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

Mr. COBURN. As much as a year, do you think, or more?

Mr. HUMPHREY. I do remember that we tried to interest a group of steel companies in joining us in taking it over, and I cannot remember the date of that—1957.

Mr. COBURN. That was in 1957, apparently?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. In other words, as I understand it, in 1957 you then proposed to a group of steel companies that you would take them into partnership in taking over the smelter, is that right?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And that, of course, would mean that you would have to exercise your rights under the smelting contract with the Government?

Mr. HUMPHREY. That is correct.

Mr. COBURN. To pay whatever was required under the contract to acquire the smelter?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. So you did have that thought in mind of acquiring the smelter in 1957?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. Is that right?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. But your proposal to the steel companies was not concluded, was it?

Mr. HUMPHREY. No, sir; it was not.

Mr. COBURN. Then after that, perhaps you can tell me, now that you have thought about this a little bit, can you tell me when it was that the smelting company alone began to give consideration to taking over the smelting plant?

Mr. HUMPHREY. No, sir; I cannot. I am sorry.

Mr. COBURN. Do you remember how long that you dealt with the Government in connection with that?

There were some negotiations, I think, that were required, were there not?

Mr. HUMPHREY. Yes, sir; but I was no part of those negotiations.

Mr. COBURN. You had no part in those negotiations?

Mr. HUMPHREY. No, sir.

Mr. COBURN. I see.

Mr. HUMPHREY. As nearly as I can remember, sir, I never talked to anybody in Government about the nickel contract after it was signed.

Mr. COBURN. After you resigned as an officer of the smelting company?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. I see. And that occurred, I believe you testified a moment ago, in, was it March of 1953?

Mr. HUMPHREY. April of 1953, sir.

Mr. COBURN. April of 1953?

Mr. HUMPHREY. It was after the contract was signed, as a matter of fact.

Mr. COBURN. Who dealt with the Government in the Hanna organization in connection with the Hanna Smelting Co. acquiring the plant?

Mr. HUMPHREY. Mr. Pierce, Mr. Fish and—you mean with the plant——

Mr. COBURN. Yes.

Mr. HUMPHREY. Mr. Spang advises it was Mr. Marting and himself, sir.

Mr. COBURN. Mr. Marting and Mr. Spang?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. I see.

I have no further questions, Mr. Chairman.

Senator SYMINGTON. Mr. Humphrey, yesterday Mr. Marting testified that Hanna stockpile profits on the nickel were larger, but not a great deal larger, than earnings on commercial sales.

From the General Accounting Office audit of your records in the Minnesota Division on sales of $228 million, Hanna earned net income, before taxes of $21,098,000; a profit on cost of 10 percent, on sales of 9 percent.

Your records show that in the Michigan Division—those for the years 1954 to 1960, inclusive—profits before Federal income taxes on sales of $51,493,000 were $5,672,000; that is profit on cost of 12 percent; on sales of 11 percent.

The overall profits of the Hanna Mining Co., on sales of $495 million before Federal income taxes, was $74,887,000, giving a profit on cost of 18 percent and a profit on sales of 15 percent. This is considerably higher than the profit of 9 percent on sales in the Minnesota Division and 11 percent in the Michigan Division.

Presumably also, in those latter sales, there was some risk involved.

Based on this contract, according to the General Accounting Office report, there was virtually no risk.

Your books show that in the years in question the profit, on sales of $26,263,000, was $15,063,000, 135 percent on cost, 57 percent on sales.

If you had profits of 12 percent on cost in one division and 10 percent in another, and then 135 percent profit on the nickel operation, do you not think it is fair to say profits were a great deal larger in the Nickel Division than the profits in the other two divisions?

Mr. HUMPHREY. Mr. Chairman, I do not know that I could add much to Mr. Marting's explanation of that, which he gave yesterday.

Our analysis of the situation is that we made a fair profit of $7.5 million after taxes. We have also brought out that to compare a single mine to a division, with the wash sales and the problems of the iron ore industry, are not necessarily so.

I think on an individual mine basis, Mr. Marting's statement, as he explained it, is reasonable.

Senator SYMINGTON. It is true, is it not, that the sales of the Nickel Division totaled about 6 percent of the nearly $500 million sales, over this period, of the Hanna Mining Co.; but the profits of the Nickel Division were over 20 percent of the total profit?

Mr. HUMPHREY. Yes, sir; that is right.

Senator SYMINGTON. You mentioned the fact no other ferronickel cost the Government more than the ferronickel you sold. I do not think you meant ferronickel, just for the record? Did you not mean nickel?

Mr. HUMPHREY. I meant nickel under this program, sir.

Senator SYMINGTON. The staff tells me that of over 20 contracts on nickel, there were only 2 higher than the price paid your company.

Mr. HUMPHREY. I limited mine to nickel procured under this particular program, not all nickel.

Senator SYMINGTON. As I understand it, there were only 2 of over 20 contracts where the price was higher.

Now, you know of the report issued by the General Accounting Office in April 1961.

Mr. HUMPHREY. Yes, sir.

Senator SYMINGTON. In that report GAO said they felt some of these matters should be looked into by the Congress. We hope, before we get through with these hearings, to present to the Congress a bill which will make it possible for us to sell some of this multibillion-dollar inventory on a basis that will not damage the economy or the industry in question. We hope to recommend some constructive legislation. In that connection, we have to consider whether or not there should be a redetermination clause in such contracts.

I am told that, if the mining company and the smelting company had been together, under the law the contract could have been renegotiated; but that would have been technical, because there was no right to audit the profits.

In his report to the Congress, the Comptroller General says:

> Since practically all the profits accruing to the Hanna companies from these contracts were earned by the Hanna Mining Co., and because the negotiated, fixed price for the ore was not based on previous cost experience, we considered a review of the operations of this company to be a significant part of our audit of these contracts.
>
> In the absence of effective competition, the charge to the Government for items procured under negotiated contract is normally determined on the basis of actual or estimated cost plus reasonable profit.
>
> We believe, therefore, that it is essential to have access to the contractor's pertinent records in order to verify and evaluate the cost and profit factors making up the contract price.

Does that not seem to you a logical position for the Government to take?

Mr. HUMPHREY. It is pretty hard for me to comment in the abstract, Mr. Chairman.

When we made a fixed-price contract, it seemed unnecessary for the Government to examine our books with respect to it.

Senator SYMINGTON. Counsel has brought out that all of those who were negotiating this contract for the Government wanted a redetermination clause in the contract.

Who was it on your side that decided the redetermination clause should not be put in?

Mr. HUMPHREY. Mr. Chairman, our original decision was based really on two things:

First, that the price at which we were willing to sell the ore was 20 cents a pound; and,

Second, that if we were to make a deal on a crash-program basis that the Government was urging us to, that there should be no risk.

Now, that opinion was shared in the office.

Mr. George Humphrey, as he testified, made the final decision. Really, out of those two decisions—and I will add that I did not change it when I became chief executive officer—and out of those two decisions the absence of redetermination and all the rest of the contract provisions came.

Senator SYMINGTON. I thank you for your frank testimony.

Mr. HUMPHREY. Yes, sir.

Senator SYMINGTON. I read average profits in various industries yesterday. Only one of them was up to 10 percent, as an average, over the period. We took in the years 1958, 1959, 1960, and 1961.

Incidentally, the lowest profit, apparently, of any allowed, percentage of profit on sales after Federal income taxes were on the two or three largest single items of cost to the Government; namely, autos, aircraft, and shipbuilding.

In 1958, profits were 2.7 percent in the category of those three. In 1959, they were 3.4. In 1960, they were 2.9. There were no figures available for 1961.

In the same years the profits in your nickel division, same accounting procedure, were 49 percent in 1958, 47 percent in 1959, 42 percent in 1960, and 45 percent in 1961.

On page 4 of the General Accounting Office report it says the Hanna contracts eliminated practically any risk of loss for the Hanna companies.

Would you agree with that?

Mr. HUMPHREY. Yes, sir; I think that is correct.

Senator SYMINGTON. Would you agree that the percentage of profit allowed by the Government on a contract should bear some relationship to the percentage of risk?

Mr. HUMPHREY. Senator, I am not sure that I understand that question.

Our position, I think, is we were dealing with a raw material, and raw materials are very different from manufacturing profits. This was a wasting asset. We priced the material so that we got a fair profit. I think there is some difference between the way you look at our profits and the way we did as it came out in Mr. Marting's testimoney.

But I think the fundamental problem here is that comparison of raw materials with manufacturing businesses is a very difficult thing to do.

Senator SYMINGTON. Well, then, let me approach it another way.

We took the average mining profits for the years 1958, 1959, 1960, and 1961, after Federal incomes taxes.

Incidentally, you are allowed depletion as a mining company before you start figuring your taxes on the 52 percent formula, are you not?

Mr. HUMPHREY. Yes, sir.

Senator SYMINGTON. And that is the major reason why on $15 million profit of $26 million sales you showed a $10 million profit on your income tax return instead of one nearer $7½ million; is that not true?

Mr. HUMPHREY. No, I think the $7½ million is the reason our taxes were such, our $7½ million is not because of depletion.

Senator SYMINGTON. Are you referring to this chart?

Mr. HUMPHREY. I don't think I understood the question.

I understand the tax effect is due to the depletion allowance.

Senator SYMINGTON. So the tax laws of the Government already recognize the difference between, say, an aircraft or shipbuilding company, and a mining company; isn't that correct?

Mr. HUMPHREY. Yes, sir; their allowance, of course, is depreciation.

Senator SYMINGTON. The General Accounting Office report also states:

Under the Hanna contracts the Government guaranteed virtually all the contractor's capital investment and provided a market for all the contractor's production at prices which virtually precluded operating losses.

Would you agree to that?

Mr. HUMPHREY. This is really an abstract question, I don't know what they mean by "guaranteeing losses."

Senator SYMINGTON. They agreed to take all of your production, during the period of the contract at a price above the market, didn't they?

Mr. HUMPHREY. Yes, sir, of the ferronickel, but there was no profit in the ferronickel.

Senator SYMINGTON. I want to make the record on the matter that has worried me most about these contracts—the amount of profit as against any risk, in the face of the Government's need for nickel at a time the Nation was at war.

You agree, whatever is needed for our defense shield, and that is the sole justification for these nickel purchases, the Government should attempt to procure at minimum cost, do you not?

Mr. HUMPHREY. I think that would be a fair statement, Senator.

Senator SYMINGTON. The extent to which we might balance the budget depends a great deal on the cost of these needed defense items, does it not?

Mr. HUMPHREY. I have a little problem answering these questions just in the abstract, yes, sir.

Senator SYMINGTON. Well, you answer them any way you want to. I want to be sure we understand how you feel about it.

Mr. HUMPHREY. Yes, sir.

Senator SYMINGTON. The Vinson-Trammel Act, as I remember it, says the profit on ships could be as high as 10 percent but no higher; and the profit on aircraft could be 12 percent, but no higher.

There was a great deal of protest against those figures, the amount of allowed profit, and based on my knowledge this was perhaps the chief reason for the renegotiation act.

Do you happen to know about that?

Mr. HUMPHREY. About renegotiation?

Senator SYMINGTON. Yes.

Mr. HUMPHREY. Generally, sir.

Senator SYMINGTON. I took the liberty of assigning to all defense companies a profit of 10 percent, despite the fact only one group made 10 percent over that period of 4 years. The additional cost to the Government, exclusive of space, NASA, and exclusive of the Atomic Energy Commission, if all companies had been allowed your profit, instead of 10 percent, would have been $10 billion 700 million last year alone. This would be on defense contracts only, those above $10,000.

Do you want to tell us what you think would be a fair profit in the mining industry?

Mr. HUMPHREY. That would be a very hard thing to say and it depends upon many circumstances; just as an abstract question I don't think I can name any figure.

Senator SYMINGTON. Clearly these contracts had virtually no risk, and had a profit the GAO says was too high. They now recommend the law be changed. Let me read their report to be sure I state it accurately:

> Congress may wish to consider amending the Defense Production Act of 1950 to incorporate therein a provision requiring that all future negotiated contracts made under this act contain a clause permitting the Comptroller General to have access to all the contractor's pertinent records.

We are considering amendments to this act.

Would you feel it would be constructive to put in future contracts a clause giving the Government access to such records; that is, in a future law?

Mr. HUMPHREY. Well, again, I think that is a question of balance. It is a very difficult question to answer in the broad sense.

Senator SYMINGTON. Thank you, Mr. Humphrey.

Senator Beall?

Senator BEALL. Mr. Humphrey, in business, it is not uncommon for the parent company to set up subsidiary companies, is it?

Mr. HUMPHREY. No, sir; it is not.

Senator BEAL. It is very often done for income tax purposes, sometimes; that is one of the reasons for it; isn't it?

Mr. HUMPHREY. It is generally done for administrative reasons because I think that most subsidiaries——

Senator BEALL. Did the Internal Revenue ever criticize the Hanna company for setting up the subsidiary smelting company?

Mr. HUMPHREY. No, sir.

Senator BEALL. There was never anything said about that?

Mr. HUMPHREY. No, sir.

Senator BEALL. The Government witnesses, some of them said the Hanna company negotiators were tough.

Did you regard the Government negotiators as exactly soft?

Mr. HUMPHREY. No, sir, I certainly did not.

Senator BEAL. Thank you, Mr. Chairman.

Senator SYMINGTON. Senator Bush?

Senator BUSH. Well, Mr. Chairman, I again want to take exception to this business of comparing this contract and the profits in it with other industries which are confronted with entirely different problems, entirely different circumstances, and I can't help feeling that these comparisons are entirely irrelevant to this investigation.

I think it is like comparing raising orchids with raising alfalfa or spinach or something like that. They are two entirely different propositions, entirely different.

Great emphasis is being laid in this investigation on this question of profit. The Government in negotiating this contract had in mind the question of profit, and was seeking to make as good a contract as it could.

Mr. Larson testified that they tried to make as good a deal as they could for the Government, but he said if he had to do it over again, he would do the same thing and he thought the contract was a good contract for the Government.

So far, I have not seen any evidence that would dispute Mr. Larson on that.

On yesterday, I called attention in the record to the letter by Mr. John G. Ford, Director of Contract Negotiations Division to Howard Young, Deputy Administrator of GSA in which he said, in part:

The conditions of the contract with respect to prices to be paid for ore provided for a net return of 28 percent per year on a proposed fixed investment.

Previous to that, on July 23, Mr. Robinson—this is on page 1943 of the record—in an office memorandum dealing with a meeting with the Hanna people and DMPA representatives had this to say:

> The price of ore to be paid Hanna's mining company. It was pointed out to Hanna that its price of $6 per ton indicated an annual profit after taxes of 28 percent on invested capital and that a price of $4 per ton would be more in line with general mining operations. Hanna's representatives stoutly defended their price claiming that it was required to cover other unprofitable operations. (N.B.: It is my opinion that this price would be satisfactory if Hanna will operate the smelter at cost.)

I want to emphasize it was contemplated both in Mr. Ford's memorandum and in the memorandum by Mr. Robinson speaking of return on invested capital after taxes, and as the thing turned out, and Mr. Marting testified yesterday that this profit was approximately 25 percent, not 28 percent, and that the company delivered $27 million worth of nickel and made a net profit there on the whole transaction of $7.5 million over a period of 8 years, a little more than 8 years, so this matter of annual profit on this matter we have been discussing so long was less than a million dollars a year.

Mr. Chairman, I express the thought that the emphasis on profit here is greatly overemphasized.

The sole question in the past couple of days has been this question of profit on the contract.

I think the record shows the Government negotiators knew all about that, they knew what the expected profit was to be. They were dealing with a critical situation. They wanted the Hanna Company to do something that the Hanna company was reluctant to do.

The Hanna company did it, as Mr. Gilbert Humphrey has just said, motivated in part by the fact we were in a critical situation. We did have the Korean war on our hands, and I personally have no sympathy with the implications that appear in this investigation that the Hanna company or its officials acted in an unpatriotic or an unfeeling way about this whole situation, and I think that the record now shows that the profit which they made on the whole transaction was in view of all the circumstances a reasonable one, and frankly, I am amazed that this committee would devote so much time to this particular contract when we are talking about a $9 billion stockpile and what to do about it.

We have had, I don't know how many days of hearings on the Hanna contract. I don't know how much of our budget of this committee has been spent in investigating this contract, but in my view, it is out of all proportion to the problem which this committee started out do deal with, and I want the record to show that that is the way I feel about it right now.

Senator BEALL. Will the Senator yield?

Senator BUSH. Yes.

Senator BEALL. Didn't Mr. Larson say that the profits on uranium were sometimes as high as 300 percent?

Senator BUSH. He did.

Which only goes to show when you are dealing with different kinds of metal you are dealing with entirely different problems.

Senator SYMINGTON. Let me ask the Senator this question if I may, as long as he has made this statement.

Senator BUSH. Yes.

Senator SYMINGTON. Does he believe these contracts should have a redetermination clause in them?

Senator BUSH. Well, Mr. Chairman, I am not on the witness stand here.

Senator SYMINGTON. I am only asking a question.

Senator BUSH. I am a member of the committee.

Senator SYMINGTON. I understand that. I am merely asking the question.

I am impressed with the Senator's statement.

Senator BUSH. I thank the Senator for that.

May I say I think that the Government was in the position of having to make a contract on nickel, and they were faced with certain conditions. I think they did their best to make a contract that was satisfactory and they finally decided that they had one.

Now, whether the question of renegotiation or reestimate of profits should be made a matter of law is something that this committee will have to consider later on; possibly the Congress will have to consider that later on.

But what we are dealing with and what was the case at the time these contracts were made was the law existing at that time, and under the Defense Production Act contracts, I don't believe it was customary for renegotiation to be included.

I think that has been brought out in this hearing. It was not the custom nor was it done in connection with minerals contracts that the Government made during that period.

Senator SYMINGTON. The Senator has great knowledge of many fields in our economy. Speaking as a former industrialist, there is always a time as the Senator knows, when a manufacturer supplying the Government can, in effect, set the price. He can do it through engineering changes, for example, on the basis of the Government's need.

The Government needed the nickel. Nobody denies that. Mr. Larson stated he made the contract because he desperately needed the nickel.

Again, any time, at a certain point, a contractor with the Government decides he wants to raise a price, he can raise that price, through engineering changes or in other ways.

To my mind that was the whole concept behind, first, the Vinson-Trammell Act and, secondly, the Renegotiation Act; and obviously it is the concept behind the desire to have a redetermination clause.

I wouldn't want to see the average supplier to the Government in the same entrenched position as to profit as was this contract, because then, based on my knowledge of problems incident to the defense budget, and I have some knowledge along those lines, it would tremendously increase the cost to the taxpayer of our defense shield, by tens of billions of dollars.

Senator BUSH. May I say to the Senator this: What I have just read from the hearings here, the letter by Mr. Ford and the statement by Mr. Robinson indicated perfectly clearly what the Government expected that the Hanna company was going to make out of these contracts.

I doubt very much if there had been a redetermination clause, had there been any, would there have been any redetermination of the profits.

In view of the record, it is perfectly clear the Government knew when the contract was made about what the profits were expected to be.

So, I think the question of redetermination here is purely academic.

We are asking the witnesses to give an opinion on what the law should be and on what Congress should do in all these things and I don't think that is the witnesses' responsibility and I say again, I don't see, with the record of negotiation which extended over a period of many, many months, that the Government could claim or could possibly claim, if there was a redetermination clause in the contract, that the results were unreasonable so far as the Government is concerned.

The Government got all this nickel at an average cost of 71 cents a pound. The market is now, I am told 79 or 80 cents a pound, something of that order.

The contract accomplished all that it was intended by Mr. Larson and Mr. Young and their associates to accomplish, at a very critical time. So I think when you start comparing this contract with aircraft manufacture, iron ore mining, and a lot of extraneous things that haven't anything to do with the situation at all, that it really doesn't have any bearing on the value of this contract to the Government.

Senator SYMINGTON. Well, I would point out that the contract negotiations had gone on for many months, and as late as October 7, 1952, Mr. Johnston Russell, one of the chief negotiators for the Government, listed all the points he thought were to the disadvantage of the Government; but the contract was signed with every one of his objections in it.

I agree the Government needed the nickel. The Government was at war. The question is, should the Government have had the right of redetermination, inasmuch as the Government didn't know what the costs would be and the Hanna people said, "This is the price. Take it or leave it."

Mr. Counsel?

Mr. COBURN. Yes, Mr. Chairman.

Do I have any further questions, is that what you mean?

Senator SYMINGTON. Yes.

Mr. COBURN. One thing I wanted to ask Mr. Humphrey that occurred to me during the examination by the committee:

This annual profit of 25 percent on invested capital that you say was testified to by Mr. Marting on yesterday, was that based on the Hanna claim that you only made $7.5 million out of this contract?

Mr. HUMPHREY. It was, sir.

Mr. COBURN. It was based on that claim?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. And not the $10½ million that the Government investigators claim?

Mr. HUMPHREY. That is correct, sir.

Mr. COBURN. And that is recorded on your books?

Mr. HUMPHREY. Yes, sir.

Mr. COBURN. No further questions, Mr. Chairman.

Senator SYMINGTON. The staff says normally a redetermination clause is put into such contracts. We have reviewed the Climax Mo-

lybdenum and American Chrome Metal contracts. Both these had price redetermination clauses in them.

Mr. Humphrey, are you connected with the Hanna Mining Co. any longer?

Mr. HUMPHREY. Yes, sir; I am chairman of the executive committee.

Senator SYMINGTON. Well, you filed an income tax return on $10 million profit. The figure you here give is $7.5 million profit.

Which figure do you think is the right figure?

Mr. HUMPHREY. It is our feeling, sir, that the $10 million figure is the correct figure for income tax purposes and the $7.5 million figure is the correct figure for book purposes.

Senator SYMINGTON. For what purposes?

Mr. HUMPHREY. Book purposes: reporting our actual profit on the transaction.

Senator SYMINGTON. Have you ever had another case where you had this problem, where you filed a higher return?

Mr. HUMPHREY. Yes, sir.

Senator SYMINGTON. Was that because of depreciation allocation?

Mr. HUMPHREY. It was a question of allocation of expenses.

Senator SYMINGTON. The testimony yesterday was that of this $2,173,000, none of it had been incurred by the nickel company. Do you think, therefore, that reduction is right?

Mr. HUMPHREY. It is our feeling it is a fair presentation. This is Mr. Marting's area. Our accountants are here and I am sure there will be more of it, sir.

Senator SYMINGTON. You filed an income tax return showing a profit after taxes of $10 million, and only last summer got to this $7.5 million figure, after these hearings were scheduled.

You mentioned your books. What profit do your books carry?

Mr. HUMPHREY. The total profit of the company as reported on the tax returns, sir.

Senator SYMINGTON. So your books carry the $10 million figure, your own books?

Mr. HUMPHREY. This is it, the $10 million is the divisional profit. The total profit is, of course, the sum total.

Senator SYMINGTON. I am talking about the divisions.

Mr. HUMPHREY. For tax purposes; yes, sir.

Senator SYMINGTON. Thank you.

Any further questions?

Mr. COBURN. None from me.

Senator SYMINGTON. Mr. Humphrey, thank you for coming this morning.

Mr. HUMPHREY. Thank you, Mr. Chairman.

Senator SYMINGTON. Mr. Spang, will you consider yourself sworn? Counsel would like to ask you a couple of questions.

TESTIMONY OF LAWRENCE W. SPANG, SECRETARY, HANNA MINING CO.—Resumed

Mr. SPANG. Yes, sir; I will.

Mr. COBURN. Mr. Spang, we have called you back again because I was not able to get some information from Mr. Humphrey that I thought I might.

May I ask you when it was that the Hanna Nickel Smelting Co. first began to consider seriously acquiring the smelting plant?

Mr. SPANG. Well, my recollection of that would be that it was sometime in the latter part of 1960, sometime around—a short time before we concluded the arrangements as of April 1, 1961.

Mr. COBURN. The latter part of 1960, you would say?

Mr. SPANG. That would be my recollection; yes, sir.

Mr. COBURN. I believe you did have a part in this, didn't you?

Mr. SPANG. I certainly did; yes, sir.

Mr. COBURN. You represented the smelting company in taking the matter up with the Government?

Mr. SPANG. That is right; yes, sir.

Mr. COBURN. And so you are familiar with what was done in that respect?

Mr. SPANG. I am; yes, sir. I was in all of it.

Mr. COBURN. And it's your recollection then that it was the latter part of 1960 that the company decided to take over the smelter, to exercise its rights under the contract?

Mr. SPANG. That is right.

The Government had approached us, of course, as early as 1957, I think to see if there wasn't some way that we could take this plant over then.

Mr. COBURN. To see what your intentions were in that respect?

Mr. SPANG. That is right; not what our intentions were, but what we could do.

Mr. COBURN. I see.

And then you had this deal that you proposed with the steel companies which did not go through?

Mr. SPANG. That is right.

We couldn't get any firm commitments for the sale of it, and there were substantial obligations that went along with the plant, namely, power and other things, and we couldn't see our way clear to take over the plant at that time.

Mr. COBURN. That was in 1957?

Mr. SPANG. That was sometime in 1957.

Mr. COBURN. Was that a case of your not seeing your way clear then or the fact you were not able to make this partnership arrangement, so to speak, with the steel companies?

Mr. SPANG. Well, that would be the only thing that could enable us to see our way clear to do it. I mean unless we had some prospects of selling the production we couldn't afford to take over the plant, of course.

Mr. COBURN. I am not arguing with you now, I am only asking you what the facts were.

Were you successful in interesting the steel companies in going into this operation with you?

Mr. SPANG. No, sir.

Mr. COBURN. So that, of course, then decided——

Mr. SPANG. That is right.

Mr. COBURN. Decided for you at that time you would not take over the plant?

Mr. SPANG. Yes, sir.

Mr. COBURN. But in 1960, the latter part of 1960 then, you did make the decision to take the plant over?

Mr. SPANG. That is right; yes, sir.

Mr. COBURN. And took it up with the Government and finally made the residual payment and did take it over as of April 1, 1961, is that correct?

Mr. SPANG. Well, that is right. You see, the mechanics were all provided in the contract for doing this. There was no real negotiation involved at that time as I remember.

Mr. COBURN. That is all, thank you.

Senator SYMINGTON. Thank you, Mr. Spang.

Mr. COBURN. Mr. Tippit.

Senator SYMINGTON. Mr. Tippit.

Mr. Tippit, will you take the center seat? I do not think you have been sworn, have you?

Mr. TIPPIT. I have not.

Senator SYMINGTON. Will you raise your right hand?

Do you swear the testimony you give the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. TIPPIT. I do.

Mr. COBURN. Mr. Chairman——

Mr. TIPPIT. I would like to state, Mr. Chairman, I am coming out of a cold, and I hope my voice is clear. I will do my best.

Senator SYMINGTON. Pull the microphone close, and we will see you have a lot of water.

Mr. COBURN. Mr. Chairman, at the request of Ernst & Ernst, who are the accountants for the Hanna companies, they have requested that Mr. Tippit be permitted to testify, and it is at their request that I have called him now here as a witness.

I say it was at the request of Ernst & Ernst that Mr. Tippit be permitted to testify here, and so he has been called in that connection, he being a partner in that firm, and he has informed me and has delivered to me in due time a statement, a copy of a statement, which, as I understand it, you would like to read, would you, sir?

Mr. TIPPIT. I would.

Mr. COBURN. Before you read it, would you mind identifying yourself by giving us your name and address?

Mr. TIPPIT. My name is Hassel Tippit.

Mr. COBURN. Now if you desire to read your statement, why, we will be glad to hear from you.

Mr. TIPPIT. Did you want my address in the record?

Mr. COBURN. Did you not give your address? Excuse me.

Mr. TIPPIT. Sorry.

Mr. COBURN. Go ahead.

Mr. TIPPIT. 19201 Van Aken Boulevard, Shaker Heights, Ohio.

Mr. COBURN. Now you may read your statement, if you would like.

TESTIMONY OF HASSEL TIPPIT, MANAGING PARTNER OF ERNST & ERNST, ACCOUNTANTS FOR HANNA MINING COMPANIES

Mr. TIPPIT. Yes, please.

I want first, if I may, to correct the record to remove inferences adverse to Ernst & Ernst that were widely drawn from earlier testimony.

All of our working papers developed in our audit of the Hanna

Nickel Smelting Co. were annually made available to the General Services Administration auditor, who reviewed them for periods of 2 to 4 days at our Cleveland office.

These working papers in all years contained similar information reflecting many items disclosed by our test of disbursements which we investigated to determine whether good accounting practice required that they be capitalized rather than expended. I am deeply convinced that our actions here conformed to proper standard, and I want to emphasize this as firmly as I am able.

This leads me to the first of three major questions raised by this record to date with which I would like to deal:

The testimony that about $1 million of items that should have been capitalized were charged to expense. Having been familiar with the accounting as it went along, and having again reviewed it intensively in view of these hearings, I am convinced that except perhaps for amounts that are too small to be material this criticism is wrong. The dust collection system is an example, and a good one, because it accounts for about one-fifth of the $1 million figure that has appeared in testimony.

A dust collection system costing about $200,000 was part of the original plant. This had to be torn out and a new one installed at a total cost of $885,000, of which the amount of $686,000 was capitalized and $199,000 was expensed. From our original examination and from all the information now available to me, I do not see any basis for criticism of the accounting for any part of these expenditures. It is clear that the amount expensed did not exceed the cost of the original installation plus reasonably expensable items relating to the project; and it is in accordance with sound accounting practice—particularly in a situation like this, where a commercial-scale plant is built without benefit of a pilot plant—to expense that part of the cost of a replacement installation that does not exceed the cost of what it replaces.

This would be good accounting in any circumstances, but it is particularly so under the smelting contract. Article VI, paragraph 1, provides for so-called capital advances not only for the original construction of the smelter, but also "(c) for such replacements or improvements of the facility which are agreed by the contractor"—and here I find there was a slight error in copying; the words——

Mr. COBURN. I noticed that, too.

Mr. TIPPIT. The words "and the Government" should be inserted there.

Mr. COBURN. It was a right important omission, was it not?

Mr. TIPPIT. I am sorry it occurred. I assure you it was purely inadvertent.

Senator SYMINGTON. It is obvious the sentence would not be right without the correction, so you make it for the record.

How do you want it to read?

Mr. TIPPIT. It is not an alibi, but I hurried this statement to get it in your hands last week and perhaps did not catch that point.

Continuing the quote:

*** * * to be necessary or advisable during the period of this contract, and (*d*) for such other necessary and so agreed upon expenditures which, in accordance with generally accepted accounting practice, are capitalized.**

Article VIII, paragraph 1, then provides that the price of the ferronickel purchased by the Government shall include—

(*b*) but only in the case of the first 95 million pounds of contained nickel in ferronickel sold hereunder, an amount per pound of contained nickel (hereinafter called the amortization payment) sufficient to amortize the capital advances made pursuant to article VI plus interest thereon.

The contract therefore expresses two intentions:

First, to follow generally accepted accounting practice in deciding what should be capitalized; and,

Second, to amortize the whole amount of capital advances over the price of the first 95 million pounds of nickel.

The dollar result to the Government would have been identical if the whole, instead of about 80 percent, of the new dust-collection system had been the subject of capital advances. The capital advances to be amortized by Government payments over 95 million pounds would have been $200,000 larger; operating costs reimbursed by the Government would have been $200,000 less. The residual payment of 7.5 percent of total capital advances on acquisition of the smelter by the contractor on termination would not have been affected, because article XIV, paragraph 2, provides that this "residual payment" shall equal "7.5 percent of total capital advances *excluding advances for capital replacements*." [The latter italicized is my addition.]

But if the transaction had been handled that way, in the meanwhile, the capital account would have been inflated by the retention of $200,000, reflecting the cost of an original installation that is no longer there. This would not have been good accounting practice; what was done was in accordance with it.

Most of the items making up the $1 million total that has been mentioned are similar. Another large item in 1957 relates to the replacement of Dutch ovens at a cost of about $97,000, which approximated the cost of the original installation. The entire amount was charged to expense, and I do not see how that can be criticized. The company's facilities were constructed without the benefit of a pilot plant and a new process was being employed. Consequently, it was recognized in the beginning that there would be modifications, replacements, and changes to maintain efficient utilization of the plant. The company, therefore, formulated the following policy:

1. Expenditures which cover the removal and replacement of inadequate, improperly designed, or malfunctioning facilities, which would not add to the value of the smelter, are charged to expense.

2. New facilities which substantially change the operation or constitute major improvements to the plant are capitalized. These capitalized items may or may not have substantial effects on the reduction of costs.

3. Expenditures which are for recurring repairs and maintenance to all plant units are charged to expense. This includes extensions to conveyors, tailings pond earthwork, plant roads, and ditches.

4. Generally, all expenditures for equipment of a minor nature, $500 to $1,000, are charged to expense.

5. The general approach of Hanna toward all its operations is to lean to expensing in borderline questions. This principle was also applied here.

There are many other items, aggregating about $500,000, according to the testimony, and varying circumstances would relate to each of them. I do not feel that it is necessary for me to comment on them in detail. Our review, from year to year, indicates that a careful segregation was made, and I do not hesitate to tell you that the accounting policies followed had and have our full approval.

Items expensed in 1960 totaling $210,000 perhaps deserve special comment. In connection with these items the 95 million pounds was to stand all costs; consequently, there was no point in capitalizing the amounts and charging them off immediately and since no capital advance was received, the 7.5 percent residual payment did not apply. As to these items, the following three alternatives were available to the company:

1. Go through the procedure relative to capital advances, then amortize completely in the same year;

2. Expense the items as incurred;

3. Or, continue operations without the benefit of these acquisitions (except for the extension of the conveyor which was necessary for continued operations) in which case the possible saving to the Government would not have been effected.

After satisfying themselves that these acquisitions would result in a savings to the Government, they chose alternative No. 2. Subsequent studies show a net savings to the Government during the period in excess of the aggregate cost of the items involved, indicating that the proper decision was made.

I am confirmed, in my opinion, that there is no material criticism to be made of the accounting under the smelter contract by the report which the Comptroller General rendered to the Congress in April 1961. He was critical of some of the contract provision, but, in something over 40 pages of comment, it is significant that the report contains no word of criticism of the company's accounting policies. This was after an audit stated on page 4 to cover "the period from the beginning of contract negotiations in January 1952, through September 30, 1960," which, as I am informed by the company, included a 6 weeks' examination by three GAO accountants of the books and records at the Riddle smelter during the fall of 1958. The Comptroller General commented at page 18—

> The GSA negotiation file indicates that it was the Government's intention to have the Hanna Nickel Smelting Co. operate on a break-even basis. The company had incurred a loss on smelting operations through 1956, and, at the contractor's request, the smelting contract ceiling price was increased to permit the contractor to recover the losses and operate on a break-even basis in the future.

Had the Comptroller believed that the contract was operating otherwise than on a break-even basis, I am sure he would have said so.

The second point I want to make relates to the discussions in the record regarding the net profit of the nickel division of the Hanna Mining Co. for the period of the contract involved in this procedure. I believe it is agreed that, based upon the books or tax returns, the net

income of the division without allocation of items referred to hereinafter amounted to about $10 million after deducting about $5 million for income taxes. However, the company annually incurs substantial costs, which are deducted in its published reports but not allocated to specific divisions on its books or its tax returns, which must be taken in account.

In Mr. Humphrey's testimony he set forth the net profit of the division from its inception to March 31, 1961, as having been $7,534,962. This is after allocating to the nickel division a total amount of $2,567,777 (less estimated tax savings) for "other expenses of Hanna Mining applicable to nickel operations not carried on nickel division ledger." The allocation includes $2,173,779 for exploration, research, taxes, and other expenses of nonproducing properties out of a total of $9,556,234 allocable to all of the mining divisions. It also includes $211,734 at the nickel division share of administrative expense out of a total of $930,882. The allocation was made on the basis of net profits of the mining divisions (including dividend income from the M. A. Hanna Co.) and excluding the dock and vessel division. The dock and vessel division was excluded because the major part of the expenditures related to exploration, research, and other expenses of nonoperating mine properties. We have reviewed the computations relating to this allocation; and, while I would make minor adjustments which would have the effect of increasing the $7,535,000 net profit by about $300,000, I think the allocation is in a reasonable range.

We also have made other computations using other bases of allocation that might be considered fair and find that they produce net profit figures ranging from about $7,400,000 to $8 million; so I wind up with the conclusion that Mr. Humphrey's figure of $7,535,962 is reasonable.

My third point relates to the confusion that seems to remain in the record concerning the ultimate cost to the Government of the ferronickel purchased under the contract and also on the point whether the Government has been repaid the cost of the smelter. To clarify this, I have attached a simple statement showing that when the contract is completed, the Government, having been repaid all its advances with interest, but without taking into account whatever the Government's borrowing cost may have been, will own 94.7 million pounds of ferronickel at an ultimate cost of $67.2 million, or an average of 71 cents per pound. This is a little below the present market value.

Thus, by an expenditure per pound of nickel that does not exceed the present market value, the Government has accomplished its two original objectives: stockpiling a commodity then in short supply, and creating a domestic source of nickel.

Shall I read the attached statement, Counsel?

Mr. COBURN. We do not want to cut you off at all, Mr. Witness, but this attached statement is going to be hard to read, and I think there has been a handout to everyone, has there not been, to all members of the committee?

Mr. TIPPIT. I understand so.

Mr. COBURN. And for the press, and this will be made a part of the record, I assure you, so if you want to save time, we will not undertake to read this statement.

Mr. TIPPIT. I think I gave the substance of it in my comment there, except perhaps to say that the market value figure shown on the statement is 72.4 cents a pound, compared to the net cost of the stockpile of 71 cents per pound, as shown in the last column of the statement.

Mr. COBURN. Mr. Chairman, to make sure this matter is taken care of while we have it at hand, I offer for the record the table, which is entitled "Summary of nickel smelter operations," as a supplement to the witness' statement which he has read.

Senator SYMINGTON. Without objection.

Mr. TIPPIT. Thank you, Mr. Counsel.

(The table referred to follows:)

Summary of nickel smelter operations

	Period		
	Jan. 1, 1954, to Sept. 30, 1960	Jan. 1, 1954, to Sept. 30, 1961	Jan. 1, 1954, to June 30, 1965
Pounds delivered or to be delivered	95,327,004	108,006,696	125,000,000
Costs billed to GSA:			
Cost of goods sold exclusive of amortization of plant and interest	$63,552,000	$71,206,000	[1] $81,193,000
Amortization of plant	22,956,000	22,956,000	22,956,000
Interest	4,036,000	4,061,000	4,061,000
	90,544,000	98,223,000	108,210,000
Less—			
Interest paid to GSA:			
Capitalized	733,000	733,000	733,000
Expensed	4,036,000	4,064,000	4,064,000
Residual payment to GSA	0	1,722,000	1,722,000
	4,769,000	6,519,000	6,519,000
	85,775,000	91,704,000	101,691,000
Less net revenue to GSA from sales of 30,340,697 pounds	34,457,000	34,457,000	34,457,000
Net cost of stockpile to GSA	51,318,000	57,247,000	67,234,000
Pounds in stockpile [2]	64,995,667	77,675,359	94,668,663
Net cost per pound of stockpile to GSA	$0.790	$0.737	$0.710
Market price per pound of stockpile (less freight to Pittsburgh): [3]			
Sept. 30, 1960	$0.660		
Sept. 30, 1961		$0.739	
Sept. 5, 1962			$0.724
Market value of stockpile	$42,871,000	$57,371,000	$68,521,000

[1] Deliveries during the period Apr. 1, 1961, to June 30, 1965, are included at the ceiling price of $0.5877 per pound.

[2] Including stockpile overrun of 9,360 pounds which arose in connection with sale of nickel by GSA.

[3] Market prices are based on published prices for nickel sinter which may be slightly below market for ferronickel.

Mr. COBURN. Now, Mr. Tippit, to identify you, you are a partner, are you, in the firm of Ernst & Ernst?

Mr. TIPPIT. Yes. I am managing partner of the firm of Ernst & Ernst and have been for some 15 years.

Mr. COBURN. Managing partner where?

Mr. TIPPIT. Located at Cleveland, Ohio. Cleveland is our headquarters.

Mr. COBURN. Headquarters of the entire organization?

Mr. TIPPIT. That is correct.

Mr. COBURN. But you have been the managing partner in Cleveland for some years, have you?

Mr. TIPPIT. I have been associated with the firm some 44 years and have been located in Cleveland during that period. I became a partner in the firm in 1935; became managing partner after the death of Mr. A. C. Ernst in May of 1948 and have held that position since.

Mr. COBURN. Now Mr. Tippit, has the firm—first, Ernst & Ernst is a national firm of accountants, is it?

Mr. TIPPIT. Yes, it is.

Mr. COBURN. And have they been the accountants for the M. A. Hanna Co., the Hanna Mining Co., and the Hanna Nickel Smelting Co., for some years?

Mr. TIPPIT. Yes.

We have been the accountants for the Hanna, M. A. Hanna Co., and its affiliates, I think is the right way to put it, since about 1943—1923, and for these subsidiaries that have been organized in the meantime, have been auditors for the entire period that they have been in operation.

Mr. COBURN. So you have been accountants for the Hanna Mining Co., then, for 20 years or more?

Mr. TIPPIT. Some 40 years.

Mr. COBURN. Forty years for the Hanna Mining Co.?

Mr. TIPPIT. I am sorry, for the Hanna company for some 40 years, for the Hanna Mining Co., I have not checked when it came into the picture—for whatever its period of operation.

Mr. COBURN. Certainly for this entire period of the contract?

Mr. TIPPIT. That is correct.

Mr. COBURN. And also accountant for the Hanna Nickel Smelting Co., for the period of the contract?

Mr. TIPPIT. Yes, we have.

Mr. COBURN. And you still act as accountants for the company, do you?

Mr. TIPPIT. Yes. That is correct.

Mr. COBURN. Mr. Tippit, first I would like to ask you——

Mr. TIPPIT. Perhaps, Mr. Counsel, I should state you mentioned our having offices over the country.

We are an international firm, too, with offices pretty well over the world.

Mr. COBURN. Thank you.

Now, Mr. Tippit, I want to ask you about a statement that is in the first part of the statement you read.

In fact, on page 2494 where you say having been familiar with the accounting as it went along and having again reviewed it intensively in view of these hearings, I am convinced that except perhaps for amounts that are too small to be material that this criticism is wrong.

That was what you said, was it not?

Mr. TIPPIT. That is correct.

Mr. COBURN. In other words, as I understand it, you put your stamp of approval upon the expensing of various items that the Government investigators have claimed should have been capitalized by the Hanna Nickel Smelting Co.?

Mr. TIPPIT. Absolutely.

Mr. COBURN. As accountants for the Hanna Nickel Smelting Co., did you make an annual examination of their records for the purpose of making an annual report to the company?

Mr. TIPPIT. Yes, we did.

Mr. COBURN. You did that for the year 1960?

Mr. TIPPIT. Yes.

Mr. COBURN. I should ask you this, too, so everyone will have it in mind: In sending one of your men into the offices of the Hanna Nickel Smelting Co. for the purposes of examining their records and preparing such an audit, these men of yours would prepare work papers, would they not?

Mr. TIPPIT. Yes, they would.

Mr. COBURN. That is right there originally in the Hanna offices or wherever they did it, but originally they would prepare these work papers in handwriting, would they not?

Mr. TIPPIT. That is correct.

Mr. COBURN. Then they would come before you for review later, is that the mechanics of your operation?

Mr. TIPPIT. Well, before me, and my associates. I would not say that all the papers would come immediately before me for review.

Mr. COBURN. Do you know who it was in your organization that audited the books of the Hanna Nickel Smelting Co. for the year 1960 out at Riddle, Oreg.?

Mr. TIPPIT. I don't have his name before me.

Mr. COBURN. Do you know the man?

Mr. TIPPIT. No, I do not.

Mr. COBURN. But it was somebody in your organization?

Mr. TIPPIT. That is correct.

Mr. COBURN. Mr. Chairman, I offer for the record the work papers of the Ernst & Ernst, someone in the Ernst & Ernst organization, of the Hanna Nickel Smelting Co. for the year 1960.

Senator BUSH. Without objection, so ordered.

Mr. COBURN. Thank you, Senator.

(The worksheets referred to follow:)

Harna Nickel Smelting Company
Comments re Capital Expenditures
1960

	INITIALS	DATE
PREPARED BY	[illegible]	11/2/61
APPROVED BY	[illegible]	

In examining invoices, etc. for the year it was noted that many items of capital nature had been written off to expense during the year. The following is a summary prepared as of 10/31/61 of items expensed during the year which this writer feels should be capitalized

	A/c charged		Total	Comments
Installation of new sawdust system by Roder Pneumatics Utility - labor and materials. Equipment installed by Roder personnel	10/31/61 Saw dust system	691516		
Paving of sawdust area -		237396		
Miscellaneous charges - concrete		30 x 83	745834	In operation - fully constructed -
	Company labor		125016	
			57 x 30	
			928380	
Purchase of 40 & 40 Oldsmobile & Oldsmobile 98 being sealed for 3000# per month. When fully paid for machine becomes Harna property	10-31-61	28 x 500		
$9,276.01 balance paid				
		1086251	793625	In operation @ 10/31/61.
Purchase of torque converter for bore machine				
Work order 59-6 - Construction of Air Coating Machine area. - Work performed by Harna Employees. To trace all payment as many items above issued for fumacilian. Welded rod used for the core room	10/31/61 W.O. 59-6			Project still in progress
	Material charged	3133800		
	Labor (Company labor)	1784768	5618568	In operation fully constructed.
Work order 60-3 - Construction of new conveyor system to elevate pile - and removal of conveyor 1677 ft. of new conveyor put in and 370 ft. of old conveyor taken down. Old conveyor will be scrapped, but to be used again.	10/31/61 W.O. 60-3			Project still in progress
	Materials issued or charged direct	2244017		
	Labor (Company labor)	903859	3147306	- charge still coming through @ 10/31/61. (3147306)
Miscellaneous small items			50350	Minor items -
IBM typewriter			44640	
Air conditioner				(by V.P.)
Other items -				
Paving of equipment storage area -	10/31/61 - W.O. 60-4	507 x 82		
Fence for -	10/31/61 - W.O. 60-4	1 x 500		Constructed @ Command request
	10/31/61 - W.O. 60-4	162700	790045	Built of charge for storage area used in 1959. This is merely an expansion of old area. New agreement written to this addition (Agreement in file)
	TOTAL		6216505	

① All of these items were brought to the attention of L. Carlson, chief clerk. He was in agreement that probably some items were of a capital nature, and that all would be questioned by the SAO auditors when they arrive in 1960. Mr. Carlson, the above expenditures reduced the operating costs appreciably and management did not fully realize the impact of the "Construction fund cash account", since there was adequate cash in the C/C from the general a/c. Had management fully realized that the expenditures were made from the "Construction fund" the arrangements could be made whereby Mr. Carlson would be notified in that the operating [illegible] have been reduced [illegible]

83502 O - 62 - pt. 7 (Face p. 2501)

	INITIALS	DATE
PREPARED BY	JJD	
APPROVED BY		

Harna Nickel Smelting
12-31-60
Capital items expensed

Discussed the apparent capital expenditure with Mr Carlson who stated that by virtue of a "gentlemen's agreement" with the government all items of a capital nature that were for a replacement or improvement in an existing facility were to be expensed as there was no comparable existing nickel smelting plant in the U.S. at the time of construction on which to base the most economical type of equipment and it was felt that some equipment originally purchased would not be the most suitable.

(See note on green as to facilities Mr Carlson stated these items replaced)

Two items that were expensed were not replacement of existing equipment, however Mr Carlson felt that because by purchasing the equipment more money was saved than the cost of the equipment there would be no objection to expensing these items.

Jos L Dirkes
(C & E Cleveland)

Senator SYMINGTON. Haven't you talked this problem over with the people in your organization who handled the matter before you came to testify?

Mr. TIPPIT. I certainly did.

Senator SYMINGTON. But you don't have the name of the person who did the work.

Mr. TIPPIT. I didn't go to Riddle and the people who did the work in Riddle didn't come to Cleveland.

Senator SYMINGTON. So you didn't talk to the people in Riddle?

Mr. TIPPIT. That is correct.

Mr. COBURN. Now, Mr. Tippit, these work papers refer to these items that were, as I understand it, expensed rather than capitalized during the year 1960.

Installation of the new sawdust system. You are familiar with that piece of equipment, are you?

Mr. TIPPIT. Yes, I am.

Mr. COBURN. It was expensed and not capitalized, was it not?

Mr. TIPPIT. That is correct.

Mr. COBURN. By the Hanna company?

Mr. TIPPIT. Yes.

Mr. COBURN. And I should say that in deciding whether certain items were to be capitalized or expensed, the Hanna company, Hanna Nickel Smelting Co., made the original decision, didn't it?

Mr. TIPPIT. Yes.

Mr. COBURN. And as you have indicated from your statement that you have read to the committee, early in the performance of this contract the Hanna Nickel Smelting Co. set up certain general policies which it intended to follow.

Mr. TIPPIT. That is correct.

Mr. COBURN. With reference to the performance of this contract.

Mr. TIPPIT. That is correct.

Mr. COBURN. And the capitalizing or expensing of items?

Mr. TIPPIT. Yes.

Mr. COBURN. All right.

Now, to return again to the work papers of your man who was out at Riddle, these particular work papers refer to the installation of the new sawdust system which we have covered. Also to the purchase of a scoopmobile. You are familiar with that item, are you?

Mr. TIPPIT. Yes.

Mr. COBURN. And that was expensed and not capitalized, for that year?

Mr. TIPPIT. That is correct.

Mr. COBURN. And also the construction of a pig-casting machine.

Mr. TIPPIT. Yes.

Mr. COBURN. That was expensed and not capitalized?

Mr. TIPPIT. That is correct.

Mr. COBURN. And the construction of a new conveyor system which was expensed and not capitalized?

Mr. TIPPIT. Yes; that is correct.

Mr. COBURN. These items total altogether some approximately $200,000, do they not?

Mr. TIPPIT. Yes, I believe $200,000 or $210,000; $210,000 is my recollection.

Mr. COBURN. At the top of these work papers, I notice in the handwriting of your man who went out there to make this audit this:

In examining invoices and so on for the year it was noted that many items of capital——

Mr. TIPPIT. Nature.

Mr. COBURN (continuing):

Capital nature—

You are familiar with it, are you?

Mr. TIPPIT. I sure am.

Mr. COBURN (continuing):

of capital nature had been written off to expense during the year. The following is a summary prepared as of October 31, 1961—

I think—

of items expensed during the year which this writer feels should have been capitalized.

Mr. TIPPIT. Does he say that?

Mr. COBURN. Well, that is what this says.

Mr. TIPPIT. Would you read it, please?

Mr. COBURN. I have just read it.

Mr. TIPPIT. I didn't hear that.

Mr. COBURN. Well, here is what he says. I will read it again.

The following is a summary prepared as of October 31, 1961, of items expensed during the year which this writer feels should be capitalized.

Mr. TIPPIT. All right.

Mr. COBURN. That is what he says in his own handwriting. This was your man, wasn't he?

Mr. TIPPIT. That is right.

Mr. COBURN. Well, how did that happen?

Mr. TIPPIT. How does what happen?

Mr. COBURN. He took the view here that these items amounting to more than $200,000 should have been capitalized rather than expensed, and yet you take the position in your statement that everything that was done here accountingwise was right.

Who is right about it, your man or you?

Mr. TIPPIT. Well, I am right about it.

Mr. COBURN. You are right about it?

[Laughter.]

Mr. TIPPIT. That is right.

Mr. COBURN. You overrule——

Mr. TIPPIT. That is correct.

Mr. COBURN. As I understand it you overrule your man, is that it?

Mr. TIPPIT. That is right.

Mr. COBURN. Is that because you are the managing partner?

Mr. TIPPIT. No, because the facts justified it.

Mr. COBURN. I see. I see.

Well, is this man still on the job out there? What has happened to him?

Mr. TIPPIT. So far as I know he is. I have no quarrel with his note.

Mr. COBURN. You don't have any quarrel with his note.

Mr. TIPPIT. Not at all. He was expressing his view which I expect all of our boys to do, our men to do. [Laughter.]

Mr. COBURN. Well, thank you for your frankness and for your supporting your man, for that matter. But certainly your fieldman there who saw these various items in the plant thought they ought to be capitalized and not expensed, didn't he?

Mr. TIPPIT. Yes, it was not up to him to make the further interpretations that we had to make in Cleveland.

Mr. COBURN. I see.

Let us take this dust collection system that you referred to here on your statement, page 2494. That was an expensive piece of equipment, was it not?

Mr. TIPPITT. Yes, it was.

Mr. COBURN. Costing about $885,000, the new piece of equipment?

Mr. TIPPIT. That is correct.

Mr. COBURN. I don't want to go into too much detail about this accounting and I hope I don't bore the committee here too much, but I am going to try to get to essentials, if I can.

But I am going to have to ask you a little bit about some of these principal items of equipment that are in question.

Now, this dust collecting system was a piece of equipment that was put into this smelter when it was first built, was it not, I mean a dust collecting system?

Mr. TIPPIT. Yes, it was.

Mr. COBURN. And then as the plant operated it was found there was a great deal of dust that was discharged, is that right?

Mr. TIPPIT. I am not too familiar with all the operating details, but it is my understanding that there was to much dust escaping.

Mr. COBURN. Too much dust what?

Mr. TIPPIT. Escaping or discharged or whatever term you want to apply to it or should apply to it, and that also it was not taking care of the job adequately otherwise. It was performing some kind of bottleneck in the operations and as I say I am not too familiar with the details of the operation.

Mr. COBURN. Well, with reference to the escape of the dust, it is a fact, is it not, a good deal of nickel was escaping in this dust? It was a large part of the dust, was it not?

Mr. TIPPIT. That is correct.

A considerable amount of nickel was escaping and I also understand there was a health factor involved.

Mr. COBURN. And by reducing the amount of the dust there would be more nickel ore that would be caught and rendered from it—I say ore, metal, more nickel metal would be produced from the ore in question, would it not?

Mr. TIPPIT. That is correct.

Mr. COBURN. In other words, if the dust system could be improved so there would not be so much dust then the amount of nickel metal that would be produced from the ore in question would be higher.

Mr. TIPPIT. That is correct.

Mr. COBURN. And so the decision was made by the Hanna Nickel Smelting Co. to remove this particular dust collecting system equipment and put in a new system?

Mr. TIPPIT. That is correct.

Mr. COBURN. And that was when, 1957, something like that?

Mr. TIPPIT. It began in 1957. I think completed in early 1958. That was approximately right.

Mr. COBURN. And it cost $885,000 to buy this new equipment?

Mr. TIPPIT. Yes.

Mr. COBURN. And of that amount $686,000 was capitalized and $199,000 was expensed?

Mr. TIPPIT. That is right.

Mr. COBURN. All right.

You say that, as I understand it, the accounting principle that should be applied here to this kind of situation is this: That where a commercial scale plant is built without benefit of a pilot plant, that you are authorized in expensing that part of the cost of a replacement installation that does not exceed the cost of what it replaces.

Is that correct?

Mr. TIPPIT. Yes, that is one of the provisions.

Mr. COBURN. Well, as I read your statement, I rather got the impression that that was the accounting rule that you applied like we lawyers would apply a rule of law.

Mr. TIPPIT. In items of this type, yes. It is not the only rule, but, so far as this particular instance is concerned, it certainly applies.

Mr. COBURN. Does this rule apply to all equipment that was installed out there in the plant at Riddle that replaced some earlier piece of equipment?

Mr. TIPPIT. Not necessarily. As to the cost angle, that would not be the sole criterion, if that is the right word, in all replacements. There are other factors. Each one is on its own merits.

Mr. COBURN. Well——

Mr. TIPPIT. But, so far as this particular item we are discussing is concerned, the amount expensed did not exceed the cost of, the estimated cost of, the original installation.

Mr. COBURN. Do I understand you to say, then, with reference to this particular item, that it would be all right for you to, that is, for the company, to expense up to the amount of the cost of the original piece of equipment?

Mr. TIPPIT. That is correct.

Mr. COBURN. And to capitalize the rest, is that right?

Mr. TIPPIT. Yes.

I do not recall that there were other amounts involved in this installation. I think the $199,000 covers all of it. And that does not exceed the original—the cost of the original equipment.

Mr. COBURN. Is that an accounting principle that would be generally accepted in accounting with reference to a piece of equipment of that kind?

Mr. TIPPIT. Well, it would vary here only because of the terms of the contract.

Mr. COBURN. Well, we will get to that in just one moment, now. I have that in mind, but let us exclude the contract for the moment and talk about the accounting principle.

Mr. TIPPIT. I might explain on the principle, I think the ideal way would be to take the old cost out and put the new one in. This accomplishes substantially that same result and also does not upset the amortization schedule set up in the first place.

Mr. COBURN. In other words, as I understand it, it was your viewpoint with reference to this piece of equipment which supplanted an old piece of equipment that did not work as efficiently as the company thought it should, that it is all right, accountingwise, for you to expense the entire cost of the original equipment and capitalize the rest?

Mr. TIPPIT. An amount at least equal to the cost of the original equipment.

Mr. COBURN. May I ask you this:

What if this original piece of equipment, this dust-collection equipment, cost, let us say, $500,000, and the company depreciated this equipment by $400,000 so there was only $100,000 undepreciated amount of the original cost left and then it decided to build a new dust-collection system that, for simplicity, cost $1 million.

Would the company be justified in expensing the entire cost of the earlier piece of equipment of $500,000?

Mr. TIPPIT. I think the terms of the contract are such that the original installation is to be charged off over the 95 million pounds. It really does not provide for treatment such as you are mentioning.

Mr. COBURN. Mr. Tippit, just a moment.

I said I would get to the contract in just a minute. I am talking about the accounting principles that are involved, and, as I understand your statement, at the point you made this statement you were relying on sound accounting practice; that is what you said.

Mr. TIPPIT. That is correct, in the light of the terms of this contract.

Mr. COBURN. All right.

Mr. TIPPIT. And I think you have to take the contract into consideration.

Mr. COBURN. You did not say that in your statement here. You did not refer to the contract at this point. You said this:

And it is in accordance with sound accounting practice, particularly in a situation like that.

Mr. TIPPIT. That is correct, in a situation like that.

Mr. COBURN. You are referring now to the contract; is that what you meant by "a situation like that"?

Mr. TIPPIT. That is correct, the contract and the other matters involved, such as this being, well, a crash program, if that is the way to put it, building the plant hurriedly before they were able to work out some of the bugs to begin with.

Mr. COBURN. All right, then.

Let me ask you the question in this way: If there had been no contract like this at all, not considering this contract in any sense, if this original dust-collection system that cost $500,000 and had been depreciated $400,000 so there was only $100,000 undepreciated, original cost left, and the company came along and built a new one for $1 million, the company would not be authorized under general accounting principles to expense the entire $500,000, being the cost of the original equipment; is that not right?

Mr. TIPPIT. That sounds right, in the absence of any contract or other circumstances.

Mr. COBURN. Yes.

Mr. TIPPIT. That would bear on the question.

Mr. COBURN. All right.

Now, let us turn to the contract. This particular piece of equipment, as we have said, was put in to replace an older piece of equipment that did not work efficiently; is that not right?

Mr. TIPPIT. That is correct.

Mr. COBURN. I refer you now to the contract, itself, since you have said that that is important, and so it is. As a matter of fact, all of the accounting questions that are involved here in this particular matter are governed by the contract.

Where the contract has a provision, it applies; is that not correct?

Mr. TIPPIT. That is correct.

Mr. COBURN. So whatever the general accounting principles are that would ordinarily be applied, the contract, if it makes application to the point in question, will govern?

Mr. TIPPIT. Yes, that is right.

Mr. COBURN. Yes.

Now, I refer you to the contract between the smelting company and the Government. Do you have that?

Mr. TIPPIT. Yes.

Mr. COBURN. Article 6, advances, reads as follows:

(1) Upon the contractor's written request, the Government will make advances, hereinafter called capital advances, of the entire amount up to a total of $200,000.

Mr. TIPPIT. $22 million.

Mr. COBURN. I mean $22 million, and then dropping down—let us see, "of $22 million required," and then dropping down to (c):

For such replacements or improvements of the facility which are agreed by the contractor and the Government to be necessary or advisable during the period of this contract.

That is the way it reads; is it not?

(The complete contract is printed on pp. 1839–1852.)

Mr. TIPPIT. Yes.

Mr. COBURN. All right.

Now, as I understand that provision of the contract, it simply says that the Government will make capital advances up to a certain amount for certain purposes, and, among those purposes are for such replacements or improvements of the facility which are agreed by the contractor and the Government to be necessary or advisable during the period of this contract.

Was not this dust-collection system as clear an example of a replacement or an improvement in this plant as you could have?

Mr. TIPPIT. I think it is.

Mr. COBURN. Well, then, under those circumstances it is a capital item, is it not?

Mr. TIPPIT. No, the capital advanced was not intended to cover the entire cost here, and the segregation was made—well, as I have described here.

Mr. COBURN. But, Mr. Tippit, under the contract, if the Government is authorized, and, in fact, required, to make certain advances for capital expenditures here, then are not the expenditures that are made for the purpose of acquiring equipment out of that—I mean pursuant to the contract, are not they items that should be capitalized?

Mr. TIPPIT. Not necessarily.

That is, in the first place, only this $686,000 in this case was considered a capital advance. The $199,000 was not considered a capital advance.

Mr. COBURN. That is right. That is right.

But my question is: Why was it not all capitalized because this is clearly, as you have said, a replacement or improvement?

Mr. TIPPIT. It was not all treated as a capital advance.

Mr. COBURN. What is that?

Mr. TIPPIT. It was not all treated as a capital advance, this $686,000.

Mr. COBURN. I know. But my point is it should have been treated as a capital advance in full because the contract requires it.

Mr. TIPPIT. I do not think so.

Mr. COBURN. Well, now, why not?

Mr. TIPPIT. Well, the next paragraph in the contract, I think, states very clearly: "Capital advance"—well, beginning with the first sentence:

> Working capital advances may be requested and used by the contractor to pay any costs and expenses hereunder of the contractor, including costs arising from the payment of tax liability or other source not covered by capital advances and which are in excess of funds then available from the sale hereunder.

Now, the $199,000 here is not covered by capital advances.

Mr. COBURN. But this refers to working capital advances, what you have just read?

Mr. TIPPIT. That is right.

Mr. COBURN. I am talking about——

Mr. TIPPIT. That is the fund that is used for all other purposes not covered by capital advances.

Mr. COBURN. Well, but my point is this, and I do not want to argue the contract with you too much because it may not be too fruitful to the committee, but, to make sure that we all understand this picture, under this contract the Government made certain advances to the contractor for the purpose of constructing the plant; is that not right?

Mr. TIPPIT. That is right.

Mr. COBURN. For capital advances, really. I mean not only for advanced capital, but for capital purposes.

Mr. TIPPIT. That is right.

Mr. COBURN. All right.

Then, also, the Government made certain advances to the contractor for working capital advances to be used in the operation of the company?

Mr. TIPPIT. That is right.

Mr. COBURN. And the sentence you have just referred to here says that this applies to working capital advances, does it not?

Mr. TIPPIT. Yes.

Mr. COBURN. And the paragraph I was reading from refers to advances made by the Government to the contractor for the purpose of constructing the plant?

Mr. TIPPIT. That is right.

Senator SYMINGTON. Will counsel yield?

Mr. COBURN. Yes.

Senator SYMINGTON. In other words, one had to do with advancing money for fixed assets, and one had to do with advancing money for current assets, is that correct?

Mr. TIPPIT. That is correct.

Senator SYMINGTON. Thank you.

Mr. COBURN. Now, this dust-collection system was a part of the plant, was it not?

Mr. TIPPIT. Yes.

Mr. COBURN. And also, as you have said, it was a replacement or improvement of the facility, which was the smelter?

Mr. TIPPIT. That is correct.

Mr. COBURN. Then under those circumstances is it not just as clear as anything can be that under article 6 the money spent for the new piece of equipment, this new dust-collecting equipment, should have been paid for out of capital and not expensed?

Mr. TIPPIT. I do not think so.

Mr. COBURN. Well, all right. Anyhow, we have your view.

In your statement, you also made reference to the Dutch ovens as being a matter that you evidently thought was properly handled by the nickel smelting company, is that correct?

Mr. TIPPIT. That is correct.

Mr. COBURN. As I understand the fact, these Dutch ovens were expensed in full and not capitalized at all?

Mr. TIPPIT. That is correct.

Mr. COBURN. These Dutch ovens were a device that was a part of the smelter, was it not?

Mr. TIPPIT. Yes.

Mr. COBURN. And it was used for the purpose of drying the ore that went into the plant?

Mr. TIPPIT. I understand so.

Mr. COBURN. And the Dutch ovens that were originally installed when the smelter was first built were small and not considered large enough, is that correct, as they went on with the operation?

Mr. TIPPIT. Yes. I understand the new was larger than the old.

Mr. COBURN. That is, there were not enough ovens, as I understand the facts.

Mr. TIPPIT. I do not know whether it was the number or size.

Mr. COBURN. I think there were not enough ovens. And so, as they operated the plant, they finally decided to replace these original ovens and put in some new ones that were larger in capacity?

Mr. TIPPIT. Yes.

Mr. COBURN. Was that not about the problem?

Mr. TIPPIT. That is my understanding.

Mr. COBURN. And some $97,000, I think, was spent in that way?

Mr. TIPPIT. That is correct.

Mr. COBURN. And was all expensed by the contractor?

Mr. TIPPIT. That is correct.

Mr. COBURN. Now we are back again to the same problem. Were not these Dutch ovens a replacement or an improvement, if anything ever was, to this plant?

Mr. TIPPIT. Yes, they were.

Mr. COBURN. And, yet, you say that the company properly expensed the entire amount?

Mr. TIPPIT. That is correct.

Mr. COBURN. Of the Dutch ovens?

Mr. TIPPIT. That is correct.

Mr. COBURN. Mr. Tippit, in your statement, you have referred to the policy that was formulated by the company with reference to capitalizing and expensing of items, have you not?

Mr. TIPPIT. Yes.

Mr. COBURN. On pages 2495 and 2496 in your statement?

Mr. TIPPIT. Yes.

Mr. COBURN. And I believe you say that these accounting policies have your full approval?

Mr. TIPPIT. That is correct.

Mr. COBURN. Well, without regard to whether the policies have your full approval were these policies applied in such a way that you also approved of that?

Mr. TIPPIT. Yes, and I so said in my statement, I believe.

Mr. COBURN. Now as I understand it, these policies set forth here in your statement were policies that originated in the company itself?

Mr. TIPPIT. That is correct.

Mr. COBURN. The smelting company?

Mr. TIPPIT. That is correct.

Mr. COBURN. They didn't originate at Ernst & Ernst?

Mr. TIPPIT. They didn't originate. We may have cooperated in formulating them.

Mr. COBURN. Well, did you? If you did I would like to know.

Mr. TIPPIT. I am sure we did.

Mr. COBURN. You are sure you did?

Mr. TIPPIT. I am sure we did.

Mr. COBURN. Did you?

Mr. TIPPIT. I didn't personally, no.

Mr. COBURN. Well, do you know whether anyone in your organization did?

Mr. TIPPIT. I know they did collaborate with them.

Mr. COBURN. I see, all right.

Were these policies of the Hanna Nickel Smelting Co. with reference to expensing or capitalizing items communicated to the Government?

Mr. TIPPIT. They would be through our working papers, at least to a large extent. Whether the Government——

Senator SYMINGTON. I didn't understand that; repeat it, please.

Mr. TIPPIT. They would be through our working papers, Senator. Our working papers contain notes of our review people, and in discussing these items with the company people from time to time.

Mr. COBURN. You mean working papers like this one I read here a while ago?

Mr. TIPPIT. That is correct.

Mr. COBURN. Which one would the GSA follow, these working papers or what happened in the Court of Last Review there in Cleveland? Which would they know to follow?

Which would they know to follow?

Mr. TIPPIT. I didn't get your question, I am sorry. [Laughter.]

Mr. COBURN. Well, your working papers said one thing and then you decided another thing in Cleveland.

How would the Government know about that?

Mr. TIPPIT. What was decided in Cleveland would be in the working papers, the working papers that the Government representatives saw from year to year because the papers were all together, and that is

one of the things relating to the sheet that you have there. There are notes attached to that sheet that explain all the considerations, all the way up to the final decision of what our position was.

Mr. COBURN. All right. Let me ask you now about these policies that were announced or decided upon by the company. I asked you if they were communicated to the Government, and you haven't answered that yet.

Mr. TIPPIT. I don't know of any communication to the Government other than through our working papers.

Mr. COBURN. Working papers?

Mr. TIPPIT. That is from Ernst & Ernst.

Mr. COBURN. Well, I am trying to find out now whether the Hanna Co.——

Mr. TIPPIT. I don't know.

Mr. COBURN. Hanna Nickel Smelting Co. advised the Government these were to be followed.

Mr. TIPPIT. I should say I don't have any communications either from Ernst & Ernst or Hanna Nickel Smelting Co.

Mr. COBURN. Can you tell me when these policies were adopted by the Hanna Nickel Smelting Co.?

Mr. TIPPIT. They have been in effect throughout this period. The operations would have started when, in 1955?

Mr. COBURN. No, the first nickel——

Mr. TIPPIT. 1954.

Mr. COBURN. The first nickel delivered, according to the record as I recall it, was 1954.

Mr. TIPPIT. I think the same policies have been followed throughout the period.

Mr. COBURN. Throughout the entire period of the performance of the contract?

Mr. TIPPIT. That is right.

Senator SYMINGTON. I think you will have to speak a litle louder for a minute.

Mr. TIPPIT. Is it off?

Senator SYMINGTON. Yes.

Mr. TIPPIT. I thought it sounded like it.

Senator SYMINGTON. That is all right. We can hear you quite well.

Mr. TIPPIT. I will do my best.

Mr. COBURN. Now, Mr. Tippit, I notice here that you say generally all expenditures for this—this is in this set of principles that you say the company followed in expensing and capitalizing items—you say generally all expenditures for the equipment of a minor nature $500 to $1,000, are charged to expense. Is that correct?

Mr. TIPPIT. That is correct.

Mr. COBURN. Do you know what the company did during the performance of this contract? Did it follow that policy consistently?

Mr. TIPPIT. Yes. I wouldn't say there are no exceptions.

Mr. COBURN. Well, you have studied this whole matter, I should think, carefully before you came to testify, have you not?

Mr. TIPPIT. That is correct. That is correct.

Mr. COBURN. And if a policy of this kind is to be adopted, so I am advised, then it must be followed consistently throughout the performance of the contract, isn't that correct?

Mr. TIPPIT. Oh, yes, within certainly reasonable limits.

Mr. COBURN. Well, I have a list of items, small items but they qualify under this rule which you say the company decided to follow, that do not seem to me to indicate there was any particular policy at all that was followed with reference to these small items.

Our audit shows, for instance, that in 1957 the following items were capitalized:

Four-drawer files, $102.40, that is a piece of office equipment, isn't it?

Mr. TIPPIT. It sounds like it.

Mr. COBURN. Yes. And during 1957 another file, $90 was capitalized.

In 1957 a calculator of less than $1,000 was capitalized. During the same year an office desk for less than $1,000 was capitalized, and a long list of items that I won't go into in full.

Then on the other hand, during 1958, various pieces of office equipment such as files and calculators and desks, all of them worth less than $1,000 were expensed. How did that happen?

Mr. TIPPIT. Some of those would be covered by the capital advances and the others would not be to some extent, and then you have a matter of replacements to take individual items that I would have to trace them down to give you the reasons.

Mr. COBURN. Well, our people, the investigators traced these down carefully, and they simply couldn't find any particular policy that was involved at all. About half of these items were expensed and about half capitalized and they all look like the same kind of items to me.

Mr. TIPPIT. And the aggregate is not enough to put in your eye.

Mr. COBURN. Well, I don't know about that. But in any event without regard for the aggregate, Mr. Tippit, here is this principle, this policy, that the company formulated with the aid of Ernst & Ernst and which you now put forward with your full approval and have just told us awhile ago that you approved the way the policy was applied.

Mr. TIPPIT. I do and I did.

Mr. COBURN. And yet they don't seem to have followed that policy, have they?

Mr. TIPPIT. I think they have within reasonable limits.

Mr. COBURN. How do you explain this then?

Mr. TIPPIT. I just explained to you some of those items are covered by capital advances and took that route, others are not.

Mr. COBURN. Do I understand you to say then, that what the company really did was not to consider whether a given item should be capitalized or expensed but they simply either expensed it or capitalized it depending on whether they had money on hand that the Government had advanced to them as a capital advance?

If they had the money on hand they capitalized it.

If they didn't, they expensed it.

Mr. TIPPIT. If I said that I didn't intend to.

Mr. COBURN. It sounded like that to me, but if that is not so please correct it because I didn't understand it.

Mr. TIPPIT. I think in all cases they would take into account what they had done or what they expected to do, which route this was

taking and why, all the circumstances of the acquisition, not whether they had gotten an advance or whether they hadn't but whether they should get one and whether that should take that route.

Mr. COBURN. It isn't the method of acquisition that counts, is it, in capitalizing and expensing items?

Mr. TIPPIT. I think under this contract——

Mr. COBURN. Excuse me.

We will get along better if I ask the question and then you answer it.

Mr. TIPPIT. All right.

Mr. COBURN. Isn't it rather the use of the equipment that determines whether it is to be capitalized or expensed?

Mr. TIPPIT. That combined with the provisions of the contract we are operating under here.

Mr. COBURN. That would be true, would it not?

Mr. TIPPIT. Yes.

Mr. COBURN. All right.

Now, I want to refer to this——

Senator SYMINGTON. Mr. Tippit, it is getting close to lunch and we will come back.

You take a position on some of these items that they should be capitalized, not expensed. There are a lot of people who don't agree.

First, your own auditors, the men who actually did the work. For what it is worth I wish they were the ones testifying. Then there is the chief accountant for the Hanna Nickel Mining Co., page 2090 of the record. Then there is the Commissioner of Internal Revenue, page 2050; and then the supervising accountant of GSA, page 2066, and finally the General Accounting auditors. All those people have had considerable experience in this field. I don't think we can look at it as just a minor matter, which was my impression, a few minutes ago from your testimony, of the way you feel about it.

There are many people who disagree with your position, and it is important.

Mr. TIPPIT. Mr. Chairman, I would like to make it very clear that I don't consider any of this as a minor matter.

Senator SYMINGTON. Thank you for saying that.

Mr. TIPPIT. I am long experienced in these matters, particularly dealing with the Government agencies, and I have what I think is a very fine reputation and my firm does.

Senator SYMINGTON. I understand. I wanted to point out that there isn't agreement on this matter in the accounting field itself.

Mr. TIPPIT. Might I say there was an agreement when the General Accounting Office issued its report in 1961?

Senator SYMINGTON. They didn't cover this part in their examination.

Mr. TIPPIT. They took no exceptions.

Senator SYMINGTON. They didn't cover this part, exceptions or no exceptions. I ascertained that.

Mr. TIPPIT. He found no exceptions.

Senator SYMINGTON. They covered all they felt they could, under the extraordinary circumstances.

Senator BUSH. I would like to ask one question.

Senator SYMINGTON. Yes.

Senator BUSH. You said you have been in this business for some 40 years?

Mr. TIPPIT. That is correct.

Senator BUSH. Are you a member of the American Institute of Accountants?

Mr. TIPPIT. Yes; I am and have been for many years.

Senator BUSH. For many years. Are you an officer of it?

Mr. TIPPIT. I am a member of the General Accounting Principles Board.

Senator BUSH. Accounting Principles Board?

Mr. TIPPIT. Accounting Principles Board of the American Institute. That is the top body of the institute formed about 3 years ago, that has to do with the general subject of accounting principles. I attended a meeting of the board on Monday of this week.

Senator BUSH. This is an authoritative board for the industry, so to speak, to establish accounting principles?

Mr. TIPPIT. That is correct.

Senator BUSH. Sound principles of accounting?

Mr. TIPPIT. That is correct.

Senator BUSH. How many members are there on that board?

Mr. TIPPIT. There are 21 members consisting of the heads of, it must be, about 12 accounting firms. There are three or four professors on it, and two or three from industry.

Senator BUSH. Any Government people on it?

Mr. TIPPIT. I also should say that Mr. Campbell of GAO is a member.

Senator BUSH. He is a member of that board?

Mr. TIPPIT. That is correct.

Senator SYMINGTON. I am sure you are a member of many boards, and are high in the profession; and if you have been auditing the books of the Hanna company since 1923, I am sure you know a lot about them. What we are trying to get, however, is what are the facts in this particular case. The auditors, your own auditors, don't agree with your position. The chief accountant for the Hanna Nickel Co. didn't and doesn't agree with it. The Commissioner of Internal Revenue doesn't agree with it. The testimony of the GSA auditors shows they don't agree with it. Nor do the auditors put on the job by the General Accounting Office. Therefore, although I am not the expert you are in the accounting field, this is a subject for discussion, and will be discussed.

It is now 1 o'clock——

Mr. TIPPIT. I would just like to make one other statement on who didn't agree.

I would like to know more about where they disagreed. Take the Internal Revenue, for example, I don't think that is applicable to this case at all. If it comes to a matter of agreement, I would have no doubt that I can get plenty of support from people in the profession if that is called for.

Senator SYMINGTON. I am sure you can, too, based on what has gone on to date.

Mr. TIPPIT. I do want you to know I take this as seriously as anyone could.

Senator SYMINGTON. We will adjourn until 2:30.

(Whereupon, at 1:05 p.m., the committee recessed, to reconvene at 2:30 p.m., the same day.)

AFTERNOON SESSION

(Present: Senators Symington (chairman) presiding, Thurmond, Engle, and Bush.)

Senator SYMINGTON. The hearing will come to order.

I would ask one question. Listening to the testimony this morning, Mr. Tippit, obviously there is disagreement; regardless of importance, that disagreement is there.

You asked to testify as did Mr. Humphrey. We were glad to have you both testify, if for no other reason the fact you wanted to, and Hanna wanted you to.

TESTIMONY OF HASSEL TIPPIT, MANAGING PARTNER OF ERNST & ERNST, ACCOUNTANTS FOR THE HANNA COMPANIES—Resumed

Mr. TIPPIT. Thank you, Senator.

Senator SYMINGTON. But do you not think, in matters of this character, and based on your accounting experience and my accounting experience, we ought to have up here the people who actually did that work, the accountants who were actually on the job, and also have their opinions on these matters?

Mr. TIPPIT. Well, I certainly would not want to put any restriction on that, Senator. I think you should go as far as you wish.

I would qualify it to this extent:

That I think those having final responsibility have their reasons for doing things the way they did that may not be known to those along the line, and certainly in our firm we ask our people to express themselves wherever called upon.

Senator SYMINGTON. It appeared at times this morning we were talking accounting philosophy, you might say, not getting down to the facts in this particular case.

Mr. TIPPIT. I would like perhaps to make it clear to you we talked this morning of our having done Hanna work for some 40 years, and I have been familiar with that throughout most of that period, maybe the first 3 or 4 years not too much, but I have been very close personally to all the Hanna accounting over at least 35 years.

Senator SYMINGTON. I was not directing my observations on your proximity to the Hanna people. That is abundantly clear.

We fully understand they are quite close. But I was surprised you had not even talked with your own man at Riddle; in fact, did not even know who he was, although he was the working agent in this case for your organization.

Mr. TIPPIT. I did know who he was, but I had not talked to him, and I explained to you why.

Senator SYMINGTON. Did you not say you did not even know his name?

Mr. TIPPIT. I did say that.

Senator SYMINGTON. Mr. Counsel, will you proceed?

Mr. COBURN. Yes, sir.

Mr. Tippit, back to your statement again in which you set forth the principles or policies that the Hanna Nickel Smelting Co. followed in expensing or capitalizing items under the smelting contract.

With reference to No. 5 on page 2496, you say there:

> The general approach of Hanna towards all its operations is to lean to expensing in borderline questions. This principle was also applied here.

That is, in all borderline cases, as I understand it, the contractor leaned in the direction of expensing the item, rather than capitalizing it, is that it?

Mr. TIPPIT. That is certainly so in general. There could be exceptions but, in general, that is the practice.

Mr. COBURN. I am first asking you about what they did. That is their practice?

Mr. TIPPIT. That is correct.

Mr. COBURN. Now, then, with reference to general practice elsewhere in accounting situations or business situations, rather, is that the general practice among businesses?

Mr. TIPPIT. Yes, it is. It certainly is among mining companies.

Mr. COBURN. Why would that be any different from any other kind of a company in that respect?

Mr. TIPPIT. Well, because of the nature of the operation.

In mining operations the materials get out, scattered around. I would say that, in general, mining companies follow a very conservative practice in that regard. I also would like to say that once it is underway, whatever the practice is, it does not make much difference over a period of time which policy is followed, as long as they are consistent in it.

Mr. COBURN. It makes this difference, does it not, that it gives the mining company an advantage taxwise, does it not?

Mr. TIPPIT. Not necessarily, because it is only deductible once for taxes.

Mr. COBURN. But if it is expensed, it is deductible in full in the year for which it is expensed, is that not right?

Mr. TIPPIT. That is correct.

Mr. COBURN. And that usually is regarded by a businessman as an advantage, is it not?

Mr. TIPPIT. Perhaps a temporary one because if it is not expensed one year, it will not be the next.

Mr. COBURN. All I know is from talking with my business friends, they all look with a gleam in their eye at anything that can be expensed, is that not generally true?

Mr. TIPPIT. I think most successful companies follow that approach. Here and there you find they would rather defer.

Mr. COBURN. How is that?

Mr. TIPPIT. Here and there you find them that would rather defer everything they can. If you are interested in the mining generally, I have a couple of excerpts here from one—the "Encyclopedia of Accounting Systems." That is one that is quite prominent in this field that I would be glad to insert in the record, if you wish.

Mr. COBURN. I do not want to prolong the hearing by any discussions of accounting philosophy and theory, but if you have it at hand, go ahead and read it.

Senator SYMINGTON. Why do you not just place it in the record.

Mr. TIPPIT. As you wish.

Senator SYMINGTON. As you wish.

Mr. COBURN. We are trying to get the hearing brought to a conclusion. I do not want to cut you off at all, Mr. Witness, but if it is important to you, go ahead and read it.

Mr. TIPPIT. In general, it supports what I am telling you. I have told you the Hanna theory, and you are asking about broadening it. I can tell you, too, that I have outside of the mining and the Hanna group quite a lot of experience with other mining companies. We do not want to inject names here, of course, but I do have personally and firmwise a very wide experience in this.

But this encyclopedia, it is not very long, just two paragraphs, I might read, page 1293, chapter 45, relating to mining enterprises, and the caption is "Expensing Versus Capitalizing."

In accounting for expense definite company policy should be established and consistently pursued on the recurring question of capitalization versus expensing of borderline items. Owing to hard usage as well as to hazards of all kinds, it is not uncommon, for instance, for mining companies arbitrarily to expense all equipment or tool items which cost less than $500, or which are expected to be used up within 2 years. Many mines adopt a policy of expensing all installations which do not increase production or decrease costs. Writing the initial accounting policy is a very important part of the policy system engaged in.

Page 1313, "Plant and Equipment Records."

On the perennial question of whether to capitalize or not to capitalize, it is generally best to favor expensing instead of capitalizing. Remember the equipment is pitted against hard rock or corrosive water or heavy loads. It is subject to a high degree of obsolescence. The life of the mine is often shorter than anticipated. Moreover, when depletion does take its toll, the sales proceeds from fully depreciated equipment is usually very small, indeed, and at that stage can most conveniently be treated as incidental last-year revenue.

Mr. COBURN. You have been talking about a mining operation, have you not?

Mr. TIPPIT. That is correct.

Mr. COBURN. Are we not talking about a smelting operation?

Mr. TIPPIT. Primarily Hanna is a mining company.

Mr. COBURN. Well, I know, but just a moment——

Mr. TIPPIT. May I complete the answer?

Mr. COBURN. Excuse me. Go ahead.

Mr. TIPPIT. In this case it extends on to smeltering, and I do not think, while I have referred to mining, I do not think this is materially different than most well-run companies follow in the manufacturing field.

Mr. COBURN. Now, Mr. Tippit, there is not any question about this whatever, is there?

We are talking about the expensing or capitalizing of items that were purchased for the Hanna Nickel Smelting Co., is that not right?

Mr. TIPPIT. That is correct.

Mr. COBURN. And not the Hanna Mining Co. at all?

Mr. TIPPIT. That is correct.

Mr. COBURN. Yes.

Mr. TIPPIT. So far as your question goes.

Mr. COBURN. And, as I understood what you read from the encyclopedia, whatever it was, it referred to mining operations.

It mentioned at one point that because the rock was hard and so on, that the equipment wore out rapidly, the drills and things of that kind.

Now, that is mining and not smelting, is it not?

Mr. TIPPIT. Yes; that is right.

Mr. COBURN. All right.

Now, then, let us get back to this situation here with reference to No. 5 where you say that the Hanna Nickel Smelting Co. leaned in the direction of expensing all of the borderline items.

Do you think that their right to lean in that direction is affected in any sense by the fact that the Government had to pay the Hanna Nickel Smelting Co. for the nickel which it bought on the basis of its operating expenses?

Mr. TIPPIT. Well, I have seen no evidence of that. I should point out to you I think that whichever way they did it here, it is applicable to the period up to the time of completing the 95-million-pound production.

Mr. COBURN. I do not believe you and I are together here on this question I have just asked you.

Mr. TIPPIT. I am sorry.

Mr. COBURN. Well, that is all right. I know you are not trying deliberately to evade me in any sense, but, as I understand this picture here, we have a contract where the Government was paying the Hanna Nickel Smelting Co. for the nickel metal that was produced on the basis of their operating costs or expenses; it that not right?

Mr. TIPPIT. Yes; that is right.

Mr. COBURN. Do you think under those circumstances, where the price of the metal depended on their actual operating expenses or costs, that the contractor was authorized to lean in the direction of expensing everything on borderline cases?

Mr. TIPPIT. I do not know why not.

Mr. COBURN. You do not think that makes any difference at all?

Mr. TIPPIT. I do not.

Mr. COBURN. In other words, in addition to all tax consequences, we have a situation here where leaning in the direction of expensing something would affect the price of the very metal that the Government was buying?

Mr. TIPPIT. That is correct; and maybe I am influenced by my own leaning in that direction over the years.

Mr. COBURN. Well, in any event, Mr. Tippit, in order to lean in the direction of expensing, it must be in a borderline case; is that not right?

Mr. TIPPIT. "Borderline case." I do not know to what you refer.

Mr. COBURN. Well, I do not know, either. It is in your statement here.

Mr. TIPPIT. If there is some other item, why, it will have to stand on its own.

Mr. COBURN. I only borrowed that phrase "borderline," or word, from your statement.

You must know what that means, perhaps better than I do, sir.

Mr. TIPPIT. I think I know what it means.

Mr. COBURN. Here is what you say here:

The general approach of Hanna toward all of its operations is to lean to expensing in borderline questions.

Mr. TIPPIT. Yes.

Mr. COBURN. Now, what do you mean by "borderline questions" there?

Mr. TIPPIT. That is where it might be questionable which way it would go.

Mr. COBURN. All right.

Now, with that in mind, I have before me a list of some of the items that were expensed and not capitalized according to the Government investigation that has been made so far of the records of the Hanna Nickel Smelting Co.

Here in January of 1961, that was only about 3 months before the smelting company took over the plant, was it not?

Mr. TIPPIT. Of 1961?

Mr. COBURN. No; it was after that, was it not? Wait a minute, excuse me.

Mr. TIPPIT. I beg your pardon, Mr. Coburn.

Mr. COBURN. I confused you and I withdraw that question. That was only about 3 months before the Hanna Nickel Smelting Co. took over the plant from the Government, January of 1961?

Mr. TIPPIT. That is correct.

Mr. COBURN. And since that time the Hanna Nickel Smelting Co. has been selling the ferronickel metal to industry as well as the Government, has it not?

Mr. TIPPIT. Since the takeover?

Mr. COBURN. Yes; since the takeover.

Mr. TIPPIT. Yes; that is correct.

Mr. COBURN. And when they took over, they doubtless intended to sell ferronickel to the industry, did they not?

Mr. TIPPIT. That is my understanding.

Mr. COBURN. Here in January of 1961, we have this:

Construction of a storage area for ferronickel. The nickel plant manager reported that this area was intended for storage of ferronickel pending sales to industry, $6,839.60 expensed.

Do you regard that as a borderline case, with reference to capitalizing and expensing, so that you could lean in the direction of expensing?

Mr. TIPPIT. I do not know that that particular item had come to my attention, Mr. Coburn, but if they did expense it, there must have been a good reason for it.

Mr. COBURN. Well, now, wait just a moment. Let us not shrug it off as just being something that there must have been a good reason for doing. Let us think about that a moment.

You are an accountant with long experience, and you have a good deal of knowledge of the operation of the Hanna Nickel Smelting Co. I think you can give us the answer to that right now.

Here, 3 months before the Hanna Nickel Smelting Co. took over this plant, where they intended to sell ferronickel to industry as well as to the Government, they spent $6,800-odd for the construction of a storage area for the ferronickel, and the nickel plant manager reported that the area was intended for the storage of ferronickel pending sales to industry.

In other words, a kind of a warehouse that you were going to have there, or a little stockpile of your own, perhaps, until you sold it to industry.

Now, do you regard that as a borderline case between capitalizing and expensing that item?

Mr. TIPPIT. I do not know enough about the nature of the construction to answer it for you. I am sorry.

Mr. COBURN. Well, I doubt if you would know more than you know now, if you looked at it.

Mr. TIPPIT. If it is cleaning up some area around the plant for storage——

Mr. COBURN. No, it is not cleaning up some area.

Mr. TIPPIT. I say I do not know enough about it to answer.

Mr. COBURN. Well, I am telling you. Let us assume, then, let us assume that it was an item that was spent for the purpose of constructing, not cleaning up, constructing a storage area for the storage of ferronickel until the company sold it to industry.

Would that be a capital item or an expensing item, or would that be a borderline case where you could lean in the direction of expensing?

Now, which?

Mr. TIPPIT. It sounds like a borderline case.

Mr. COBURN. It does? Why?

Mr. TIPPIT. Well, for the reason that so far as the information I have and know about it, it must have been.

Mr. COBURN. Is that the only answer you have?

Mr. TIPPIT. That is the only answer I can give.

Senator SYMINGTON. Will counsel yield?

Mr. COBURN. All right.

Senator SYMINGTON. Mr. Tippit, I have also been in business; and for many years prepared balance sheets and earnings statements to which you have to sign your name, and send to your stockholders.

These charges were incurred 3 months before this smelter was taken over. Are you saying this is a borderline case, expensing out that building?

Mr. TIPPIT. I do not know all the circumstances of this.

Senator SYMINGTON. The counsel just gave them to you; and you asked to testify relative to this contract; so you should know the details.

Mr. TIPPIT. I would say this:

That there are many items over the years and many situations that there are differences of opinion of whether something is capitalizable or not.

Senator SYMINGTON. The counsel has presented this to you in clear fashion. Based on my knowledge of business management under sound accounting principles, I do not see how you could even think twice about expensing this instead of capitalizing it.

Mr. TIPPIT. I am saying this:

That if it was expensed here, there must have been a good reason for it, and I do not know what it would be.

Senator SYMINGTON. Is that all——

Mr. TIPPIT. But always where there are differences on items of that kind, there are ways to talk them out and determine which is right.

Senator SYMINGTON. Your position on this matter affects my entire position with respect to any of your testimony. I just do not understand.

Go ahead, Mr. Counsel.

Mr. COBURN. Mr. Tippit, here is another one. In March of 1961—this was just before the smelting company took this plant over from the Government; in fact, the expense was incurred on March 23, 1961, 9 days before the smelting company took the plant over from the Government—the smelting company bought an elevator, really a kind of a conveyor device, as I understand it; it does not go straight up and down but at an angle, to carry ore or maybe metal or something of the sort, but it is a conveyor device.

This, as I say, was contracted for, was bought on March 23, 1961, to be used in the movement of material in the smelter. It cost $3,645. It was expensed to the Government just 9 days before this plant was taken over by the company.

This device was not even installed and put into use until 1962.

Would you say under those circumstances that that item is a capital item or an expense item or one of these borderline cases where you can lean in the direction of expensing?

Mr. TIPPIT. Well, that sounds like one that should be taken into account when received. There could be an error on that.

Mr. COBURN. There could be an error? What do you mean?

Mr. TIPPIT. If it is charged up in the——

Mr. COBURN. You mean the contractor, the smelting company, could have made an error?

Mr. TIPPIT. That is right.

Mr. COBURN. And they should have considered this, then, as an item not to be expensed against the Government while the contract was still in force?

Mr. TIPPIT. If delivery or installation, whatever it is, did not come until after that, that sounds like——

Mr. COBURN. I am advised it was not delivered and installed—at least it was not installed—until 1962.

Mr. TIPPIT. Well, obviously, that would be an error.

Mr. COBURN. That would be an error.

All right, thank you.

Mr. TIPPIT. I would like to state on these other items, in general, Mr. Coburn, that the way you would look at most of these items coming in toward the end of the contract as having a life similar to what the plant itself has under the contract.

There could be some exceptions to that. If anything deliberately is done here to get it under this cost that you referred to that did not apply until some later date, there certainly—that would be questionable. But I would not want any—well, I just do not know of any general situation of that kind.

Mr. COBURN. Now, Mr. Tippit, here is another item, a rather substantial item. Before I ask you about this, however, I want to make sure that we understand the practices of the contractor and the Government.

The Hanna Nickel Smelting Co. was in the habit of making a request upon the Government under the contract for capital funds from time to time to be spent in the plant.

Mr. TIPPIT. Yes.

Mr. COBURN. I mean not in operating the plant, but in the construction of the plant, is that right?

Mr. TIPPIT. Yes, that is right.

Mr. COBURN. The company would make a written request to the Government of additional funds that would be needed for new equipment that was to be put in the plant?

Mr. TIPPIT. Yes, that is right.

Mr. COBURN. Yes.

And you recall that although $22 million was first authorized by GSA to be spent for the construction of the plant, that later was increased by $875,000, was it not?

Mr. TIPPIT. Yes.

Mr. COBURN. Now, here is a conveyor system, a slag conveyor system, that was used for the movement or carriage of slag in the smelting plant.

In 1957, after GSA had authorized an additional $875,000 in capital expenditures, the company made a request for the authority to use that $875,000, and in their letter dated June 21, 1957, they included this slag conveyor system as one of the items that they wanted to spend this money for, you see, that they were getting from the Government.

Yet, in 1960, when this slag conveyor system was installed, it was expensed, and it cost $31,473.06.

Now, do you regard that as an item that was a capital item or an expensable item or a borderline item where you could lean in the direction of expensing it?

Mr. TIPPIT. Well, generally, conveyors do not have a very long life, and I would regard them, in general, as being expensable.

If this was expensed, they did not draw capital advances for it.

Mr. COBURN. I do not know whether they drew capital advances for it or not, but they said they were going to. They asked the Government—in requesting the $875,000 in capital advances, they listed this as one of the items for which they needed $875,000.

Mr. TIPPIT. If it was expensed, they did not draw against the capital items.

Mr. COBURN. No, I guess they did not, but they requested——

Mr. TIPPIT. And, in general, a conveyor system, if it is replacing one that is already in existence, of course, it is expensable.

But conveyor systems of that type are usually of fairly short life, and I think it is all right to expense them.

Mr. COBURN. Well, it says here, too, that this increased the size of the conveyor and extended the system by some 100 feet, so that it did not just replace the one conveyor.

Mr. TIPPIT. Well, extension is often necessary to reach storage area or others. I do not know just what area that covered, but that is not unusual to have an extension of a conveyor.

Mr. COBURN. I know it is not unusual to have an extension of a conveyor.

Mr. TIPPIT. And it is not unusual to have it expensed.

Mr. COBURN. You think this was unjustifiable, then, to expense this entire item?

Mr. TIPPIT. I sure do.

Mr. COBURN. Although it is a piece of equipment that was of the plant, was it not?

Mr. TIPPIT. Yes.

Mr. COBURN. And used in the plant?

Mr. TIPPIT. Yes.

Mr. COBURN. And it was larger than the old piece of equipment. It did not just replace it. And the contractor had listed this as one of the items for which it wanted capital funds?

Mr. TIPPIT. Well, there must have been something occurred in the meantime that caused them to take it out of the capital advances and treat it as an expensable item.

Mr. COBURN. You cannot tell us what it was?

Mr. TIPPIT. No.

Mr. COBURN. That caused them to do that, can you?

Mr. TIPPIT. I cannot.

Mr. COBURN. Mr. Chairman, I would like to introduce this letter of June 21, 1957, for the record.

Senator SYMINGTON. Without objection.

(The letter of June 21, 1957, is as follows:)

HANNA NICKEL SMELTING CO.,
Riddle, Oreg., June 21, 1957.

Mr. LARRY W. SPANG,
The M. A. Hanna Co., Cleveland, Ohio.

DEAR LARRY: Russ asked that we prepare a statement showing in detail our request for $875,000 of additional capital requirements.

On February 21, I sent a statement to Russ outlining our thoughts at that time; however, the total came to somewhat over $1 million. I understand that Mr. Brussolo recommended $875,000, and this is the total we are shooting for.

The details of many of these changes have not been worked out; therefore, it is impossible to make very accurate estimates, but we believe where one item may be high, the other may be low and that the total itself will just about cover the items included.

Following is the list of recommendations shown under item numbers to correspond with Bechtel's original cash flow plan:

ITEM 01. GENERAL PLANT FACILITIES

(*a*)	1 2-ton flat bed delivery truck, with hoist, 1958	$8,000
(*b*)	1 replacement of present flat bed, 1959	4,000
(*c*)	1 replacement of 1 dump truck, 1958	4,000
(*d*)	1 replacement of cars, 1958	3,500
(*e*)	1 replacement of cars, 1959	2,500
(*f*)	1 replacement of cars, 1960	2,500
(*g*)	2 replacement of small payloader, 1959	15,000
(*h*)	2 replacement of small payloader, 1960	15,000
(*i*)	1 replacement of large payloader, 1959	14,000
(*j*)	1 replacement of small tractor, 1959	15,000
(*k*)	3 replacements of fork lifts, 1959	24,000
	Total	107,500

ITEM 04. SMELTER BUILDING AND FACILITIES

	Ferrosilicon area:	
(*a*)	Roof over ferrosilicon storage area, 1958	15,000
(*b*)	Paving of additional raw material area, 1957	5,000
(*c*)	Improvement of iron shredding facilities, 1958	50,000
(*d*)	Heavy duty crusher, 1958	25,000
(*e*)	Screening and dust collecting equipment, 1958	15,000
	Smelting area:	
(*f*)	2 1,200-cubic-feet-per-minute air compressors, 1957	60,000
(*g*)	1 ladle lining equipment, 1957	80,000
(*h*)	Pig cleaning and handling facilities, 1957	15,000
	Total	265,000

ITEM 05. SLAG DISPOSAL FACILITIES

(*a*) Change No. 16 and No. 17 belts from 18 inches to 24 inches, 1958		$45,000
(*b*) Extensions to slag conveyor belts, 2,000 feet, at $50 per foot:		
1957	$20,000	
1958	40,000	
1959	40,000	
		100,000
(*c*) Improvements in granulating layout, 1958		50,000
Total		195,000

ITEM 10. MAINTENANCE SHOPS

(*a*) Addition to shop and warehouse building, 1957		150,000
(*b*) Additional shop equipment:		
1957	$25,000	
1958	25,000	
		50,000
Total		200,000

ITEM 16. SKULL CLEANING FACILITIES

Skull breaking equipment, 1957	15,000
Grand total	782,500
	782,500
Contingencies	92,500
Total	875,000

ESTIMATED EXPENDITURES BY YEARS

1957	370,000
1958	280,500
1959	114,500
1960	17,500
	782,500
Contingencies	92,500
Total estimated expenditures	875,000

Under item 01, I feel no explanation is necessary as most of these items wear out rather rapidly and the cost of overhauling becomes greater than the purchase of new equipment.

Under item 04, our ferrosilicon tonnage requirements are 2½ to 3 times the original estimate. This necessitates maintaining a larger supply of finished ferrosilicon and raw material. These items should be kept under cover. Our iron turning requirements, which were originally estimated at about 8 tons per day, now amount to about 20 tons per day. The shredding of these turnings currently requires an excessive amount of manpower. Improved facilities should pay for themselves within 3 years. This is also true with respect to our ferrosilicon crushing equipment, which was built to handle about 20 tons and we are currently running around 60 tons. This change or improvement should pay for itself in 2 years.

Item (*e*) covers the installation of screening and dust collecting equipment around the ferrosilicon crushing area. This equipment should be added to protect the health of the men working in the area.

Item (*f*) covers the installation of two 1,200 cubic feet per minute air compressors. Original plant layout did not require skull cleaning of ladles and the compressors installed were for general maintenance purposes. The installation of four skull chisels in front of the furnaces and two large skull cleaning hammers requires about 1,200 cubic feet per minute. This is currently being furnished by four small stationary compressors and a portable compressor. Necessary maintenance on all of the small compressors means that during a large percent of the time, our skull cleaning equipment is operating under low air pressure and this should be corrected.

Item (*g*) covers the installation of equipment to handle the slagging of ladles. If you recall, this was originally done by the use of a ladle lining machine which proved inadequate in capacity and did not form a suitable lining. This ladle lining machine has been replaced by the use of water-cooled forms which have worked out very satisfactorily, but are being handled in a crude manner by the large overhead cranes. The ladle lining handling equipment proposed will take this load off the overhead cranes, which can be used advantageously for other work.

Item "h" covers the addition of a pig cleaning and handling device which will do a much better job of cleaning our pig than the present hand method, and will eliminate the use of dozens of batch boxes which require an excessive amount of maintenance. This item should easily pay for itself in less than 1 year.

Under item 05, slag disposal facilities, item "a" covers the enlarging of the first two slag-conveyor belts. We have found that because of the tendency of granulated slag to stick to the belts, the present 18-inch belts are inadequate, causing premature belt failures. Item "b" covers additional belt to stack slag. Our slag dump is about 200 feet high, and the extensions mentioned will take us to the limit of our slag-stacking area; thereafter, they will be fanned around to completely fill the area. Item "c" covers certain improvements to be made in the general slag-granulating area. Although the slag-granulating layout performs adequately, we are making an excessive amount of glass wool which floats through the air and causes maintenance and operating troubles throughout the plant area. We are working on several schemes of improving the layout and have not, as yet, decided on the best, but feel that the changes will probably be in the neighborhood of $50,000.

Item 10 covers an addition to the shop and warehouse building. We are very cramped for both maintenance and warehouse space, and this tends to increase maintenance costs above normal. Additional shop equipment is also needed to manufacture many of our repair part requirements.

Item 16 covers the purchase and installation of skull-breaking equipment over the grissly at the skull plant. Breaking of this heavy skull is now being done by hand—a very expensive and somewhat dangerous practice. We have designed a mechanical skull breaker which will eliminate four men and make the operation considerably safer. This installation will pay for itself in 1 year.

In addition to the items mentioned above, I have added $72,500 for contingencies, bringing the total up to $875,000.

If the information above is not understandable, please let me know and I can attempt to give you a more detailed explanation.

Best regards,

EARL S. MOLLARD.

Mr. COBURN. Well, there are a great many other items of this kind that I could go into with you, but I will not do it because I do not want to take too much time.

Now, at the end of your statement, Mr. Tippit, you have a table, do you not?

Mr. TIPPIT. Yes, I do.

Mr. COBURN. Which you did not read but which has been incorporated in the record, is that right?

Mr. TIPPIT. Yes.

Mr. COBURN. In which you have computed the net cost per pound of the nickel to GSA that was involved in the Hanna nickel smelting contract?

Mr. TIPPIT. Yes, that is right.

Mr. COBURN. You do not include, however, in your figures the interest that the Government had to pay on the money that was involved, did you?

Mr. TIPPIT. That is correct.

Mr. COBURN. Nor did you——

Mr. TIPPIT. And I so stated, if I may say so, in my statement, Mr. Coburn.

Mr. COBURN. Yes, I think you did.

Mr. TIPPIT. On page 2497.

Mr. COBURN. I think you did.

And, in addition to that, you did not include the cost of transporting the nickel after it was bought by the Government to the stockpile?

Mr. TIPPIT. Well, only that we have allowed for that in the market price; that is, the last computation of 72.4.

Mr. COBURN. Well, your allowance for it there is an uncertain figure, whereas the transportation cost if well known to GSA, is that not true?

Mr. TIPPIT. Well, I do not know about the GSA. The transportation has not occurred on much of this.

Mr. COBURN. What I am referring to now is the transportation cost for this metal that the GSA has already paid. That is what I am talking about, so you have not made any allowance for that in your computations?

Mr. TIPPIT. Nothing other than in the market price. That does allow for it, whether it has been paid or not, in figuring the market price.

Mr. COBURN. Yes, but not with the exactitude that is involved in the amount of money that the GSA has laid out for transportation cost?

Mr. TIPPIT. That is correct.

Mr. COBURN. You did not know what those transportation costs were, did you?

Mr. TIPPIT. That is correct.

Mr. COBURN. And so you have not allowed for them in your computations?

Mr. TIPPIT. That is correct.

Well, I say again, I have not allowed for them except in the computation on the market price. I have not included the GSA expenditures in the expenses. I hope I am making myself clear on this.

Mr. COBURN. Well, yes, I think so. I believe I have no further questions, Mr. Chairman.

Senator SYMINGTON. Senator Bush?

Senator BUSH. I have no questions.

Senator SYMINGTON. Senator Thurmond?

Senator THURMOND. I have no questions.

Senator SYMINGTON. I would ask several questions relative to this conveyor, having worked with conveyors many years of my life.

What year was this conveyor expensed out in?

Mr. TIPPIT. I understand 1957, Senator.

Senator SYMINGTON. Are they still using the conveyor? I am told they are.

Mr. TIPPIT. I do not know. I understood Mr. Coburn's question related to one in 1957.

Senator SYMINGTON. I asked a member of the staff——

Mr. COBURN. 1960. Excuse me, 1960.

Mr. TIPPIT. I understood the question to be in 1957.

Mr. COBURN. If I said that, then I was mistaken. It is 1960.

Mr. TIPPIT. The one in 1960 I am familiar with. I was not familiar with the one—did not remember the one in 1957.

Mr. COBURN. Am I interrupting you? I do not mean to, Mr. Chairman, but I want to clarify the difficulty.

Senator SYMINGTON. Please go ahead.

Mr. COBURN. The letter to GSA asking for capital advances of $875,000, which included this slag conveyor, was written in 1957.

Mr. TIPPIT. I am sorry.

Mr. COBURN. But the slag conveyor was not actually bought until 1960.

Mr. TIPPIT. I am sorry, I am familiar with the one in 1960.

Senator SYMINGTON. Does that change your position at all?

Mr. TIPPIT. No; it confirms it. The one in 1960 replaced an existing conveyor, and extended to cover a larger area. I think——

Senator SYMINGTON. If you use a conveyor, say, for 3 or 4 years, do you think you have the right to expense it out in 1 year, especially when you have a contract of this character, where, if you do expense it out, the Government pays for it; and if you do not, the company pays for it?

Mr. TIPPIT. Mr. Chairman, with a contract the character of this one I have no question about it, because it only had a short period to go.

The period of the contract expired within a few months, so that I think you might have the question of whether the expenditure should be made at all, but making it under the conditions that existed here, I think there is no question, no alternative, but to expense it.

Senator SYMINGTON. I would feel the reverse. Inasmuch as you had a contract of this character, where you are the one certifying as to costs, instead of expensing it out because the contract would be terminated, if you were going to use it in the future, there would be just that much more reason for capitalizing it.

I notice what the Commissioner of Internal Revenue says, "Conveyor system"—have you read this?

Mr. TIPPIT. Yes; I have.

Senator SYMINGTON. His opinion is much different from yours.

Mr. TIPPIT. I would not be sure of that. Of course, you have read it and you know the facts back of it. He makes statements there, something to the effect that the facts, the conditions and individual circumstances must be considered.

Now, in this instance, as I read the contract and understand it, this is chargeable to the remainder of the period up to the completion of the 95-million-pound production.

So it seems very clear to me that that is applicable to this period. I am sorry if I disagree with your view.

Senator SYMINGTON. Well, my view is not as important as that of the Commissioner of Internal Revenue. It is described as:

> This system was installed to replace 470 feet of existing slag pile conveyor and extended the system an additional 107 feet. The new system also increased the company capacity. The size was increased from 18 to 24 inches to 36. This conveyor, having an economically useful life substantially greater than a year—

I will reread that:

> This conveyor, having a economically useful life substantially greater than a year, apparently useful in the disposal of slag, replaced a smaller capacity conveyor. The added capacity must be considered an improvement. Under section 263 of the Internal Revenue Code, in the course of an improvement the property, real or personal, is a capital expenditure. The total cost of the improvement in this instance is, therefore, to be capitalized, including the cost of the conveyor and the cost of installation.

Mr. TIPPIT. May I comment on that?

Senator SYMINGTON. Yes, sir.

Mr. TIPPIT. In the first place, he states in there all the circumstances must be considered.

In the second place, the tax treatment does not necessarily conform to the book treatment. There may be some argument with the Internal Revenue Service on this treatment of this item taxwise. I do not see how there can be any argument on the treatment of it under this contract. It is not at all unusual to have those conditions exist, and to have the treatment different.

Senator SYMINGTON. I again bring up that the position you have taken, unqualified, is against the position of your own people actually working on this job.

It is against the chief accountant, Mr. Leonard Carlson, of the Hanna Nickel Mining Co., as put in the record. It is against the opinion of the Commissioner of Internal Revenue. It is against the opinion of Mr. Lesser, Accountant Chief of the General Services Administration; and it is also against the opinion of the accountants the General Accounting Office had working on this job.

Let this record speak for itself.

I have no further questions.

Mr. TIPPIT. May I reply to that?

Senator SYMINGTON. Yes, indeed.

Mr. TIPPIT. That I think any of the positions that do disagree, I would be glad to take them up one by one as the opportunity affords.

So far as the disagreement with my own associate, I do not consider that there is a disagreement. I consider that he, in making his notes, did not have the full facts, which I am afraid is so, not afraid, but I think may be so in some of these others that you have mentioned.

So I do not hesitate to restate my position, I don't think.

Senator SYMINGTON. As I follow you, you are saying you feel confident you have all the facts, and the reason all these people disagree with you is that they do not have all the facts?

Mr. TIPPIT. I think that is mainly so, yes.

Senator SYMINGTON. Let the record speak for itself. Senator Engle?

Senator ENGLE. No questions, Mr. Chairman. Thank you.

Senator SYMINGTON. Counsel.

Mr. COBURN. Mr. Chairman, I want to offer for the record a copy of a letter dated October 5, 1962, from Joseph Campbell, Comptroller General of the United States, to the Honorable Bernard L. Boutin, Administrator of GSA, giving an opinion of the General Accounting Office with reference to the meaning of this contract as to what items can be or are to be considered as capital items and what items are to be considered as items of expense in the performance of the contract.

May I offer that for the record?

Senator SYMINGTON. Without objection.

(The letter referred to follows:)

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, October 5, 1962.

HON. BERNARD L. BOUTIN,
Administrator, General Services Administration.

DEAR MR. BOUTIN: We have your letters of September 12 and 28, 1962, requesting our advice as to whether certain costs incurred by the contractor in 1957 and 1960 were properly charged under contract No. DMP–50.

Under the terms of the contract entered into effective January 16, 1953, the Hanna Nickel Smelting Co. supplies ferronickel to GSA. Article VIII of the contract sets out two factors on which the price of the commodity furnished is based. These factors are stated in the original contract provision as follows:

"1. The Contractor will sell to the Government, and the Government will purchase from the Contractor, all salable ferronickel produced by the Facility during the period of this contract up to a maximum of 125 million pounds of contained nickel in ferronickel at prices for ferronickel per pound of contained nickel determined by adding (a) *the Contractor's actual cost of production per pound of contained nickel* (but not more than an average of 79.39 cents on the first 5 million pounds to the extent sold during period 1 and during period 2 prior to the completion of additional electric melting furnaces and related equipment, nor more than 60.5 cents on the remainder, calculated, after the beginning of period 3, by averaging the 3-year period from the calendar quarter beginning closest to the beginning of period 3, and after said 3-year period by averaging each running period of 3 consecutive years, both ceilings escalated as provided in paragraph 2 of this article VIII) and (b), *but only in the case of the first 95 million pounds of contained nickel in ferronickel sold hereunder, an amount per pound of contained nickel (hereinafter called amortization payment) sufficient to amortize the capital advances* made pursuant to article VI plus interest thereon. * * *" (Italic supplied.)

The article was changed by paragraph 6 of amendment No. 3, dated April 22, 1955, to provide for a different price for ferronickel produced during the break-in period. By paragraph 5 of amendment No. 4, dated November 8, 1957, a change was made in the ceiling price. Finally, the provision was materially changed by the terms of amendment No. 5, dated April 20, 1961, without affecting the period with which we are concerned. The significant language for the purposes of this inquiry was, at the time of the expenditures under consideration, not materially different from the original provision.

The capital advances referred to in article VIII are obtained by the contractor under article VIII which provided in its original form as follows:

"1. Upon the contractor's written request, the Government will make advances (hereinafter called 'capital advances') of the entire amount up to a total of $22 million (including the amount to be reimbursed to the contractor under article II) required (*a*) to test the process as provided in article II, including the cost of mining and of shipping to France the quantity of ore from the mine required for such tests and including the reasonable expenses of technical observers to attend such tests on behalf of the contractor, (*b*) to construct, equip, design, and rebuild the facility contemplated by article IV (including all costs and expenses incurred during or in respect of any periods of time within period 1 that production of salable ferronickel has ceased by reason of constructing, equipping, designing, rebuilding, or repairing the furnaces or related equipment), (*c*) for such replacements or improvements of the facility which are agreed by the contractor and the Government to be necessary or advisable during the period of this contract, and (*d*) for such other necessary and so agreed upon expenditures which, in accordance with generally accepted accounting practice, are capitalized. Requests shall be supported by a cash flow sheet showing estimated requirements over reasonable future periods, and capital advances will be made at rates covering the contractor's requirements for a forward period of not less than 30 days. As soon as practicable after the end of each calendar month, the contractor will submit to the Government a cumulative statement of the cost of the facility in such detail as the Government may reasonably request."

The article was changed by paragraph 4 of amendment No. 3, dated April 22, 1955, to effect changes in the inclusions and exclusions under (*b*) and, by paragraph 3 of amendment No. 4, dated November 8, 1957, to increase the total amount allowable up to $22,875,000.

It is stated in your letter that in 1957 the contractor replaced Dutch ovens in the smelting plant without obtaining the approval of the Government and that these ovens were included, under article VIII 1(a), as a cost of production in 1957 at $86,356. It is further noted that the ovens replaced had been acquired through the use of capital advances. The justification presented by the contractor for the inclusion of the replacement ovens in actual cost of production for purposes of determining the unit price and your comments thereon are stated in your letter as follows:

"With respect to replacement transactions such as the Dutch oven transaction, Hanna's position is based on the premise, as expressed by the auditors engaged by Hanna, that since the Government requested Hanna to build the nickel smelting plant immediately, without having first set up and run a pilot plant operation, many capital assets would have to be replaced or rebuilt. Thus Hanna has followed the policy of charging to expense costs applicable to modifying, changing, or replacing those capital assets for which the original plan did not fully work out and a change or replacement was necessary, in spite of the specific language of article VI 1(c) which provides for the Government to make advances for 'such replacements or improvements of the facility which are agreed by the contractor and the Government to be necessary or advisable during the period of this contract.'"

In 1960 the contractor, without obtaining Government approval, installed a sawdust system for use in the calcining operation and charged the cost, $92,833, as an actual cost of production pursuant to article VIII 1(a). You state that this was an addition of a capitalizable nature which was constructed to effect a saving in the amount of ferrosilicon consumed in the smelting process. The justification presented by the contractor for the inclusion of the cost as a cost of production is stated in your letter to be as follows:

"With respect to transactions involving additions such as the sawdust system transaction, Hanna's position is based on the principle, as expressed by the auditors engaged by Hanna, adopted in 1960 as a supplement to the earlier policy, that by purchasing the equipment of a capitalizable nature more money would be saved through the increased efficiency of operations than the cost of the new equipment."

Both of the cited expenditures were made well after the conclusion of the "break-in period" which preceded period 1 (see art. IV); the discussion which follows, therefore, is intended to apply only to the post-break-in period. We do not determine whether the conclusions expressed below would be equally applicable to expenditures made at an earlier time.

It is clear from the quoted terms of the contract that the price of the product supplied includes basically only two factors: (1) actual cost of production, and (2) amortization of capital advances. You have concluded that the expenditures mentioned above properly come within article VI 1 and may not be regarded as production expenses under the terms of the contract. Even if it might be contended that these expenditures could be considered production expenses under recognized accounting procedures, the fact that they come within the purview of the more specifically delimited provisions of article VI 1 requires the conclusion, under the familiar rule of construction that in case of conflict the more specific prevails over the general, and that the contract should be construed to bring them within the provisions of such article. Accordingly, on the basis of the presentation in your letter, and the provisions of the contract, we are of the opinion that the items in question may not properly be regarded as costs of production under article VIII.

As indicated earlier, any expenditure to be reflected in the price of the product must come either within the actual cost of production or amortization of capital advances. Since, as we have concluded, it does not come under the first it must, if payment may be claimed at all, come within the second. Specifically, we believe that the Dutch ovens and the sawdust system come under article VI 1(c) as replacement or improvements. Under this provision the Government's approval would be required to authorize the expenditure of capital advances.

In the case of both VI 1 (c) and (d), capital advances are available only for such expenditures as "are agreed by the contractor and the Government to

be necessary or advisable." While the language is not as specific as might be desirable, Government approval seems to have been intended as a condition precedent to the expenditure of capital advances for either of the two categories of items. This is apparent from the language of the article itself, which states in effect that upon the contractor's written request the Government will make advances required for such replacements, improvements, and other expenditures agreed on by the contractor and the Government. The clear implication is that the agreement will precede the request and the advances.

An obvious purpose of the article is to control the expenditure of the capital advance account. Unless approval by the Government is regarded as a condition precedent, the control procedure could not be effective.

It may be argued that the foregoing conclusion is not valid, since approval is required only for (c) and (d), while (a) and (b), which represent the largest portion of the expenditures, include no such approval requirements. However, this reasoning overlooks the language of article IV, which states in pertinent part (the original provision was modified by amendments Nos. 3 and 4 without change in the quoted portion) as follows:

"With advances made by the Government as provided in article VI, the contractor will construct and equip (including any necessary redesigning, rebuilding and repair) as promptly as possible a facility for the conversion of ore from the mine into salable ferronickel. The period from the first experimental production of ferronickel in the facility, or any part thereof, to and including December 31, 1954, is hereinafter called the 'break-in period.' During the period beginning January 1, 1955, and ending upon a preliminary determination of technical feasibility as contemplated by article V but not later than September 30, 1955 (hereinafter called 'period 1'), the facility shall consist of one electric refining furnace, two electric melting furnaces, one electric ferrosilicon furnace, one electric slag-melting furnace, a slag-disposal site and equipment, a stockpile site and stockpiling equipment, a sewage-disposal plant, railroad spurs, housing for personnel, preliminary construction and foundations for two additional electric melting furnaces and facilities as may be required after period 1, *and all equipment and facilities agreed to by the Government as necessary for such conversion of ore from the mine into salable ferronickel.* The contractor will place orders for the equipment and supplies necessary for the erection of two additional electric melting furnaces at such time or times as will assure so far as possible delivery thereof immediately after a preliminary determination of technical feasibility as contemplated by article V. In such event, with further advances made by the Government as contemplated by article VI, the contractor will promptly construct, equip, and complete not later than March 31, 1956, said two additional electric melting furnaces (together with any additional facilities and equipment made necessary thereby). * * * The facility, as it exists from time to time as contemplated by this article *or as it may be substituted for from time to time with the approval of the Government, is hereinafter* called 'the facility.'" [Italic supplied.]

Reading articles IV and VI together makes it clear that only the testing of the process did not require specific approval. Other major items included in the facility require approval either by specific designation in article IV or by the terms of the underscored provisions for Government concurrence stated in article IV.

Article XIV 2 gives the contractor the option to purchase the plant upon termination of the contract for 7.5 percent of the total capital advances "excluding advances for capital replacements." The parties could hardly have considered that items purchased out of capital advances, which could subsequently be acquired by the contractor for only 7.5 percent of the cost—except for replacements for which the contractor would pay only 7.5 percent of the item replaced without regard to the time of replacement or its value—should not be subject to prior approval of the Government.

Therefore, it is our opinion that the contract should be construed that Government agreement is a condition precedent to the expenditure of capital advances. It is well established that where the terms of a contract condition reimbursement for costs upon the receipt of approval from the contracting agency the failure to obtain such approval is sufficient without anything else to prevent recovery. (*Hawkins* v. *United States*, 96 U.S. 689 (1877); 24 Comp. Gen. 565, 572; B–134232, Dec. 6, 1957.)

Accordingly, the specific questions raised in your letter are answered as follows:

(*a*) Under the terms of the contract, prior Government approval was required for the purchase of new capital assets, or for the redesign, modification, rebuilding, improvement or replacement of old capital assets coming within the purview of article VI 1(c), VI 1(d), or the approval requirement of article IV.

(*b*) All expenditures of a capital nature, whether for new assets or for the improvement, redesign, rebuilding, modification or complete or partial replacement of an existing asset, in order to have been included in the price per pound—the only vehicle under the terms of the contract for compensating the contractor other than charging the items to cost of production which is not applicable under the circumstances—must have been made from capital advances.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

Mr. COBURN. I will not undertake to read the entire letter because it is long, but I will read the conclusion at the end of the letter.

Accordingly the specific questions raised in your letter are answered as follows:

(*a*) Under the terms of the contract prior Government approval was required for the purchase of new capital assets or for the redesign, modification, rebuilding, improvement, or replacement of old capital assets coming within the purview of article 6(1)(c), 6(1)(d), or the approval requirement of article 6(1)(b). All expenditures of a capital nature, whether for new assets or for the improvement, design, rebuilding, modification, or complete or partial replacement of an existing asset, in order to have been included in the price per pound, the only vehicle under the terms of the contract for compensating the contract, or other than charging the items to cost of production, which is not applicable under the circumstances, must have been made from capital advances.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

Now, Mr. Robert Brown is our next witness.

Senator SYMINGTON. Is Mr. Brown here?

Mr. BROWN. Yes. sir.

Senator SYMINGTON. While he is coming up, have we put into the record the position of the Ernst & Ernst auditor who actually audited the books?

Mr. COBURN. Well, we put the work papers in for 1960. That has been read into the record.

Senator SYMINGTON. And have we put in on page 2090, the chief accountant for Hanna; page 2050, the Commissioner of Internal Revenue; and page 2066, the Supervising Auditor of the General Services Administration—all directly opposite to the position taken by Mr. Tippit?

Am I to understand that the letter from the Comptroller General also disagrees with the position taken by Mr. Tippit?

Mr. COBURN. As I understand it, yes.

Senator SYMINGTON. And we have just put that letter in the record.

Mr. Brown, 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. BROWN. I do.

Mr. COBURN. Will you identify yourself, please by giving us your name and address?

TESTIMONY OF ROBERT B. BROWN, DIRECTOR OF THE AUDIT DIVISION OF THE GENERAL SERVICES ADMINISTRATION

Mr. BROWN. Robert B. Brown, 10017 Kinross Avenue, Silver Spring, Md.

Mr. COBURN. Mr. Brown, are you in the employ of the U.S. Government?

Mr. BROWN. Yes, sir.

Mr. COBURN. Would you give us briefly your background as an accountant?

Mr. BROWN. I am a certified public accountant of Oregon and New York. I have had over 8 years' experience with national public accounting firms; have been in the Federal service for about 21½ years, including 5 years in the Army in World War II. I have been with General Services Administration since 1951 and Chief Auditor since 1957, except for 1 year's leave of absence as a deputy comptroller of New York State government. At present my title is Director, Audit Division. I have been a member of the American Institute of Certified Public Accountants since 1937.

Mr. COBURN. Has there been some auditors—I believe three auditors, were there not—engaged recently in making an audit of the books of the Hanna Nickel Smelting Co. at Riddle, Oreg., under your direction?

Mr. BROWN. Yes, sir; there have been four auditors.

Mr. COBURN. Four auditors there.

And they have been making this audit since the last hearings were held in this matter in August; is that right?

Mr. BROWN. Yes, sir. They arrived in Riddle on August 28, 1962.

Mr. COBURN. In making their audit, have they been giving special attention to whether the items spent by the Hanna Nickel Smelting Co. out there were properly capitalized or not?

Mr. BROWN. Yes, sir.

Mr. COBURN. So that they have been giving special attention as to whether certain items were capital items or items that could be expensed under the contract to the Government?

Mr. BROWN. Yes, sir. That is what they have been giving emphasis to up to this time.

Mr. COBURN. Has that audit been completed?

Mr. BROWN. No, sir; it is still in process.

Mr. COBURN. You do intend to complete it, do you?

Mr. BROWN. Yes, sir.

Mr. COBURN. But you were not able to finish by the time the hearings were resumed?

Mr. BROWN. That is correct, sir.

Mr. COBURN. Will you tell us how much, what the total is for 1957 of the items that you have determined were improperly expensed, or, to put it another way, capital items that should have been handled in that way?

Mr. BROWN. Sir, we have identified to date $434,687.97, for the calendar year 1957.

Mr. COBURN. In doing that, did your accountants work with a GSA engineer to advise them on the technical aspects of the matter?

Mr. BROWN. Yes, sir. There was an engineer present at the plant, and we have discussed it with the engineer subsequent to that time.

Mr. COBURN. So all of these items totaling $434,687 in 1957 were items that should have been capitalized in the opinion of your accountants?

Mr. BROWN. Yes, sir.

Mr. COBURN. Is that right?

Mr. BROWN. Yes, sir.

Mr. COBURN. But, instead, were expensed?

Mr. BROWN. That is right.

Mr. COBURN. Not only under general accounting principles should they have been capitalized, but also under the contract itself; is that right?

Mr. BROWN. Yes, sir; and under the Comptroller General's decision.

Mr. COBURN. And under the Comptroller General's decision that has just been introduced in the record?

Mr. BROWN. Yes, sir.

Mr. COBURN. They are all items that are improvements or replacements within the meaning of the contract or new capital items, are they?

Mr. BROWN. Yes, sir.

There are a couple of other terms like "rebuilding," "modification," and so forth, as used in the Comptroller General's—the specific language used in the decision.

Mr. COBURN. Now have you completed your audit for 1957?

Mr. BROWN. No, sir.

Mr. COBURN. You are still working on that?

Mr. BROWN. Yes, sir.

Mr. COBURN. What about 1958? Did you find any similar items?

Mr. BROWN. Yes, sir. We have identified for the calendar year 1958 items totaling $110,034.80.

Mr. COBURN. And, again, these were expensed, not capitalized?

Mr. BROWN. Exactly the same nature, yes, sir, as in 1957.

Mr. COBURN. You think they should have been capitalized?

Mr. BROWN. Yes, sir.

Mr. COBURN. Have you completed your work in 1958?

Mr. BROWN. No, sir.

Mr. COBURN. What about 1959? Have you done any work in that year?

Mr. BROWN. Yes, sir. For 1959, we have identified $34,207.25.

Mr. COBURN. As having been improperly expensed?

Mr. BROWN. Yes, sir.

Mr. COBURN. But you have not completed 1959?

Mr. BROWN. No, sir.

Mr. COBURN. How about 1960?

Mr. BROWN. In 1960, we have identified $210,604.69. I might add, sir, this was the same item that the record shows we found before and which Hanna was billed for previously. This was the beginning.

Mr. COBURN. Yes, and that has already been inserted in the record?

Mr. BROWN. Yes, sir.

Mr. COBURN. So it will not be necessary to do it again. Have you completed your work for 1960?

Mr. BROWN. No, sir.

Mr. COBURN. That gives a total, then, of—well, I withdraw the question for the moment.

Have you done any work in 1961 at all?

Mr. BROWN. No, sir; we have not.

Mr. COBURN. But you intend to?

Mr. BROWN. Yes, sir.

Mr. COBURN. Now what is the total of the items that, in your opinion, were improperly expensed for the audit, as far as you have gone?

Mr. BROWN. We have identified a total of $879,534.71.

Mr. COBURN. You have not undertaken to cover the same area that Mr. Henson covered in the earlier hearings?

Mr. BROWN. Not necessarily.

Mr. COBURN. You are making an independent audit of your own?

Mr. BROWN. Yes, sir.

Mr. COBURN. Let me ask you this, Mr. Brown: Entirely apart from the kind of equipment that is involved in these figures you have just mentioned, and the use of the equipment, did the contractor, that is, the Hanna Nickel Smelting Co., request the GSA to approve the expenditure of these items?

Mr. BROWN. Sir, on that question I asked Mr. Connell, our Commissioner of the Defense Materials Service, General Services Administration, who are the contracting people. He had a search made of his files, and he could find none of the items for the years which we have identified as being approved by GSA.

Mr. COBURN. No request was made and no approval by GSA?

Mr. BROWN. As far as the search indicated, sir.

Mr. COBURN. And under the Comptroller General's opinion, that was necessary?

Mr. BROWN. Yes, sir; for capital items.

Mr. COBURN. Now this letter I inserted in the record a short while ago from the Comptroller General to Mr. Boutin, was that a letter that was written after a request for an opinion had been made on the Comptroller General by Mr. Boutin?

Mr. BROWN. Yes, sir; two letters, in fact, sir.

Mr. COBURN. So that the letter of the Comptroller General is not just a letter, but it is an official opinion of the General Accounting Office?

Mr. BROWN. It is, sir.

Mr. COBURN. And governs you in your analysis of the books of the Hanna Nickel Smelting Co.?

Mr. BROWN. Yes, sir; the Comptroller General's interpretation of a contract is mandatory on us.

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

Senator SYMINGTON. Senator Bush?

Senator BUSH. Who are the GSA auditors working on this Hanna contract?

Mr. BROWN. Sir, we have the man in charge, Mr. Richard Fox, who is our audit manager in charge of what we call our western audit area with headquarters in San Francisco. He has with him three other people. He has Charles L. Grant, who is from the same office in San Francisco; he has a William Thomas, who is under Mr. Fox's jurisdiction, but who is a resident auditor in Denver, Colo.; and we have a Mr. Samual Chadwick from our New York resident audit office.

Senator BUSH. When did you start to audit this business?

Mr. BROWN. This particular audit?

Senator BUSH. Yes.

Mr. BROWN. Senator, our people arrived there on August 28.

Senator BUSH. Of this year?

Mr. BROWN. Yes, sir.

Senator BUSH. Why did you not start the audit before then?

Mr. BROWN. Sir, we have been engaged in certain audits of this contract from the beginning, and we have been primarily relying on Ernst & Ernst work papers and their reports. As you will recall from the previous testimony, sir, we did find this $210,605, with which we did not agree with the contractor's treatment.

On the basis of the $210,605, we made a decision that the best thing to do was to find out whether this particular claim would stand up, and the results of that. We at that time decided that this was the test case, and that it was necessary to get a determination, legal, financial, and so forth. Based on that, Hanna was billed. Hanna has not paid that bill.

We had every reason to believe that we would go further into this auditing of the contractor's performance under this contract.

Senator BUSH. You say you have reason to believe what?

Mr. BROWN. I am sorry, sir.

As soon as we obtained a decision on the $210,000, our intention was to go ahead and scrutinize the rest of the years of operations under this contract, and this is what we are doing now.

Senator BUSH. Have the Hanna company people cooperated fully with you?

Mr. BROWN. Yes, sir.

Senator BUSH. There has been no attempt on their part to conceal any of their papers?

Mr. BROWN. No, sir.

Senator BUSH. Or records incident to this matter?

Mr. BROWN. No, sir.

Senator BUSH. I do not think I have further questions.

Senator SYMINGTON. Senator Thurmond?

Senator THURMOND. No questions.

Senator SYMINGTON. Senator Engle?

Senator ENGLE. I observe by your testimony that you filed a claim against the Hanna company. They have not paid the claim, have they?

Mr. BROWN. No, sir.

Senator ENGLE. What is the next step? Do you sue them?

Mr. BROWN. Sir, I do not know what the next step is. We make the recommendations to the appropriate people. The decision was made to bill them. At that stage of the game we are the auditors, sir, so I do not know what the next step will be.

In this particular instance, of course, we have to pursue the auditing to a much greater extent than just the $210,000.

Senator ENGLE. I understand that, but $210,000, it would take a fellow on quite a trip. Now, if they owe the money—have you ever had this happen before?

Mr. BROWN. Oh, yes, sir, there are such instances.

Senator ENGLE. What is the procedure? Is it turned over——

Mr. BROWN. If the agency cannot collect, it eventually goes over to

the General Accounting Office for collection, and, presumably, they could go into the court. This is the procedure.

Senator ENGLE. Thank you.

Senator SYMINGTON. The letter you are referring to is the letter of March 14, 1962, from Maurice J. Connell, Commissioner, to Mr. W. R. Whitney, president, Hanna Nickel Smelting Co., Cleveland, Ohio, which is printed on page 2066 of the hearing record.

This is the letter that shows them many items totaling $210,605. I believe that is correct, is it not?

Mr. BROWN. Yes, sir, Senator, and a bill was sent to Hanna by GSA on July 11, 1962.

Senator SYMINGTON. For the record, this conveyor system under discussion is one of the items on which the Government is trying to recover money paid out.

The next witness, Mr. Counsel.

Mr. COBURN. Mr. Louis Brooks.

Mr. Brooks, you have already identified yourself from having testified in this hearing before.

Senator SYMINGTON. Please consider yourself sworn.

TESTIMONY OF LOUIS BROOKS, DEPUTY DIRECTOR, CREDIT AND FINANCE DIVISION, GENERAL SERVICES ADMINISTRATION—Resumed

Mr. BROOKS. Yes, sir.

Mr. COBURN. I just want to ask you this: There was some question raised this morning as to whether the Government customarily got price redetermination clauses in the Defense Production Act contracts such as the contract in question here with the Hanna Mining Co., and would you just tell us in your own way what the policy of the GSA was in that respect and what you did in that respect?

Mr. BROOKS. GSA's policy in contracts of this type, where there was uncertainty about some material aspect of costs or production factors such as the quality of ore which might have a material bearing on ultimate costs, was to obtain a price redetermination provision as a feature of the contract.

Under a provision of this type a typical situation would provide for an initial period of operation to produce some cost experience following which the parties would sit down together again and negotiate a new price to substitute for the original price, giving appropriate consideration to actual cost experience.

There may be 2 or 3, or even more, such successive periods, each of which would be treated as separate redetermination periods.

Mr. COBURN. Now, let me see if I understand what you have said.

Do I understand you to say that it was the policy of the GSA, in making contracts under the Defense Production Act, that where you were buying either ore or something else at a fixed price, but where there were certain factors that went into the cost of producing this ore that were uncertain, it is the policy of the GSA to obtain a price redetermination clause in the contract so that at the end of the period of performance the parties could sit down and determine what was a fair price for the rest of the contract?

Is that it? Is that a fair statement?

Mr. BROOKS. That is a fair statement, yes, sir.

Mr. COBURN. And not only was that your policy, but did you do that in many instances; that is, did you get a price redetermination clause written into the Defense Production Act contracts in many instances?

Mr. BROOKS. Yes, sir, we did.

Mr. COBURN. I believe that is all, Mr. Chairman.

Senator SYMINGTON. Senator Thurmond?

Senator THURMOND. No questions.

Senator SYMINGTON. Senator Bush?

Senator BUSH. Did that apply to mineral contracts?

Mr. BROOKS. Yes, sir, contracts which I would describe as similar to the Hanna ore contract.

Senator BUSH. I thought that the DPA contracts did not contain this type of clause for redetermination on minerals. I thought that testimony had been given here.

Mr. COBURN. No.

Mr. BROOKS. That is not correct, Senator.

Senator BUSH. No?

Mr. COBURN. I do not recall any testimony of that kind.

Senator BUSH. My impression was that Mr. Larson, himself, testified to that.

Mr. COBURN. If he did——

Senator SYMINGTON. Mr. Larson and Mr. Young both—if the Senator would yield—the record shows that at one time they both felt that a redetermination clause should be in this contract.

Senator BUSH. My impression was that in none of these, my impression was that the testimony—and I will have to check it now—was that the mineral contract did not have——

Senator SYMINGTON. I think you are thinking of renegotiation, not redetermination.

Senator BUSH. As a matter of fact, that is renegotiation, is it not?

Senator SYMINGTON. It is a form of it which would be allowable under this contract; but renegotiation itself would not be allowable under the law unless the smelter company and the mining company had been put together.

My opinion has always been that that was one of the chief reasons so much care was taken to keep them apart. The Hanna people were determined to keep anyone from looking at their profits.

Senator BUSH. Mr. Brooks, would you consider that the GSA then was derelict in their duty not to have a price redetermination contract, or clause, in this contract?

Mr. BROOKS. Not at all, sir. It is quite clear from the previous testimony, Senator, that GSA did make vigorous efforts to obtain a price redetermination provision in this contract.

Senator BUSH. That is right.

Mr. BROOKS. But was unsuccessful.

Senator BUSH. They did, I know.

But the fact is that they felt that the contract, without it, was a good contract for the Government. For that reason they waived that insistence, did they not?

Mr. BROOKS. That provision was waived, yes, sir; that is true. I might add that the inclusion of such a redetermination clause is not mandatory by law.

Senator BUSH. No.

Mr. BROOKS. But was considered from a policy standpoint as necessary and desirable.

Senator BUSH. I do not have any other questions at the moment.

Senator SYMINGTON. Just as a matter of interest, was the American Chrome contract a DPA contract?

Mr. MAY. Yes, sir.

Senator SYMINGTON. Climax Molybdenum?

Mr. MAY. Yes, it was.

Senator SYMINGTON. The testimony this morning was that both of those contracts had redetermination clauses in them.

Do you happen to remember if that is correct?

Mr. BROOKS. I know that is true; yes, sir.

Senator SYMINGTON. I read again from the record of the General Accounting Office report:

> Accordingly, the Congress may wish to consider amending DPA to incorporate a provision requiring that all future negotiated contracts made under this act contain a clause permitting the Comptroller General to have access to all the contractor's pertinent records.

I questioned Mr. George Humphrey and said, "if you did not want to make the contract and the Government did not want to make the contract, how was the contract ever made?"

And he said, well, the reason was the GSO—he meant GSA—did not know anything about the mining business, and we did.

He was probably correct. Hanna did know more about the cost of this nickel, having had the property for some time, than did the General Services Administration.

I am glad that, under those circumstances, the General Services Administration, from the top down, tried to get a redetermination clause.

Mr. Gilbert Humphrey was frank this morning in stating it was felt the Government should accept Hanna's offer or there would be no contract.

Do you believe the Congress should amend the Defense Production Act so that, when we walk into a contract of this character, in time of crisis, the Government retains the right to redetermine the contract, from the standpoint of adequate profit?

Mr. BROOKS. I certainly think that proposal should be given serious consideration; yes, sir.

Senator SYMINGTON. Do you think there ought to be a redetermination clause in all such contracts?

Mr. BROOKS. I could foresee possible circumstances which might justify an occasional exception in a rare instance, and, for that reason, I would hesitate to suggest immediately that this be made mandatory in absolutely all cases.

But certainly——

Senator SYMINGTON. It is something we have to consider?

Mr. BROOKS. Yes, sir.

Senator SYMINGTON. What we want to do is come up with a good law. I was wondering how you felt about it.

Mr. BROOKS. That is true.

Senator BUSH. On this question, I have one more question when you are ready.

Senator SYMINGTON. Senator Bush?

Senator BUSH. The point I wanted to raise here, Mr. Brooks, is this:

It is stated in Mr. Ford's letter to Howard Young, the Deputy Administrator, September 25, 1952, it is stated that the conditions of the contract with respect to prices to be paid for the ore provide for a net return of 28 percent on the proposed fixed investment.

So at that time that is what he expected the contract would show for the Hanna people.

And also on July 23, 1952, Mr. Robinson, who was the negotiator, said in a memorandum of a meeting at which the Hanna people and the DMPA people were present, he said:

> It was pointed out to Hanna that its price of $6 per ton indicated an annual profit after taxes of 28 percent on invested capital, and that a price of $4 per ton would be more in line with general mining operations. Hanna's representative stoutly defended their price, claiming it was required to cover other unprofitable operations.

And he says:

> N.B. It is my opinion that this price would be satisfactory if Hanna would operate the smelter at cost.

Now, in view of that record and the estimates of these gentlemen being very close as to what actually did turn out to be the profit in this operation, do you really think that the Government would be justified in demanding a redetermination under this contract, if they had the right to?

In other words, the contract turned out just a little better than they expected it would.

Mr. BROOKS. Well, sir, I do not interpret the statement which you have quoted in Mr. Ford's memorandum as being an endorsement, as such, of the anticipated 28-percent profit ratio.

Senator BUSH. Yes.

But, nevertheless, that is what they were prepared to agree to then, and they knew about how—they would estimate how the thing was going to work out, so, on that basis, they go ahead and sign a contract.

What I am asking you is:

In view of these two statements, and Mr. Larson and Mr. Young undoubtedly knew all about this, do you think if there had been a redetermination clause in it, in view of the fact that they expected that to be the profit, that they would have actually availed themselves of it?

Mr. BROOKS. I would put it this way, sir.

If a redetermination clause had been included in this contract, I think the results, profitwise, to Hanna, upon conclusion of the contract, would have been much more favorable from the Government's point of view than they have been.

Senator BUSH. Why do you say that? You mean you think Hanna would have conducted the contract differently?

Mr. BROOKS. I think the standards which would have been incorporated in a redetermination clause would not have permitted the final results of the contract to have reached such levels of profit as the testimony has indicated.

Senator BUSH. The levels of profit were forecast by representatives of the Government very accurately before the contract was entered into.

I do not see how you can say that.

They knew about what this contract was going to provide in the way of profit to Hanna and said so.

Mr. Ford said so; Mr. Robinson said so.

Mr. BROOKS. Yes, sir, but, as I said, I do not take their statements as being an endorsement of an acceptable profit ratio.

Senator BUSH. Well, you said that, that is true, but my question was whether, in view of the fact that they did accept these terms of the contract, whether they would have been justified, in the light of the record, in demanding a redetermination of the contract, if there was such a provision?

Mr. BROOKS. If I understand you correctly, Senator, I believe the answer would be yes, that they would have been so justified.

Senator BUSH. You think so?

Mr. BROOKS. I do, yes.

Senator BUSH. Despite the fact that they expected, and stated so, that the profits in connection with the contract would amount to so much, and, actually, they did amount to that or a little less, according to the testimony we have here.

You still think they would have been justified in the redetermination?

Mr. BROOKS. I believe so, sir.

Senator BUSH. Well, why would they, if they have already agreed to the proposition and it works out the way they expected?

Mr. BROOKS. I think we have seen, Senator, that the agreement to the price which was actually incorporated into the contract was with the greatest reluctance on the part of the Government officials.

Senator BUSH. Are you saying the Government would go ahead and sign the contract just to get it signed, and knowing what the deal was going to be, and then would turn around and say, "Well, we signed it just to get you on the line. Now we are going to redetermine the price."

Mr. BROOKS. Well, of course, redetermination is not conducted in a vacuum. Provisions are incorporated ordinarily in clauses of this kind which set forth certain criteria, certain standards, for redetermination.

Senator BUSH. I would have no further question. I do not see, Mr. Chairman, how, in the light of this record, where these fellows who were negotiating these contracts for the Government and anticipating what the profits would be and guessing very closely what they would be, their estimates were very close, how they could then turn around and say, following the negotiation of the contract, "Now we have got you on the hook, we are going to renegotiate, redetermine."

Senator SYMINGTON. What was the date of the Ford letter referred to?

September 25th.

There is a letter, I believe, in the file on October 7, 1952. That would be considerably earlier, signed by Mr. Johnston Russell, or a memorandum. It has been put in the record on page 2059, and that gives in detail reasons, specific points, why it was felt this contract was not in the best interests of the Government.

Do you happen to remember that memorandum?

Mr. BROOKS. I do, for the most part, yes, sir.

Senator SYMINGTON. But every point brought up against the Government position ended up in the contract, did it not?

Mr. BROOKS. I believe it did, yes, sir.

Senator SYMINGTON. Now have you ever seen a contract with more profit in it?

Mr. BROOKS. No higher profit ratio.

Senator SYMINGTON. Is this the highest one you have ever seen anywhere?

Mr. BROOKS. To the best of my recollection, it is, yes, sir.

Senator SYMINGTON. There has been some defense about the fact that there were some uranium contracts with Government which had a 300 percent profit. I do not know about that.

The truth of the matter is, regardless of what the price was, the Government thought, in wartime, it needed this nickel so badly that, if they could not get the redetermination clause, they were going to take the contract, is that correct?

Mr. BROOKS. Those were the circumstances at the time, yes, sir.

Senator ENGLE. While you are looking at that, may I ask a question?

Senator SYMINGTON. I am going to yield to you, Senator.

Senator ENGLE. What it boils down to is that the Hanna company was in a position to twist Uncle Sam's arm and did so?

Mr. BROOKS. I think that is an apt way of expressing it, Senator.

Senator SYMINGTON. Mr. Brooks, do you think it is important to balance the budget of the country, if possible?

Mr. BROOKS. I certainly do, and all of our Chief Executives for the past few terms have indicated this was uppermost in their minds.

Senator SYMINGTON. You heard the figure that the staff estimated the cost of Defense contracts alone would increase $10.7 billion up——

Mr. BROOKS. Yes, sir, I did.

Senator SYMINGTON. Suppose if we gave the same profit to all, to all contracts, instead of giving them 10 percent, which very few of them make.

Mr. BROOKS. Yes, sir, I have heard that estimate.

Senator SYMINGTON. And that was only for Defense. It did not include Space and the Atomic Energy Commission.

Mr. BROOKS. Yes.

Senator SYMINGTON. Does the GSA have anything to do with uranium contracts?

Mr. BROOKS. No, sir, it does not.

Senator SYMINGTON. And do you know the figures here established are 57 percent on sales and 135 percent on costs during the term of this contract?

As I understand your testimony this is the highest profit that you know of, in any deal, since you have been in the GSA?

Mr. BROOKS. To my knowledge, it is, yes, sir.

Senator SYMINGTON. How long have you been with GSA?

Mr. BROOKS. Since 1950.

Senator SYMINGTON. Since 19——?

Mr. BROOKS. 1950, 12 years.

Senator SYMINGTON. Thank you very much.

Mr. BROOKS. Thank you, Senator.

Mr. COBURN. No further questions.

Senator SYMINGTON. Who is your next witness?

Mr. COBURN. Mr. Walter Henson.

Senator SYMINGTON. Mr. Henson?

Mr. Henson, will you consider yourself sworn?

TESTIMONY OF WALTER HENSON, SUPERVISORY ACCOUNTANT, GENERAL ACCOUNTING OFFICE—Resumed

Mr. HENSON. Yes, sir.

Mr. COBURN. Mr. Chairman, before asking Mr. Henson any questions, I want to make sure that we have copies of these three charts in the record.

I, therefore, offer for the record a copy of the chart that is designated at the top, "Hanna Mining Co., Nickel Division."

Senator SYMINGTON. Without objection.

(The chart referred to follows:)

Hanna Mining Co., Nickel Division

PROFITS PER COMPANY BOOKS JAN. 1, 1953–MAR. 31, 1961

1953 net loss (development expenses)		($403,747)
1954–60 net profit		15,063,210
1st quarter, 1961 (Jan. 1–Mar. 31, 1961)		753,503
Net profit, per books, before Federal income taxes, Jan. 1, 1953–Mar. 31, 1961		15,412,966
Federal income taxes:		
1953	($209,948)	
1954–60	4,893,900	
1st quarter, 1961	259,200	
		4,943,152
Net profit per books after Federal income taxes, Jan. 1, 1953–Mar. 31, 1961		10,469,814

ADJUSTMENTS PROPOSED BY HANNA MINING CO.

Net profit per books after provision for Federal income taxes, Jan. 1, 1953–Mar. 31, 1961		10,469,814
Deduct:		
1. Precontract expenses:		
(*a*) Development 1949–52	$258,593	
(*b*) Research 1951–52	182,264	
2. Expenses, Hanna Mining Co., 1954 through Mar. 31, 1961:		
(*a*) Administrative expense	211,734	
(*b*) Exploration, research, carrying ore reserves and other expense of nonproducing properties	2,173,779	
		2,826,370
Total		7,643,444
Add estimated tax savings on—		
(*a*) Research 1951–52	$91,000	
(*b*) Administrative expenses	106,000	
(*c*) Exploration, research, carrying ore reserves, and other expenses	370,000	
(*d*) 1953 development	(7,948)	
		559,052
Total		8,202,496
Deduct: 3. Federal income taxes paid on smelter (1960)		667,534
Net profit per books after proposed adjustments by Hanna Mining Co		7,534,962

Mr. COBURN. Copy of the chart that is designated at the top, "Hanna Mining Co.—Schedule of expenses as originally charged on company books."

(The chart referred to follows:)

Hanna Mining Co.—Schedule of expenses as originally charged on company books

Expense title	General division	Michigan division	Ozark	Minnesota division	Total
COR (carrying ore reserve)	$2,157,110	$128,093	$57,595	$1,929,774	$4,272,572
Exploration	4,010,034	97,483	504,210	41,649	4,653,376
Research	605,016				605,016
Royalty writeoff				25,270	25,270
Total	6,772,160	225,576	561,805	1,996,693	9,556,234
General and administrative expense	930,882				930,882
Total	7,703,042	225,576	561,805	1,996,693	10,487,116

Mr. COBURN. Copy of the chart designated at the top, "Hanna Mining Co.—A Comparison of Allocation of Expenses to Nickel Division."

(The chart referred to follows:)

Hanna Mining Co.—A comparison of allocation of expenses to nickel division (company's basis, other basis); net profit after taxes basis

	To be allocated	Per Hanna	As adjusted	Total income basis	Total costs basis
Total COR exploration: [1]					
Amount	$9,556,234	$2,173,779	$1,749,564	$585,678	$298,157
Percent	100	23	18	6	3
Total G-A: [2]					
Amount	$930,882	$211,734	$166,489	$60,374	$31,982
Percent		23	18	6	3
Total	$10,487,116	$2,385,513	$1,916,053	$646,052	$330,139

[1] COR (carrying ore reserve) exploration allocated to all divisions except D. & V. (dock and vessel).
[2] G-A (general and administrative) expense allocated to all divisions including D. & V. (dock and vessel)

Senator SYMINGTON. Before you proceed, Mr. Counsel, we have had many charts that have been presented for the record, and, as is done in more modern books, I would suggest, with the committee's approval, that we incorporate all these charts and exhibits in one particular place in the printed record so that we can refer to it all at one time.

If there is no objection, that will be done.

Mr. COBURN. If that be the case, I do have some other charts here that I can put in right now.

Senator SYMINGTON. Get them all together.

Senator ENGLE. May I make an inquiry on that point, Mr. Chairman?

Senator SYMINGTON. Yes, sir.

Senator ENGLE. If the particular chart or exhibit illuminates a particular line of testimony, would it be necessary in the printed record then to turn to a different page or even perhaps a different volume to find the chart?

Senator SYMINGTON. Will you take that into consideration when we work it out? I would like to have, if we could, a sort of file. It would

not be too unfortunate to have a chart reproduced twice, if necessary.

Senator ENGLE. I have no objection. I only make that observation.

Senator SYMINGTON. I am only talking about the printed record, provided it is clear that all have been approved by the committee.

Proceed, Mr. Counsel.

Mr. COBURN. All right, Mr. Chairman.

I, therefore, offer for the record copies of these charts as well:

One designated at the top, "Hanna Mining Co. Schedule of Profits Realized by the Three Mining Divisions 1954–60"; another chart designated at the top, "Hanna Mining Co. Net Profit After Federal Income Taxes as a percentage of Sales"; another chart designated at the top, "Hanna Mining Co. Net Profit Before Federal Income Taxes as a Percentage of Sales."

I offer for the record a copy of the chart designated at the top, "Hanna Mining Cos.' and Subsidiaries' Net Profits per Books Before Provision for Federal Income Taxes as Compared with Gross Income by Divisions and by Mining and Nonmining Subsidiaries"; copy of another chart designated at top, "Hanna Mining Cos.' and Subsidiaries' Net Profits per Books After Provision for Federal Income Taxes as Compared With Gross Income by Divisions and by Mining and Nonmining Subsidiaries"; copy of another chart designated at the top, "Hanna Mining Co. Net Profits per Books Before Federal Income Taxes as Compared With Gross Income by Divisions"; copy of another chart designated, "Hanna Mining Co. Net Profits per Books After Federal Income Taxes as Compared With Gross Income by Divisions."

Senator BUSH. Mr. Chairman, I assume all these charts are charts that have been placed in evidence here before, have been referred to during the hearings, is that right or not?

Mr. COBURN. Reference has been made to them, as I understand it, from time to time by witnesses.

Senator BUSH. We have had copies before us during the hearing of all of these charts that you are now talking about?

Mr. MAY. I asked that everybody be given a copy, and I assume that was done.

Mr. ZIMMER. Just now you asked?

Mr. MAY. No, no.

Senator BUSH. I assume that we are talking about putting in the record charts that have been displayed to the committee in connection with testimony that has been before the committee?

Senator Symington. That is right.

Senator BUSH. Is that right?

Senator SYMINGTON. That is right.

Senator BUSH. On that basis I have no objection.

Mr. COBURN. I offer, Mr. Chairman, for the record a copy of a chart designated at the top "Net Profit After Federal Income Taxes as a Percentage of Sales"—with attachments to it.

And I offer for the record a copy of a chart designated at the top "Hanna Mining Co., Results of Nickel Division's Operations per Hanna Mining Co. Profit-and-Loss Statement," and that is all.

(The documents referred to follow:)

HANNA MINING COMPANY
SCHEDULE OF PROFITS REALIZED BY THE
THREE MINING DIVISIONS, 1954-1960

PER AUDITED STATEMENTS

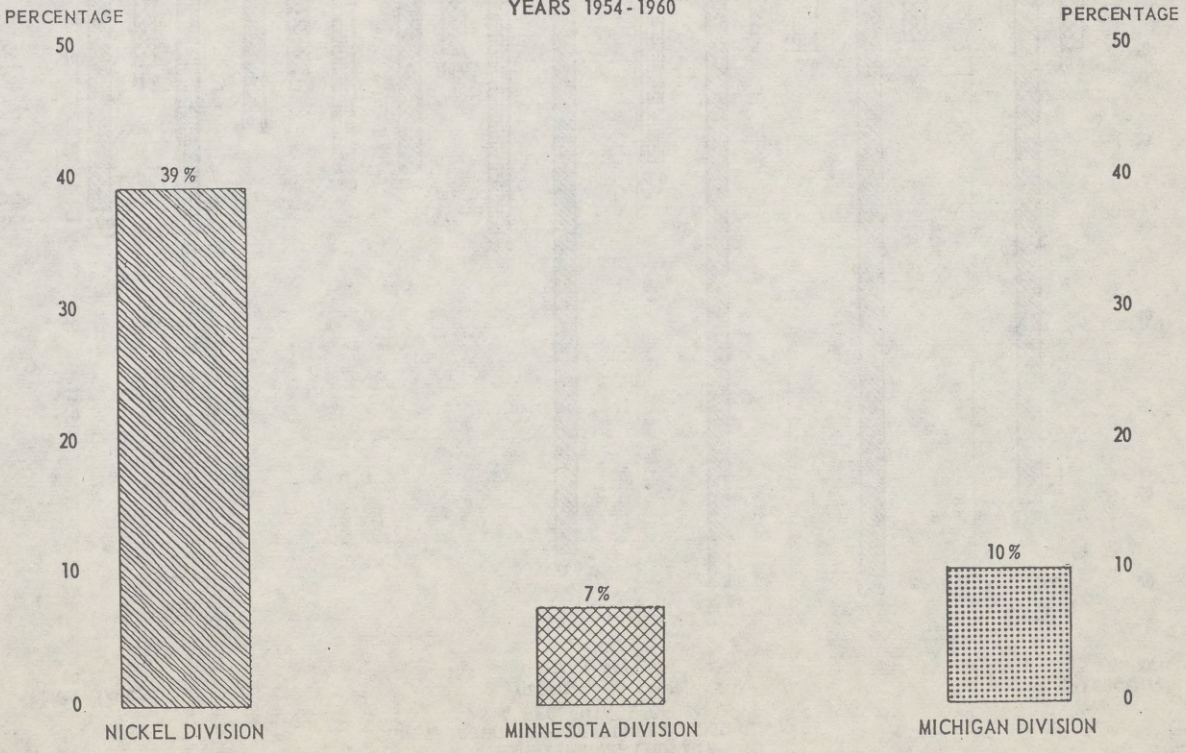
	NICKEL DIVISION	MINNESOTA DIVISION	MICHIGAN DIVISION
2/ TOTAL INCOME (GROSS RECEIPTS)	$26,263,478.86	$227,767,266.39	$51,492,538.14
3/ TOTAL COSTS	11,200,268.71	206,668,860.81	45,820,929.18
1/ NET PROFIT	15,063,210.15	21,098,405.58	5,671,608.96
PROVISION FOR FEDERAL INCOME TAX	4,893,900.00	5,294,240.78	721,400.00
4/ NET PROFIT AFTER PROVISION FOR FEDERAL INCOME TAXES	10,169,310.15	15,804,164.80	4,950,208.96
1/ NET PROFIT AS A PERCENTAGE OF:-			
2/ TOTAL INCOME	57%	9%	11%
3/ TOTAL COSTS	135%	10%	12%
4/ NET PROFIT AFTER PROVISION FOR FEDERAL INCOME TAXES AS A PERCENTAGE OF:-			
2/ TOTAL INCOME	39%	7%	10%
3/ TOTAL COSTS	91%	8%	11%

HANNA MINING COMPANY
SCHEDULE OF PROFITS REALIZED BY THE
THREE MINING DIVISIONS, 1954-1960

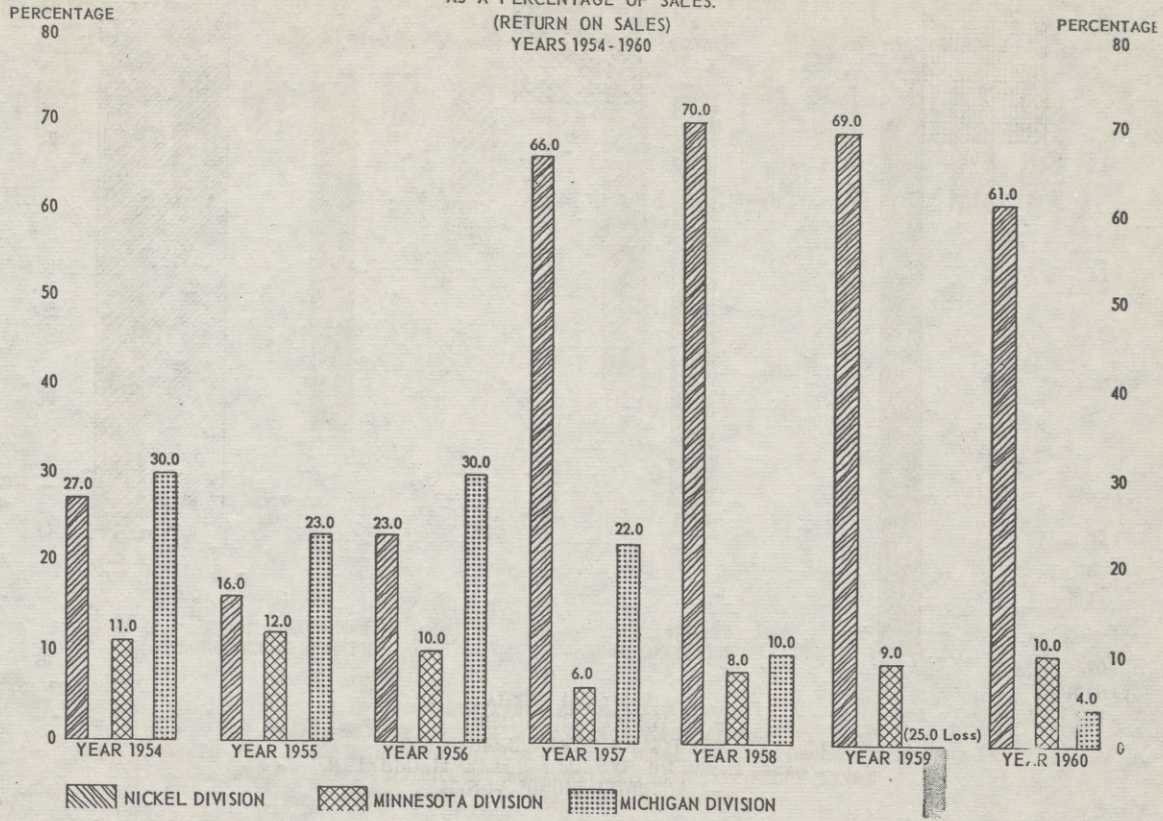
PER FEDERAL INCOME TAX RETURNS

	NICKEL DIVISION	MINNESOTA DIVISION	MICHIGAN DIVISION
B/ TOTAL INCOME (GROSS RECEIPTS)	$26,296,099.95	$229,989,874.10	$51,255,610.28
C/ TOTAL COSTS	11,199,653.70	207,862,762.54	44,800,449.88
A/ NET PROFIT	15,096,446.25	22,127,111.56	6,455,160.40
PROVISION FOR FEDERAL INCOME TAXES	4,893,900.00	5,294,240.78	721,400.00
D/ NET PROFIT AFTER PROVISION FOR FEDERAL INCOME TAXES	10,202,546.25	16,832,870.78	5,733,760.40
A/ NET PROFIT AS A PERCENTAGE OF:-			
B/ TOTAL INCOME	57%	10%	13%
C/ TOTAL COSTS	135%	11%	14%
D/ NET PROFIT AFTER PROVISION FOR FEDERAL INCOME TAXES AS A PERCENTAGE OF:-			
B/ TOTAL INCOME	39%	7%	11%
C/ TOTAL COSTS	91%	8%	13%

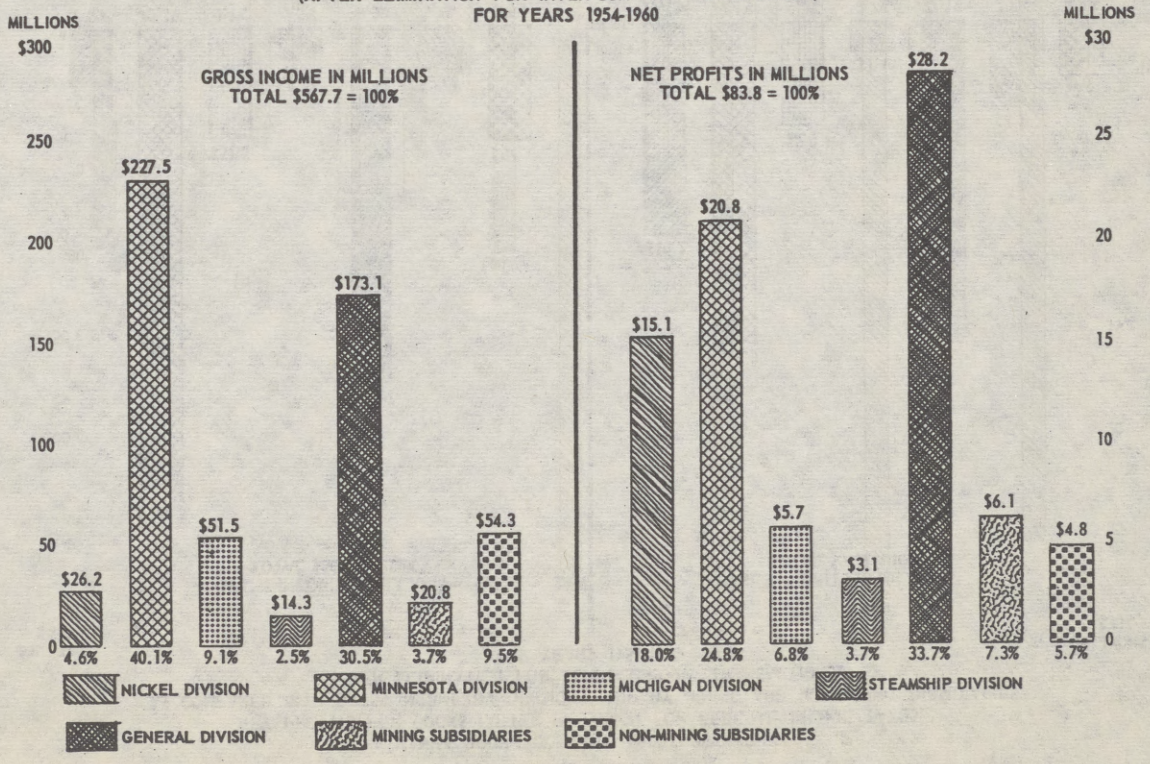
HANNA MINING COMPANY
NET PROFIT AFTER FEDERAL INCOME TAXES
AS A PERCENTAGE OF SALES.
(RETURN ON SALES)
YEARS 1954-1960



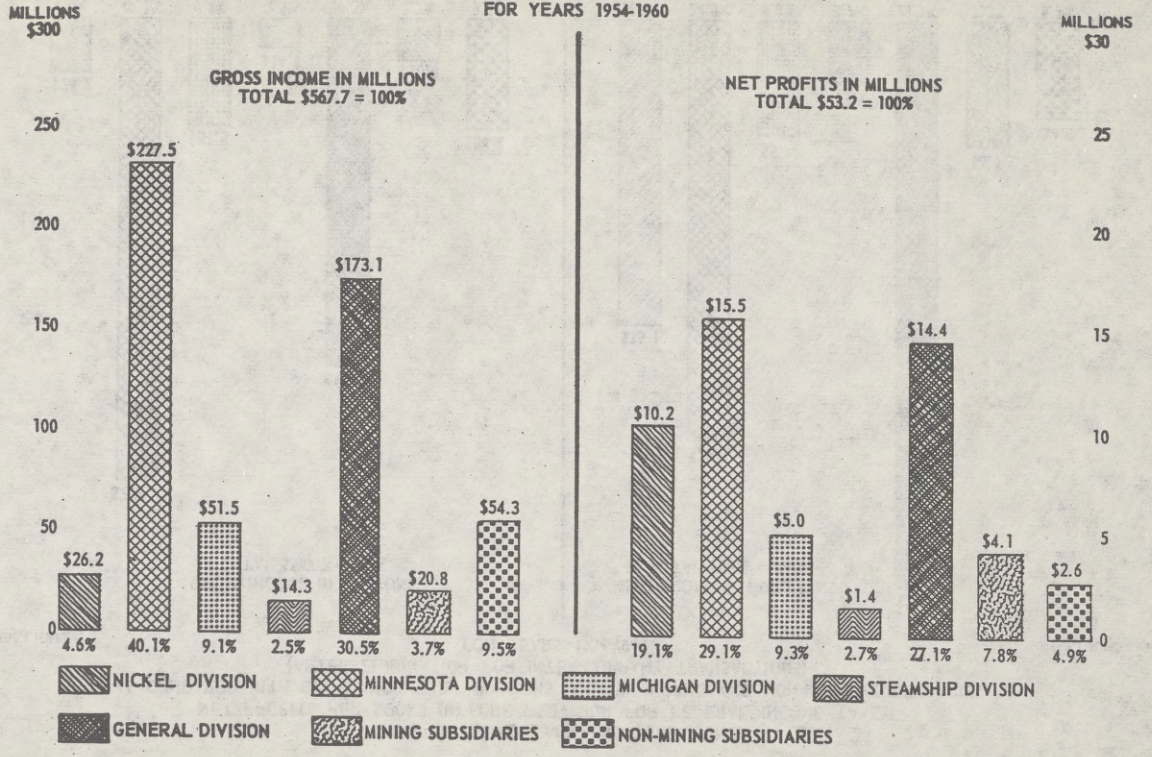
HANNA MINING COMPANY
NET PROFIT BEFORE FEDERAL INCOME TAXES
AS A PERCENTAGE OF SALES.
(RETURN ON SALES)
YEARS 1954 - 1960



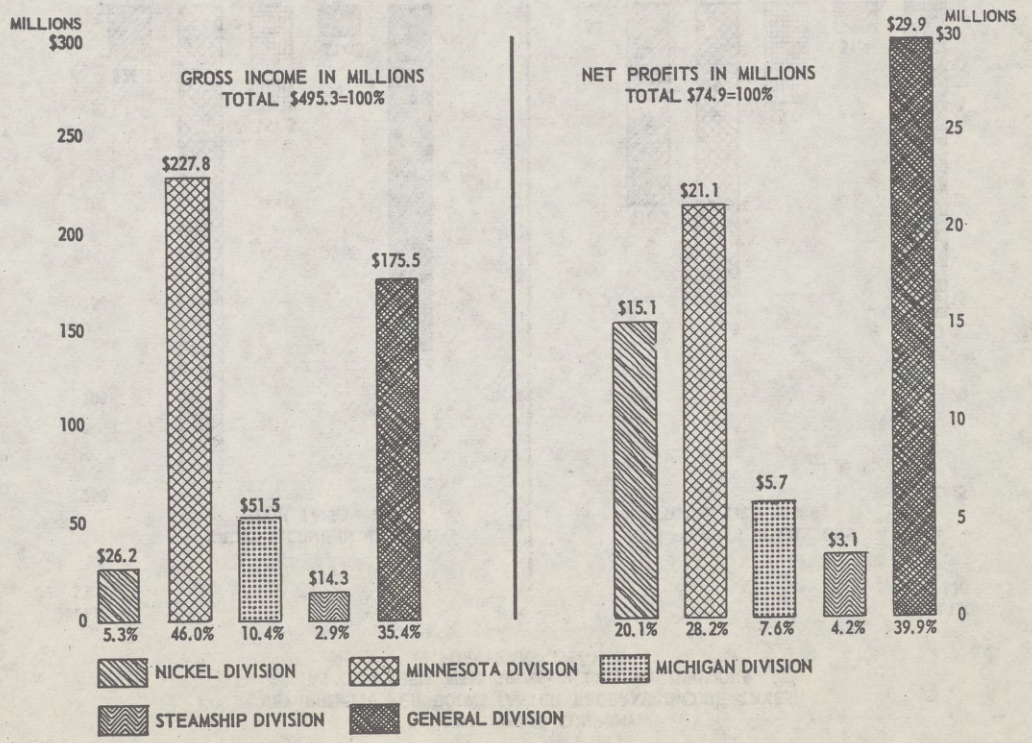
HANNA MINING COMPANY AND SUBSIDIARIES
NET PROFITS PER BOOKS (BEFORE PROVISION FOR FEDERAL INCOME TAXES)
AS COMPARED WITH GROSS INCOME, BY DIVISIONS, AND BY MINING AND NON-MINING SUBSIDIARIES
(AFTER ELIMINATION FOR INTER-COMPANY TRANSACTIONS)
FOR YEARS 1954-1960



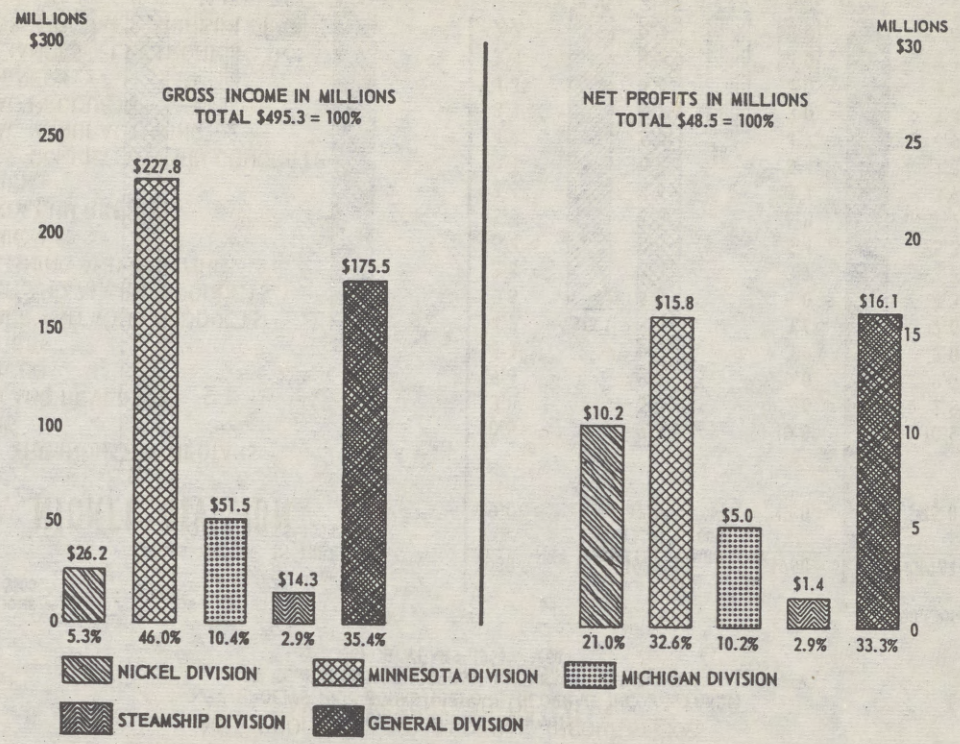
HANNA MINING COMPANY AND SUBSIDIARIES
NET PROFITS PER BOOKS (AFTER PROVISION FOR FEDERAL INCOME TAXES)
AS COMPARED WITH GROSS INCOME, BY DIVISIONS, AND BY MINING AND NON-MINING SUBSIDIARIES
(AFTER ELIMINATION FOR INTER-COMPANY TRANSACTIONS)
FOR YEARS 1954-1960



HANNA MINING COMPANY
NET PROFITS PER BOOKS (BEFORE FEDERAL INCOME TAXES)
AS COMPARED WITH GROSS INCOME, BY DIVISIONS
FOR YEARS 1954 – 1960



HANNA MINING COMPANY
NET PROFITS PER BOOKS (AFTER FEDERAL INCOME TAXES)
AS COMPARED WITH GROSS INCOME, BY DIVISIONS
FOR YEARS 1954-1960

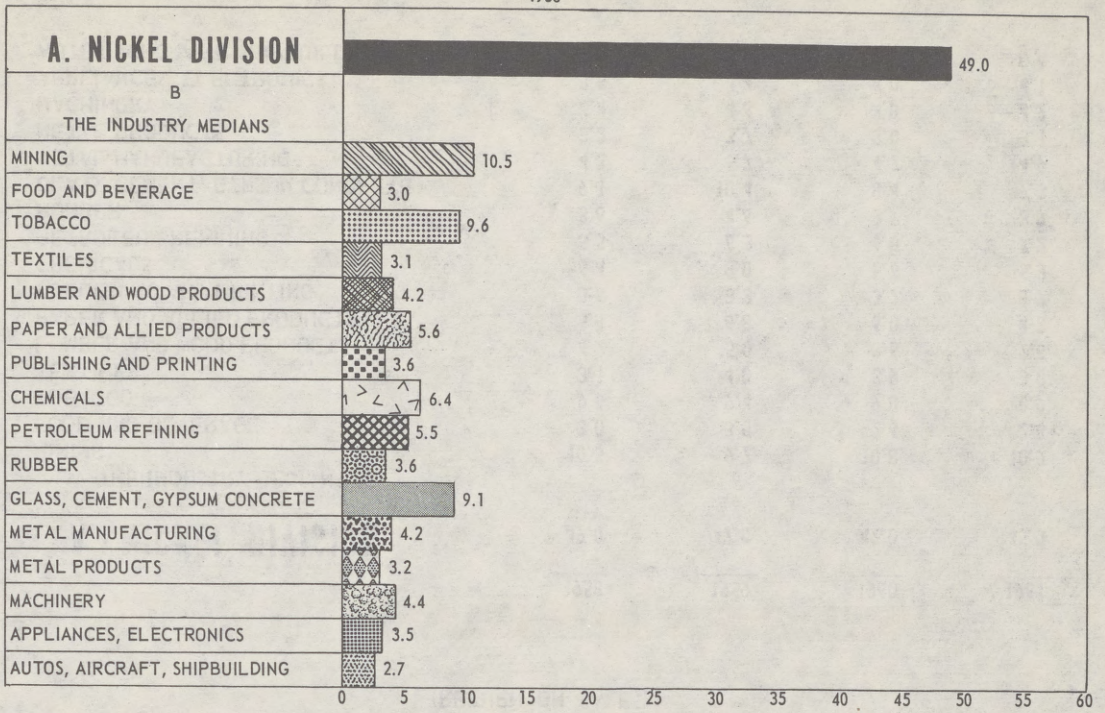


NET PROFIT AFTER FEDERAL INCOME TAXES
AS A PERCENTAGE OF SALES.
(RETURN ON SALES)

	1958	1959	1960	1961
A. NICKEL DIVISION	49.0	47.0	42.0	45.0
B				
THE INDUSTRY MEDIANS				
MINING	10.5	9.7	10.8	10.9
FOOD AND BEVERAGE	3.0	3.0	2.6	2.8
TOBACCO	9.6	9.4	9.0	8.9
TEXTILES	3.1	4.0	3.9	3.0
LUMBER AND WOOD PRODUCTS	4.2	5.0	3.6	2.6
PAPER AND ALLIED PRODUCTS	5.6	6.8	6.0	4.3
PUBLISHING AND PRINTING	3.6	3.3	3.7	3.7
CHEMICALS	6.4	8.0	5.4	5.3
PETROLEUM REFINING	5.5	6.3	6.8	7.2
RUBBER	3.6	4.6	3.7	3.9
GLASS, CEMENT, GYPSUM CONCRETE	9.1	10.4	8.4	7.3
METAL MANUFACTURING	4.2	5.7	4.7	4.9
METAL PRODUCTS	3.2	3.7	3.0	3.1
MACHINERY	4.4	4.6	4.0	4.2
APPLIANCES, ELECTRONICS	3.5	4.4	4.0	4.1
AUTOS, AIRCRAFT, SHIPBUILDING	2.7	3.4	2.9	N/A

SOURCE: A. HANNA MINING COMPANY FINANCIAL STATEMENTS
B. FORTUNE MAGAZINE JULY ISSUES 1958 – 1961

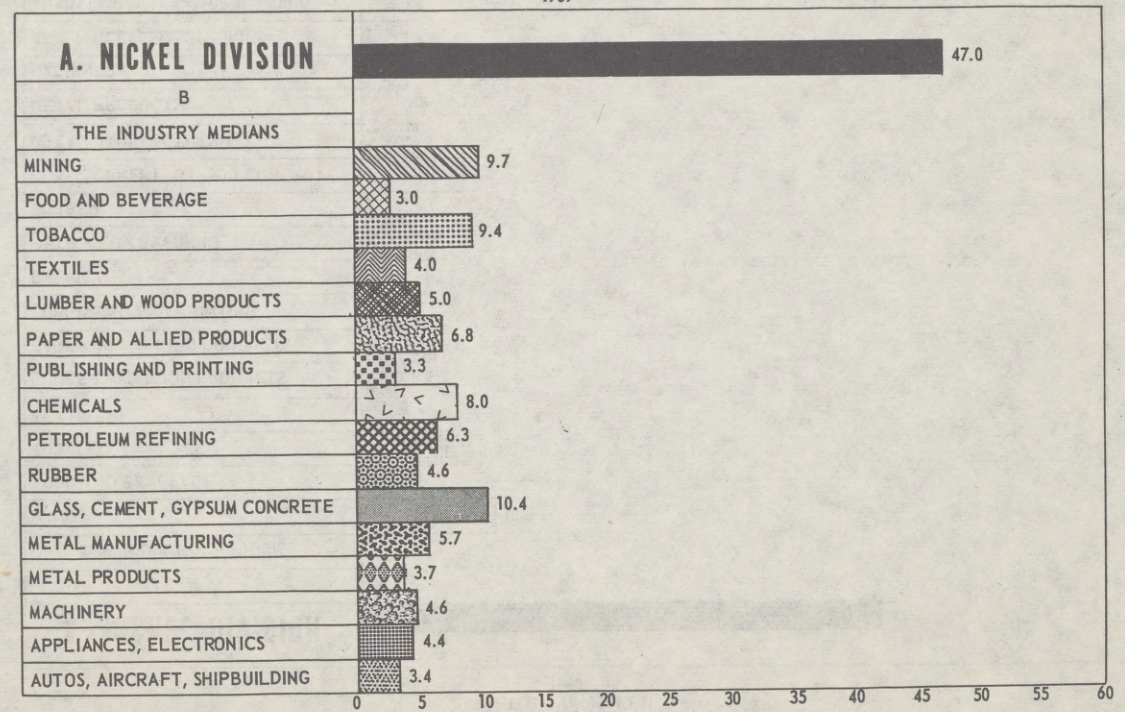
NET PROFIT AFTER FEDERAL INCOME TAXES
AS A PERCENTAGE OF SALES
(RETURN ON SALES)
1958



SOURCE:

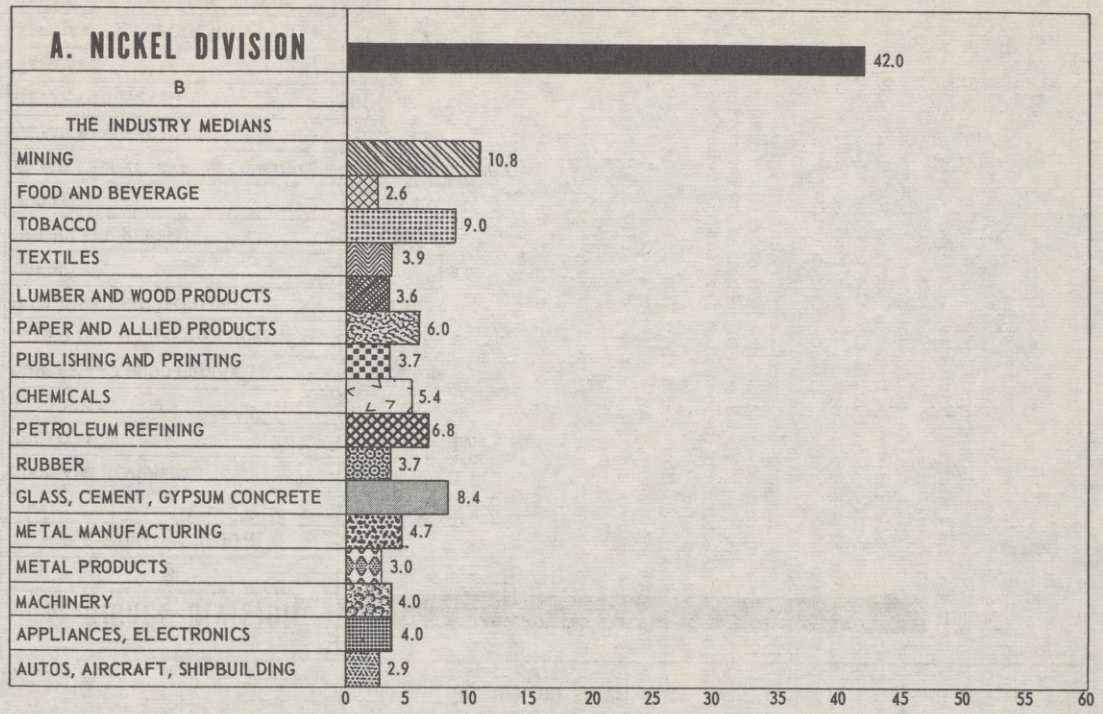
A. HANNA MINING COMPANY FINANCIAL STATEMENTS
B. FORTUNE MAGAZINE JULY ISSUE 1958

NET PROFIT AFTER FEDERAL INCOME TAXES
AS A PERCENTAGE OF SALES.
(RETURN ON SALES)
1959



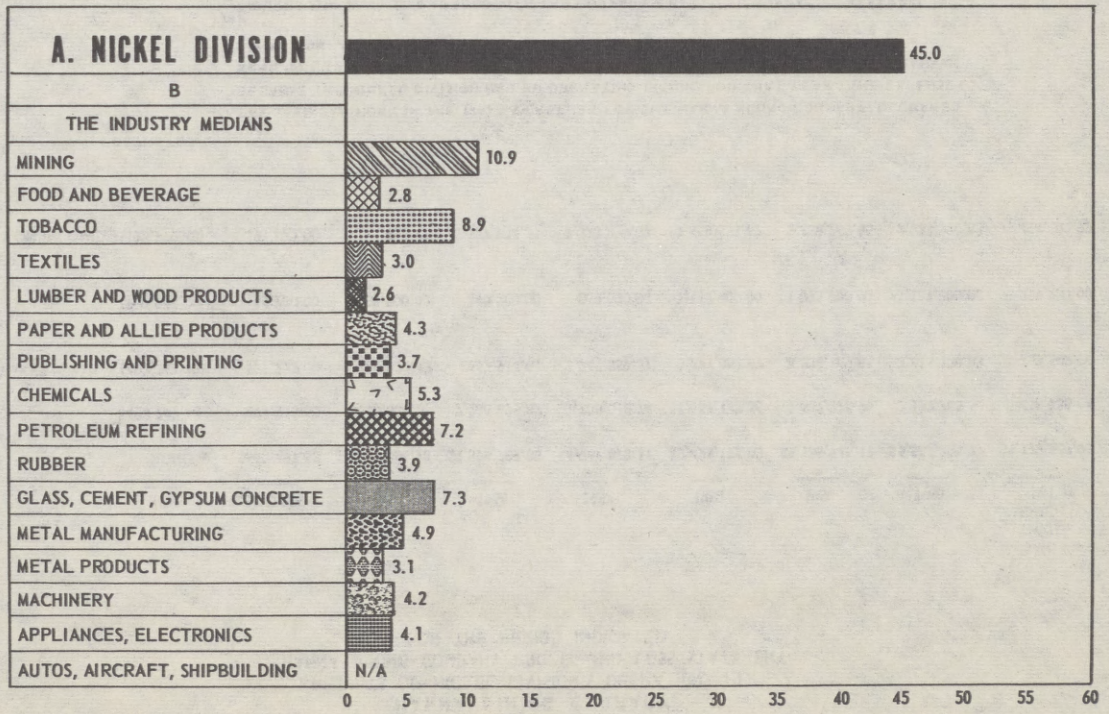
SOURCE:
A. HANNA MINING COMPANY FINANCIAL STATEMENTS
B. FORTUNE MAGAZINE JULY ISSUE 1959

NET PROFIT AFTER FEDERAL INCOME TAXES
AS A PERCENTAGE OF SALES.
(RETURN ON SALES)
1960



SOURCE:
A. HANNA MINING COMPANY FINANCIAL STATEMENTS
B. FORTUNE MAGAZINE JULY ISSUE 1960

NET PROFIT AFTER FEDERAL INCOME TAXES
AS A PERCENTAGE OF SALES.
(RETURN ON SALES)
1961



SOURCE:
A. HANNA MINING COMPANY FINANCIAL STATEMENTS
B. FORTUNE MAGAZINE JULY ISSUE 1961

83502 O—62—pt. 7——22

HANNA MINING COMPANY
RESULTS OF NICKEL DIVISION'S OPERATIONS PER
HANNA MINING COMPANY PROFIT AND LOSS STATEMENT
FOR THE PERIOD INDICATED

	1953	1954	1955	1956	1957	1958	1959	1960	JAN. THRU MARCH 1961	TOTAL
GROSS RECEIPTS	NONE	$668,487.63	$1,621,356,78	$2,894,789.83	$4,947,878.11	$5,425,195.03	$5,136,945.11	$5,568,826.37	$1,172,259.05	$27,435,737.91
TOTAL COSTS	$403,747.48	491,215.63	1,356,534.36	2,236,875.82	1,705,018.74	1,654,143.36	1,602,775.26	2,153,705.54	418,756.06	12,022,772.25
PROFIT BEFORE TAXES	(403,747.48)	177,272.00	264,822.42	657,914.01	3,242,859.37	3,771,051.67	3,534,169.85	3,415,120.83	753,502.99	15,412,965.66
PROVISION FOR FEDERAL INCOME TAXES	(209,948.00) 1/	45,700.00	108,900.00	480,200.00	869,000.00	1,112,400.00	1,095,900.00	1,181,800.00	259,200.00	4,943,152.000
2/ NET PROFIT AFTER FEDERAL TAXES ON INCOME	(193,799.48)	131,572.00	155,922.42	177,714.01	2,373,859.37	2,658,651.67	2,438,269.85	2,233,320.83	494,302.99	10,469,813.66

FOOTNOTES:

1/ TAX SAVINGS, SHOWN IN THE 1953 TAX RETURN FOR THE HANNA MINING COMPANY, OCCURRED BECAUSE THE NICKEL DIVISION HAD NO OPERATING INCOME FOR THAT YEAR. THE EXPENSES WERE INCLUDED WITH OTHER DIVISIONS TO REDUCE THE TOTAL TAXES PAID BY THE HANNA MINING COMPANY FOR 1953.

2/ FIGURES FOR 1954 - 1960 AGREED WITH THE COMPANY'S DETAILED OPERATING STATEMENTS. THESE STATEMENTS WERE AGREED WITH ERNST & ERNST AUDITED STATEMENTS FOR HANNA MINING COMPANY.

Mr. COBURN. Now, Mr. Henson, you have previously been identified by name and address, have you not, and sworn in this particular hearing?

Mr. HENSON. That is correct, sir.

Mr. COBURN. Mr. Henson, we have had a good deal of testimony since you testified previously, with reference to the income of the Hanna Mining Co. after taxes, and I want to refer to one of these charts here in that connection.

This chart, designated "Hanna Mining Co., Nickel Division," on page 2543, prepared by you, and shows the profits of the Hanna Mining Co. before taxes and after taxes, and also shows the adjustments that are proposed by the Hanna Mining Co. itself to reduce the income of the Hanna Mining Co. after taxes down to a figure of $7.5 million that they claim is the correct figure.

This is the chart, is it not?

Mr. HENSON. That is correct, sir.

Mr. COBURN. Now, in light of the testimony that has been heard and calculations that you have made based on that testimony, I would like to ask you these questions. Again these figures at the top of the chart were taken from what?

Mr. HENSON. Those were taken from the company books.

Mr. COBURN. From the company books?

Mr. HENSON. Yes, sir.

Mr. COBURN. Anything else?

Mr. HENSON. They were then agreed with the details that we could trace into the annual audited statements prepared by Ernst & Ernst. They were also agreed with the details of the annual corporate income tax returns.

Mr. COBURN. So these figures at the top that show profits per company books January 1, 1953, to March 31, 1961, both before taxes and after taxes, are based on the company books, the Ernst & Ernst audits, and what else did you say?

Mr. HENSON. The corporate tax returns.

Mr. COBURN. The income tax returns of the Hanna Mining Co., is that right?

Mr. HENSON. Yes, sir.

Mr. COBURN. And all of those documents show that the income before taxes of the company was $15,412,966, isn't that right?

Mr. HENSON. That is correct, sir.

Mr. COBURN. And after taxes was $10,469,814?

Mr. HENSON. That is also correct.

Mr. COBURN. From the period from January 1, 1953, to March 31, 1961, inclusive?

Mr. HENSON. Yes, sir.

Mr. COBURN. All right.

Now, the bottom of this chart is the other set of books that they had, isn't that right, there are other computations on their income?

Mr. HENSON. Yes, sir; they provided us with them.

Mr. COBURN. And this contains various adjustments that the Hanna Mining Co. made to reduce their income after taxes from $10,500,000 down to $7,500,000, is that right?

Mr. HENSON. Yes, sir.

Mr. COBURN. All right.

Now, then, on the basis of the testimony that you have heard, let's go through these items they have used to reduce their income after taxes from $10,500,000 to $7,500,000. They testified, did they not, the Hanna people themselves, that this item here, development 1949 to 1952, of $258,593 is related to the mining property, the development of the mining property, is that right?

Mr. HENSON. Yes, sir.

Mr. COBURN. So, in your computations that you have now made, you have given them credit for that, have you?

Mr. HENSON. That is correct, sir.

(A comparison of the computations is printed on p. 2544.)

Mr. COBURN. Because it is related to this Riddle property, right?

Mr. HENSON. Yes, sir.

Mr. COBURN. On the other hand, they testified that this item 1b here, research 1951–52, of $182,264, was related to the development of the process for or preparing or refining the nickel metal, is that correct?

Mr. HENSON. That was my understanding of the testimony; yes, sir.

Mr. COBURN. And, of course, the refining of the nickel metal was done by the Hanna Nickel Smelting Co.?

Mr. HENSON. That is correct, sir.

Mr. COBURN. And not the Hanna Mining Co.?

Mr. HENSON. That is also correct.

Mr. COBURN. So you have not given them credit for that in making your computations of $184,000?

Mr. HENSON. No, sir.

Mr. COBURN. This expenses item, 2a, administrative expenses in the amount of $211,734, which the testimony shows they allocated to the Nickel Division of the Hanna Mining Co. on the basis of the profits after taxes of the different divisions of the company, what do you say as to that?

Mr. HENSON. I am not sufficiently aware of the details of this administrative expense to either disallow it or allow it. And under the circumstances in my opinion it would be proper to allow it.

However, I feel that the basis used to allocate the administrative expense to the Nickel Division results in an allocation of a disproportionate amount.

Mr. COBURN. Well, may I ask you this, Mr. Henson, if you do not use income after taxes what do you think is the more proper and more equitable basis of allocating administrative expense to the Nickel Division?

Mr. HENSON. From the information we have available, I would think that the operating expenses themselves would be the better and more equitable basis for making the allocation.

Mr. COBURN. Well, do I understand you then in view of the fact that this administrative expense is an expense, that the fairer way to allocate it between the divisions is on the basis of the operating expenses of the company?

Mr. HENSON. That is my opinion, yes, sir.

Mr. COBURN. In other words, it ought to be put in with the other expenses, is that it?

Mr. HENSON. Yes, sir.

Mr. COBURN. And so, in your calculations, have you allocated this item to the nickel division, that is, the administrative expense to the nickel division, on the basis of the expenses of the different divisions of the company?

Mr. HENSON. I have, sir.

Mr. COBURN. And that results in what figure instead of $211,734?

Mr. HENSON. $31,982.

Mr. COBURN. Now, with reference to this bigger, much larger, item, 2b, exploration, research, in carrying ore reserves and so on, where they allocated $2,173,000 to the nickel division alone, have you allocated any of that to the nickel division?

Mr. HENSON. No, sir, I have not.

Mr. COBURN. Why not?

Mr. HENSON. I feel that the company records reasonably represent costs incurred in producing the revenues, the net revenues under the contract. I feel that the exploration expense is something of a continuing nature of the corporation, and although it may be a legitimate item to expense in a given year to determine what the company's operating results were, I believe that it would be improper to consider it as a direct cost of producing nickel under the contract.

Mr. COBURN. May I ask you this: Was any of the exploration expense incurred there at Riddle?

Mr. HENSON. No, it was not, sir.

Mr. COBURN. Is that the reason why you do not allocate it to the nickel division?

Mr. HENSON. Yes, sir.

Mr. COBURN. Actually what you have done in not allocating any of it to the nickel division is to follow exactly what the Hanna people did themselves in setting this up on their books, isn't that right?

Mr. HENSON. In their books and in their original contract estimate, yes, sir.

Mr. COBURN. They didn't allocate any of it to the nickel division?

Mr. HENSON. They did not.

Mr. COBURN. They allocated their exploration expenses to the different divisions according to the divisions that had incurred the exploration expense, isn't that right?

Mr. HENSON. That seems to be the case, yes, sir.

Mr. COBURN. Well, that is what the testimony has been here, hasn't it?

Mr. HENSON. Yes, sir.

Mr. COBURN. And from the Hanna people?

Mr. HENSON. Yes, sir.

Mr. COBURN. And since none of this exploration expense was incurred by the nickel division then you allocate nothing to the nickel division, correct?

Mr. HENSON. Yes, sir.

Mr. COBURN. Then, of course, this estimated tax savings item which they have put in here is eliminated, too, is it not, because that is based on all of these other adjustments up here that they have made?

Mr. HENSON. Yes, sir.

Mr. COBURN. Now, this item number 3 down here where they have taken another deduction of $667,000 because of income taxes paid by the Hanna Nickel Smelting Co., have you allowed that in your calculations?

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

Mr. COBURN. Why not?

Mr. HENSON. This was incurred by an entirely separate corporation. It was incurred because the contractor had to take into income the liquidation of his liability to the Government for the cost of constructing the smelter and in fact, I think that this tax then represents an additional cost to the contractor of acquiring the smelter.

Mr. COBURN. That is, you consider this truly then to be an additional cost of the Hanna Nickel Smelting Co.?

Mr. HENSON. Yes, sir.

Mr. COBURN. And not the Hanna Mining Co.?

Mr. HENSON. That is correct, sir.

Mr. COBURN. So the way you figure this, look at it, is that the Hanna Nickel Smelting Co. incurred these expenses in the acquisition of this smelter?

Mr. HENSON. Yes, sir.

Mr. COBURN. Excuse me, I am not through yet.

One—$1,772,000 for the residual payment, and $667,000 for the income tax paid because they acquired the smelter?

Mr. HENSON. That is my opinion, sir.

Mr. COBURN. But that is not an item, of course, that is to be considered in trying to determine what the Hanna Mining Co. made on this nickel contract——

Mr. HENSON. No, sir.

Mr. COBURN. In your judgment, is that correct?

Mr. HENSON. That is correct; yes, sir.

Mr. COBURN. Now then, on that basis, what is the final adjustment figure that you arrive at as to the income after taxes of the Hanna Mining Co.?

Mr. HENSON. $10,179,239.

Mr. COBURN. On that basis, Mr. Henson, what was the net profit after taxes of the Hanna Mining Co. during the period in question relative to sales?

Mr. HENSON. 38.8 percent, sir.

Mr. COBURN. The percentage of net profit, I should have said.

Mr. HENSON. Yes, sir.

Mr. COBURN. 38.8 percent?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. Is that after or before taxes?

Mr. HENSON. After taxes.

Senator SYMINGTON. After?

Senator BUSH. What were the sales there on that figure?

Mr. HENSON. About $26,200,000, sir.

Mr. COBURN. What was the percentage of net profit after taxes relative to sales according to the Hanna figures of $7.5 million profits.

Mr. HENSON. 27½ percent, sir.

Mr. COBURN. So that even if you take the Hanna figures here as to the amount of money they made after taxes of $7.5 million, you still get a net profit after taxes relative to sales of 27½ percent, do you?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. In accordance with the unanimous agreement of the committee, we will now recess from 4 to 4:30 at the request of Senator Stennis and Senator Thurmond, for an executive meeting of

the Military Preparedness Subcommittee. We will be back at 4:30.

(Short recess.)

Senator SYMINGTON. The hearing will come to order.

Mr. COBURN. Mr. Henson, at an earlier point in this hearing Mr. Louis Brooks of GSA testified that the price paid by the Government for the acquisition of the nickel that has been delivered so far by the Hanna Nickel Smelting Co. was 91 cents a pound. That was the price, the average price paid by the Government for the nickel that has been delivered so far.

Do you agree with that figure?

Mr. HENSON. I do, sir.

Mr. COBURN. That figure as I recall it from this chart here of Mr. Brooks includes the amount of cash that was paid by the Government to the Hanna Nickel Smelting Co. of $71,404,000.

Mr. HENSON. Yes, sir.

Mr. COBURN. The smelter that was built by the Government for the Hanna Nickel Smelting Co. of $22,223,000?

Mr. HENSON. That is correct, sir.

Mr. COBURN. The transportation costs in moving the nickel metal from the point that it was purchased to where it is now stockpiled of $1,251,000?

Mr. HENSON. That is correct, sir.

Mr. COBURN. And the interest that GSA paid, the Government had to pay, on the money that they had spent in the construction of this smelter?

Mr. HENSON. That is correct.

Mr. COBURN. And the total is $99,758,000 laid out in actual cash by the U.S. Government for the nickel that has been delivered thus far?

Mr. HENSON. That is correct.

Mr. COBURN. As I recall it, the amount—well, here it is, the amount of nickel that has been delivered so far is 108 million pounds?

Mr. HENSON. That is correct.

Mr. COBURN. Which averages out at 91 cents a pound.

Mr. HENSON. Yes, sir.

(The chart is printed on p. 2235.)

Mr. COBURN. All right.

Now, that is the original cost.

But, since the nickel was bought by the U.S. Government it has resold, as it had a right to do under the Defense Production Act, some 30 million pounds of this nickel, has it not?

Mr. HENSON. Yes, sir, it has.

Mr. COBURN. And how much was that sold for?

Mr. HENSON. The net sales proceeds was $34,457,000.

Mr. COBURN. What is the net cost to the Government as you compute it, considering the fact that the Government's cost price was $99,758,000, what was the net cost to the Government of the amount of nickel that it has on hand now, by that, I mean you must take into consideration the proceeds of the sale of some 30 million pounds of nickel.

Mr. HENSON. Considering the sales proceeds and also the residual payment?

Mr. COBURN. Yes, that, too.

Mr. HENSON. The net amount then is $63,579,000.

Mr. COBURN. That averages out at how much a pound?

Mr. HENSON. 81.8 cents.

Mr. COBURN. 81.8 cents pound?

Mr. HENSON. Yes, sir.

Mr. COBURN. Now, these lower figures or this lower figure of, I believe, of 71 cents a pound that has been quoted and cited so much in the Hanna statements that have been filed in this hearing do not take into consideration any interest at all on the money that the Government advanced to build this smelter, does it?

Mr. HENSON. No, sir.

Mr. COBURN. Nor the cost of moving the nickel from the point where it was bought to where it is now?

Mr. HENSON. No, sir.

Mr. COBURN. Now then, Mr. Henson, the Hanna Nickel Smelting Co. is obliged under the contract that it has with the Government to deliver 17 million pounds more of nickel isn't it?

Mr. HENSON. That is correct, sir.

Mr. COBURN. And the ceiling price in that contract is 58.77 cents a pound, is it not?

Mr. HENSON. Yes, sir.

Mr. COBURN. It must deliver that nickel by June 30, 1965?

Mr. HENSON. Yes, sir.

Mr. COBURN. Will you take into consideration the fact that the nickel smelting company is obliged to deliver that amount of metal at that price, and tell us at the conclusion of the entire contract what the average price will be that the Government will have paid for the full 125 million pounds of nickel?

Mr. HENSON. At that ceiling price the Government will buy an additional 9,987,000 pounds at a price of—

Mr. COBURN. Price of 58.77 cents a pound, that being the ceiling price?

Mr. HENSON. I am sorry, I was incorrect there. An additional 17 million pounds at a total cost of $9,987,000.

Mr. COBURN. All right.

Now then, add that to what has already been purchased and what is the cost to the Government of the entire 125 million pounds of nickel?

Mr. HENSON. If a cost of $9,987,000 for future deliveries is added to the $98,036,000 the Government has paid to date, the total ultimate cost to the Government for 125,000,000 pounds of nickel would be $108,023,000. This would represent an average cost of 86.4 cents per pound of nickel or about 14 cent per pound in excess of the current sale price of ferronickel. If a deduction were allowed for the proceeds of nickel sold to date the Government's unrecovered cost would then be $73,566,000. This would represent an average cost of 77.7 cent per pound.

Mr. COBURN. How much more is the amount of money that will have been paid by the Government by that time than the present market price on this nickel?

Mr. HENSON. That would be 5.3 cents per pound more than the current market price, sir, and the total excess then of the current market value would be about $5,020,000.

Mr. COBURN. Of course, that last figure of $5,020,000 over and above the present market price is, of course, subject to fluctuation as the market moves up or down, is that right?

Mr. HENSON. That is right, sir.

Mr. COBURN. As a matter of fact, the general direction of the nickel market at the present time is down, isn't it?

Mr. HENSON. That is correct, sir.

Senator SYMINGTON. Will counsel yield?

Mr. COBURN. Yes.

Senator SYMINGTON. In the statement of Mr. George Humphrey, in his amazing pamphlet, he talks about the price of nickel, doesn't even say net price; he deducts the sale by the Government of nickel to industry and talks about the figure remaining after these sales as the original price. Of course what he really means is net value.

If you buy a car for a thousand dollars, the price of the car is a thousand dollars. If you happen to sell it later, or sell part of it to a car pool, the price was still a thousand dollars.

I noticed one witness this morning, believe it was Mr. Gilbert Humphrey, talked about the net cost. At least that is closer to net value. The price was the original figure paid.

The price was 91 cents a pound, and that figure cannot be changed by any juggling such as subsequent industry sales; is that correct.

Mr. HENSON. That is correct, sir.

Senator SYMINGTON. We now have tens of millions of pounds more nickel in stock than needed. These figures of value are given on the basis of the present market. If we started selling this nickel in any real quantity we would collapse the market. But regardless of whether we sell nickel to get rid of surplus, or the price falls because of a lowering of steel production, the price itself was 91 cents a pound; is that correct?

Mr. HENSON. I agree with you, sir.

Mr. COBURN. Mr. Henson, Mr. Hassel Tippit, who just testified, said in his statement that the General Accounting Office audit of the Hanna contracts did not make any criticism of the company's auditing policies, did he not?

Mr. HENSON. He did, sir.

Mr. COBURN. Let's see, that GAO audit report was filed with the Congress in 1961, was it?

Mr. HENSON. Yes, sir.

Mr. COBURN. When?

Mr. HENSON. April 1961.

Mr. COBURN. In which they made a report on these Hanna contracts?

Mr. HENSON. Yes, sir.

Mr. COBURN. Did the GAO report undertake to include any complete audit of the affairs of the Hanna Nickel Smelting Co.?

Mr. HENSON. No, sir, it did not.

Mr. COBURN. Or of its methods of accounting?

Mr. HENSON. No, sir.

Mr. COBURN. What did the GAO report or to what was it restricted?

Mr. HENSON. I think this is very well described in the scope of the audit which is contained in the Comptroller General's report itself, sir. The basic purpose of this audit was to examine GSA's activities relating to the negotiation and the administration of the Hanna contracts.

Although this did include a review of the internal audit function of GSA relating to these contracts, it was not intended that the audit

included a detailed examination of the company's records and accounting policies and procedures.

Therefore, in my opinion, the absence of any criticism of policies and procedures simply cannot be construed as approval.

You cannot give approval, you cannot approve an accounting system or costing procedure where you have made no detailed examination.

Mr. COBURN. Mr. Henson, entirely apart from the accounting principles that may be involved in this question of whether a given item should be capitalized or expensed, the contract between the Hanna Nickel Smelting Co. and the Government governs, does it not?

Mr. HENSON. It does, sir. It reflects the agreement of both parties to the contract.

Mr. COBURN. And, as I understand the opinion of the Comptroller General, which has been offered in the record now, any new capital items or any replacements must be capitalized, is that correct?

Mr. HENSON. Yes, sir, it is.

Mr. COBURN. And furthermore, the contractor was obliged to notify the Government of any expenditures of that kind and to obtain the consent of the Government before making the expenditures?

Mr. HENSON. That is correct, sir.

Mr. COBURN. Of such capital items, is that right?

Mr. HENSON. Yes, sir.

Mr. COBURN. So that it is your opinion then, based on the Comptroller General's opinion which has been offered here, that the Hanna Nickel Smelting Co. owes to the Government any expenditures that were made for the purpose of incurring capital items or capital expenses where the Government was not notified of this and where they did not obtain the consent of the Government for the purchase of these capital items?

Mr. HENSON. That is my opinion, sir.

Mr. COBURN. And in any event, is it the opinion of the Comptroller General, and yours, that any expenditures of capital items in excess of the $22,875,000 authorized in this case by GSA would have to be repaid by the Hanna Nickel Smelting Co. because GSA wasn't even authorized to permit such expenditures?

Mr. HENSON. The Comptroller General offered no opinion in this respect, sir. It is my opinion, however——

Mr. COBURN. That any capital expenditures by the contractor in excess of $22,875,000 would be due the Government because even GSA was not authorized to consent to such expenditures?

Mr. HENSON. That is correct, sir.

Mr. COBURN. I believe that is all, Mr. Chairman.

Senator SYMINGTON. Senator Bush?

Senator BUSH. Thank you, Mr. Chairman.

You state that at the present market price of nickel that the Government has suffered a paper loss on the Hanna nickel contract?

What is the loss as of the end of last year?

Mr. HENSON. I haven't computed that figure, sir. The loss we were speaking of was after speculating that the additional 17 million pounds would be delivered at the ceiling price of 58.77 cents per pound by June 30, 1965.

Senator BUSH. Do you know what the profit or loss, what is your estimate of the profit or loss as of December 31, 1961, last year?

Mr. HENSON. I am sorry, sir, I just have not computed that figure.

Senator BUSH. Well, I am advised that the GSA estimates that the profit on the nickel, that the Government had a paper profit on its nickel of—on Hanna of $10,670,000 as of that date, December 31. That GSA estimates that was the profit; that is, a so-called paper profit on the Hanna nickel at that time. Are you familiar with that?

Mr. HENSON. No, sir, I am not. The market may have been higher then.

Senator BUSH. Would you please check with GSA on that and advise the committee whether that is correct?

Mr. HENSON. Yes, sir; what was that date again, sir?

Senator BUSH. December 31, 1961, and the figure was $10,670,000.

Senator SYMINGTON. If the Senator will yield, hasn't there been a fall in price since then?

Mr. COBURN. Yes, there has.

Senator BUSH. I am asking him to check this as of that date. The Hanna company or GSA or nobody else has control of what the price may have done since then, but I want to establish that.

Senator SYMINGTON. I think the price of nickel at that time was 81.25 cents per pound; is now 79 cents. The price of ferronickel is now 75.25 cents per pound of contained nickel.

Senator BUSH. Well, my information, Mr. Chairman, is that the figure I mentioned, $10,670,000, was estimated by the GSA at that time to be the book profit or the profit in the Hanna nickel deal as respects the market price at that time. In other words, that they had a book profit at that time of $10,670,000.

Now, I am asking the witness to check with GSA and see if that is correct.

Mr. HENSON. I shall be very glad to do so, Senator.

Senator BUSH. And let the committee know; advise the committee of what you find.

Senator SYMINGTON. Is that all?

Senator BUSH. That is all, yes.

(The information requested is as follows:)

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., November 26, 1962.

Hon. STUART SYMINGTON,
Chairman, Subcommittee on the National Stockpile and Naval Petroleum Reserves, Armed Services Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR SYMINGTON: During the course of the hearings, last month, concerning the contracts between General Services Administration and the Hanna Nickel Smelting Co. and affiliated companies, Senator Bush inquired as to the accuracy of the amount of $10,670,000 as GSA's book profit on these contracts through December 31, 1961.

The reference is apparently to the December 31, 1961, Report on Borrowing Authority submitted to the Congress pursuant to section 304(b) of the Defense Production Act, which contains an explanation of the calculation of the probable ultimate net cost of transactions entered into under the authority of the act.

In that report there is a statement that the Government has received a profit as of December 31, 1961, of $10,674,000 on the Hanna contracts. However, the use of the word "profit" should not be interpreted to mean that there has actually been a realization in cash of that amount of profit. The Government has received on the sale of 30,330,000 pounds of nickel during the severe shortages of 1955, 1956, and 1957, a profit of $4,153,000. Also, under long-established accounting methods used internally at GSA, and so reflected in the Report on

Borrowing Authority, there is a credit on the Hanna accounts of $4,799,000 in interest on advance payments made to Hanna, which is also construed under the accounting system as a profit. However, the crediting of this interest income is a mere paper transaction. No interest payments were actually received in cash from Hanna, other than $509,000 accrued on working capital advances which was repaid with additional funds advanced by the Government. Under the method of accounting for this contract, the Government allowed to Hanna, as a part of the cost of each pound of nickel delivered, a certain amount of money for interest and correspondingly on its books showed the receipt from Hanna of that same amount for interest. In other words, the Government was paying the interest charge to itself. But in fact the Government did not actually pay this interest to Hanna, nor did it receive it back from Hanna (except for the working capital interest previously explained which had the same net effect). Therefore, it cannot be said that the Government actually received this interest payment, or that it represents any actual cash profit to the Government.

The third item which makes up the total $10,674,000 is the receipt of $1,722,000 from Hanna which constituted the amount which Hanna had to pay to the Government at the end of the contract in order to take complete ownership of the smelter. The Government actually received this amount of money as of March 31, 1961, but, considering the fact that it cost the Government over $22 million to build the smelter, it can hardly be said that this cash payment to the Government represents a profit to the Government.

To determine the Government's actual profit-or-loss situation presently on this contract, it is necessary to look into the actual cash expenditures by the Government, the amount of cash receipts the Government has obtained from the sale of nickel, and the present value of its Hanna nickel inventory.

As was testified at the hearings, the Government has actually spent $99,758,000 in cash to acquire 108,006,000 pounds of nickel. Included in this cash expenditure is $4,880,000 estimated true interest costs through March 31, 1961, on the $22.3 million which the Government had to borrow in order to build the smelter. Not included in this total cost are far greater interest costs incurred by the Government, and continuing to accrue, to finance the inventories of the Hanna ferronickel on hand. The Government has sold 30,330,000 pounds of its Hanna nickel for which it received $35,792,000. In addition to that, the Government has received from Hanna a payment of $1,722,000 for the transfer of the smelter facilities. Therefore, the Government has received back $37.514,000 of its total cash outlay of $99,758,000 and has left, in inventory, 77,677,000 pounds of Hanna nickel.

The Government has unrecovered cash expenditures in connection with this nickel of $62,244,000.

The present market value of the Hanna ferronickel is around 72 cents per pound, after allowing for transportation costs. If it could be assumed that the remaining inventory of 77,677,000 pounds could be sold at the present market value (an unlikely assumption, since disposal of all of this nickel would severely depress the price) the Government would receive back a total of $55,927,000. However, as noted above, the Government has unrecovered cash expenditures under this contract of $62,244,000. Therefore, based on the present market price of the Hanna nickel now on hand, the Government has a paper loss on this contract of $6,317,000. Thus, contrary to the impression that the Government has realized a profit on this contract, the fact of the matter is that liquidation of the present Hanna nickel inventory on the market at current prices would result in an actual loss being realized.

Sincerely yours,

BERNARD L. BOUTIN,
Administrator.

Senator SYMINGTON. I am glad the Senator brought that up because only a few minutes ago I mentioned the relationship of price and cost and value.

I notice that the statements made in the General Accounting Office report estimates, prepared by GSA as of June 30, 1960, show an estimated sales price of ferronickel of 71.5 cents a pound "which would result in a loss of over $3 million on the operations of this contract."

In addition, GSA paid freight and other costs totaling over a million dollars on this ferronickel, which was not included in the unique calculations of Mr. George Humphrey.

Senator BUSH. Are those figures applied to all contracts on nickel or is this the Hanna contract?

Senator SYMINGTON. This is the report of the Hanna Nickel contracts. The only reason I mention it is to present the fact that the value will go up and down, based on the price.

Senator BUSH. I appreciate that.

Senator SYMINGTON. We now have some 440 million pounds of nickel, of which 118 million pounds are estimated excess. If we start selling that nickel in any quantity this whole structure will rise or fall as regards value, on the basis of what we do with the surplus of nickel we have on hand. Do you see it that way?

Mr. HENSON. Yes, sir, that is a very serious consideration.

Senator SYMINGTON. Senator Engle?

Senator ENGLE. No questions.

Senator SYMINGTON. Senator Thurmond.

Senator THURMOND. No questions.

Senator SYMINGTON. Mr. Henson, you are a certified public accountant, are you not?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. And you work for the General Accounting Office?

Mr. HENSON. Yes; I do, sir.

Senator SYMINGTON. Previously you did work in private accounting?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. What firm?

Mr. HENSON. Price, Waterhouse & Co., sir.

Senator SYMINGTON. You heard the testimony of Mr. Tippit of Ernst & Ernst this morning?

Mr. HENSON. Yes, sir; I did.

Senator SYMINGTON. How many years have you been in the accounting field?

Mr. HENSON. I would say about 8 or 9 years, sir.

Senator SYMINGTON. Do you feel that in a case of this character it is important to get up here the accounting people who actually did the work on the contracts in question, so as to get the facts?

Mr. HENSON. Yes, sir; I do.

Senator SYMINGTON. You have been working on these contracts yourself, have you not, auditing the records of the Hanna Mining Co.?

Mr. HENSON. Yes, sir; I have.

Senator SYMINGTON. For some time?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. How long?

Mr. HENSON. Six or seven months now, I would say.

Senator SYMINGTON. Six or seven months?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. I am not a CPA, wish I were, but I have looked at, and prepared, a good many balance sheets and earning

statements. When a balance sheet or an earning statement is issued you normally run over it and there are certain figures you generally go to, as for example, net profit. You are familiar with the statement put out, Mr. George Humphrey's statement, which he gave wide publicity?

Mr. HENSON. Yes; I am, sir.

Senator SYMINGTON. A figure the bottom figure on the page, is $7,535,000 profit; and above that is the cost to Hanna of power from the Bonneville Dam, also Federal income taxes paid, not only by the Hanna company itself, but also by its employees. Are you familiar with that?

Mr. HENSON. Yes; I am, sir.

Senator SYMINGTON. Is there any possible way you can reconcile the $7,535,000 profit figure shown at the bottom of that sheet, what looks at first glance like a normal earnings statement—with the figures above it?

Mr. HENSON. No, sir; you cannot.

Senator SYMINGTON. I tried all one night to do it, but couldn't. But the impression one gets when looking at a statement drawn up like this, is that there was a net profit of $7.5 million, as the result of the way those figures on that page, page 3 of the Humphrey pamphlet, were drawn up. Is that right?

Mr. HENSON. Yes, sir; at first glance it does give that impression.

Senator SYMINGTON. The truth is, and the record so proves, that the company actually paid an income tax on over $15 million profit on $26 million sales. Now, I have not talked with you about this point. You worked on the details of this Humphrey statement, and remember the asterisk where it says total price paid by Government for 94.7 million pounds of nickel, $67.2 million?

Mr. HENSON. Yes, sir; I do remember that.

Senator SYMINGTON. Then there is this note:

Sources: Report on borrowing authority dated December 31, 1961, submitted to the Congress by the General Services Administration pursuant to section 304(b) of the Defense Production Act, as amended, and audit report of Comptroller General of the United States dated April 1961, covering contracts DMP–49, 50, and 51.

Do you remember that note?

Mr. HENSON. Yes; I do, sir.

Senator SYMINGTON. Are you acquainted with those two reports?

Mr. HENSON. Not the borrowing authority report; I am with the General Accounting report.

Senator SYMINGTON. Is there anything in the General Accounting report that justifies that statement under that asterisk?

Mr. HENSON. No, sir. Not that I recall.

Senator SYMINGTON. Let the record show that we couldn't find any statement in either the General Accounting Office report or the GSA which justifies that asterisk. This is a serious business putting out figures with notes having such implications.

Let me ask you another question.

Your testimony, to the best of your knowledge, is correct, is it not?

Mr. HENSON. Yes; it is, sir.

Senator SYMINGTON. You realize you are under oath?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. And you spent 7 months working on these contracts?

Mr. HENSON. That is right, sir.

Senator SYMINGTON. And you testified the profits of this company were $10.1 million.

Mr. HENSON. Yes, sir.

Senator SYMINGTON. But the profits they showed were $10,469,000, as I remember it, on their company books.

Why that difference?

Mr. HENSON. The figure we mentioned of $10.1 million was after allowing some of the reallocations of expenses.

Senator SYMINGTON. The company's books show a profit of $10,469,000; but you figure the profit was slightly less than that, so you gave a figure of $10.1 million.

Mr. HENSON. Yes, sir.

Senator SYMINGTON. They deduct Federal income taxes paid on the smelter in 1960. I agree with you on your position that was a charge of the smelting company, not the mining company. But even if you allow it the way they set it up, they received a healthy rebate, didn't they, from the Government?

Mr. HENSON. Yes; they did, sir.

Senator SYMINGTON. Do you remember the total?

Mr. HENSON. I believe it was $126,000, plus $3,000 interest; a total of $129,000.

Senator SYMINGTON. I had a figure of $127,000; $126,000 plus $3,000 interest?

Mr. HENSON. That is my recollection, sir.

Senator SYMINGTON. In any case, do you know why this summer they revised this profit figure to $7,534,000 from over $10 million—why they now submit a revised profit figure?

Mr. HENSON. No, sir; I don't know why.

Senator SYMINGTON. Much of the justification is because of the $2,173,000 they now assign against cost for exploration, research, et cetera. You have analyzed these figures in detail. None of that $2,173,000 was spent by the Hanna Mining Co.; is that correct?

Mr. HENSON. That is correct, sir.

Senator SYMINGTON. Then they have a claim against the Government, have they not?

Mr. HENSON. No, sir. Are you speaking of taxes or otherwise?

Senator SYMINGTON. Taxes.

If the profits were $7,534,000 instead of $10,639,000 they could get a tax refund, couldn't they?

Mr. HENSEN. No, sir; the nickel division does not itself file a tax return.

The mining company as a corporation, overall corporation, files a tax return reflecting the income and expenses of all the divisions combined.

Senator SYMINGTON. I see. So this is a switch of internal costs as against the way it was expressed to the Government on their income tax return; is that correct?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. You heard the testimony about these charge-offs, this expensing instead of capitalizing.

Did you hear that testimony this morning?

Mr. HENSON. Yes; I did, sir.

Senator SYMINGTON. Do you agree with the philosophy expressed by Mr. Tippit?

Mr. HENSON. No, sir; I cannot.

Senator SYMINGTON. Do you see any way in building a building that in the future was to be used for private industry operation within a few months, 3 months—something like that——

Mr. COBURN. Three months in one instance and 3 weeks in another.

Senator SYMINGTON. I was thinking specifically of the constructing of the building.

Mr. COBURN. That was 3 months.

Senator SYMINGTON. When I was in business, we used to write off, depreciate, machinery on the basis of 16 percent, buildings on the basis of only 3 percent.

How could you expense out all at one time a building like that, from the standpoint of——

Mr. HENSON. Senator, I am very much acquainted with the circumstances. I know the details, everything that money was spent for so I am very strongly of the opinion that this particular item should have been capitalized under any set of circumstances.

I am afraid Mr. Tippit may have been in somewhat of a disadvantage, if he was not familiar with this specific item, but I personally felt that it could only be considered a capital expenditure.

Senator SYMINGTON. Those items which the General Services Administration feel should have been capitalized instead of expensed out, as I understand it, will be turned over to the General Accounting Office for collection, if they, the GSA, cannot collect?

Mr. HENSON. Yes, sir, the agency will first make an attempt to settle the account, and if not successful, then such claims are then turned over to the General Accounting Office.

Senator SYMINGTON. Normally GSA can simply withhold payments. I suppose there are more payments under this contract.

Mr. HENSON. Yes, there will be.

Senator SYMINGTON. Against delivery of nickel?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. If it can't be so worked out, then it would be a matter for court action?

Mr. HENSON. I believe so, sir.

Senator SYMINGTON. Do you believe, based on your accounting knowledge, that the Hanna company owes the Government this $789,000?

Mr. HENSON. Yes, sir, I believe they do.

Senator SYMINGTON. Mr. Counsel?

Mr. COBURN. No further questions for me.

Senator SYMINGTON. Senator Bush?

Senator BUSH. I just want to say, this seems to reflect pretty seriously on Mr. Tippit, who as you know, as an accountant yourself, is

head of a very distinguished firm of accountants. You were in one of those firms, you must know that Ernst & Ernst is also regarded very highly.

Mr. HENSON. Very highly, sir.

Senator BUSH. Yes. Isn't it hard for you to believe that a man of his standing and reputation in the field of accountancy and a member of the American Institute and on its policymaking board, as he described it this morning, which set the standards for accounting practices, that he would come in here and try to deceive this committee with respect to the earnings and the figures which the company has submitted, with his approval?

Mr. HENSON. I have a great deal of respect for Mr. Tippit. It has been an honor to meet him; I heard of him several years ago. I believe that our basic difference of opinion lies in an interpretation of the contract terms. The accounting, if you will permit me, sir, the accounting and the uses of the items to be purchased with capital funds are very clearly spelled out in the contract, and this, of course, represents the agreement of the two contracting parties. Although generally accepted accounting principles might be followed in a normal situation, where the parties have agreed to a deviation in the very terms of the contract, then, of course, the contract terms do dictate, and I accordingly feel that our difference of opinion is in the interpretation of the contract.

Senator BUSH. Well, if you were running the Hanna company, and I think it would be a little hard for you to put yourself in that position right now, perhaps, but if you were and you had a firm of the stature and reputation of Ernst & Ernst to advise you on these matters, as they did advise the Hanna company, would you not feel justified in accepting their advice regarding these accounting matters under dispute?

Mr. HENSON. It is a hard question to answer, sir.

As you say, I am an accountant, and consequently, I would have my own opinion, but if we were to assume I were not an accountant and I were running the Hanna Co. and were to then turn to Ernst & Ernst for advice, I think I most certainly would accept it, yes, sir.

Senator BUSH. Thank you.

Senator SYMINGTON. Mr. Witness, the truth is this accounting writeoff, expensing out, was first thought up by the Hanna Co., then later approved by Ernst & Ernst; isn't that the record?

Mr. HENSON. The records that I have examined seem to indicate this, sir.

Senator SYMINGTON. And actually the Ernst & Ernst auditor, the man on the job at Riddle, felt the items in question should be capitalized, not expensed, did he not?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. And the record shows that the chief auditor of the Hanna Mining Co. felt they should be capitalized, not expensed, did he not?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. And the GSA chief accountant felt they should be capitalized and not expensed, did he not?

83502 O—62—pt. 7——23

Mr. HENSON. Yes, sir.

Senator SYMINGTON. And the General Accounting Office felt they should be capitalized and not expensed, did they not?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. And the GSA has written and requested recovery from the Hanna Co., as long ago as last March, on many of these items, isn't that true?

Mr. HENSON. Yes, that is, sir.

Senator SYMINGTON. Including the conveyor item?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. And the Commissioner of Internal Revenue feels that these are items which should be capitalized, not expensed, isn't that right?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. So putting it mildly, there are a good many people who did not agree with Mr. Tippit, isn't that correct?

Mr. HENSON. Yes, sir.

Senator SYMINGTON. I want to read the Tippit testimony very carefully. My impression was he said that, just because Ernst & Ernst did it, it was right. I don't buy that, but want to review exactly what he did say before commenting further. In any case, all the people who were connected with the situation except Tippit felt these items should be capitalized, all people at the working level in both Hanna and Ernst & Ernst, is that not correct?

Mr. HENSON. Yes, sir; I believe it is.

Senator SYMINGTON. But later on, it was decided by top Hanna management, and then concurred in by Ernst & Ernst, that these items should not be capitalized, is that correct?

Mr. HENSON. That is correct.

Senator SYMINGTON. I always found in business that the people who generally knew the most about a particular subject were the people actually working on the job, not people coming in with theories later on. I was surprised Mr. Tippit didn't even know the name of his own accountant out at Riddle. But let's review his, Tippit's, testimony, and in any case review what the Government should do in effort to recover this money.

Senator Engle.

Senator ENGLE. I am surprised that he didn't fire that fellow. That is the only comment I have.

Senator SYMINGTON. Any further questions?

Mr. COBURN. No further questions, Mr. Chairman.

Senator SYMINGTON. Thank you, Mr. Henson.

It is 10 after 5. Now is there any other witness any member of the committee, or counsel would like to call?

Mr. COBURN. That is all I have in mind, Mr. Chairman.

Senator SYMINGTON. What then is the next contract you plan to get into?

Mr. COBURN. Well, we will follow up with, in hearings, some of the other nickel contracts. I don't know specifically yet just which one, but I think it would be easier for the committee if we went ahead with these other nickel contracts right following this one.

Senator SYMINGTON. Are you ready to do that tomorrow?

Mr. COBURN. No, not tomorrow morning. We wouldn't have time to get far enough anyhow with one of them because we have to quit by noon tomorrow so we wouldn't be able to get started on one of them tomorrow morning.

Senator SYMINGTON. As I remember the date we agreed on then was the 8th of November, is that correct?

Mr. COBURN. That is correct, yes.

Senator SYMINGTON. We will resume hearings then.

Mr. COBURN. That is right.

Senator SYMINGTON. The committee is adjourned.

(Whereupon, at 5:10 p.m., the committee adjourned, subject to call of the Chair.)

INDEX

B

Page

Battelle Memorial Institute makes survey of ferronickel market---- 2277
Brooks, Louis, Director, Credit and Finance Division, General Services Administration---- 2305, 2312, 2459
Believes Hanna companies really wanted contracts although they appeared indifferent---- 2250, 2259
Contracts not in best interests of Government---- 2260
Efforts in negotiation to reduce profits---- 2251, 2259
Evaluation of contracts with Hanna---- 2246–2252
Financial review of Hanna contracts---- 2235–2243
Hanna contract highest profit ratio---- 2542
Hanna negotiated on take-it-or-leave-it basis---- 2261
If redetermination clause in Hanna contract, discussion of possibilities---- 2540, 2541
Instructions from top to finalize contracts---- 2265
No impropriety or irregularities disclosed in contract negotiation files---- 2252, 2257, 2258
Many contracts had redetermination clauses---- 2538, 2539
No special inducement to cause rapid termination of negotiations---- 2268
Overriding influence was shortage of nickel---- 2249, 2262, 2266
Preparation of final drafts and execution of contracts in 1 day not possible---- 2269
Profit ratio unreasonable---- 2262, 2263
Redetermination a clause policy of GSA---- 2539
Refutes Hanna computations of nickel cost---- 2245
Testimony of---- 2233–2269, 2537–2542
Thinks greater effort would have resulted in better contracts---- 2248–2250, 2257, 2259
Unfavorable provisions of contract, failure to eliminate---- 2264
Brown, Robert B., Director, Audit Division, General Services Administration:
Audit of Hanna Nickel Smelting Co. being made as to expensing versus capitalizing---- 2533–2537
Comptroller General's letter of October 5, 1962, an official opinion---- 2535
Experience---- 2533
GSA has no request for capitalization of items incorrectly expensed---- 2535
Hanna billed for $210,605 for 1960---- 2536
Items expensed which should have been capitalized---- 2533–2535
Procedure for collection---- 2536, 2537
Testimony of---- 2533–2537
Total to date $879,534 of incorrectly expensed items---- 2535
Bureau of Mines, U.S. Government, studies nickel refining methods---- 2275, 2280, 2361

C

Campbell, Joseph, Comptroller General of the United States---- 2252
Chadwick, Samuel, auditor, GSA---- 2535
Comptroller General of the United States, report on Hanna contracts---- 2252–2254
Audit not included---- 2565
Congress may consider redetermination clause---- 2486, 2487, 2539
Examination of records clause inadequate---- 2253
No financial risk to companies---- 2252, 2485
Price redetermination provision needed---- 2252, 2484
Residual payment not sufficient for smelter---- 2252

D

Page
Defense contracts, Hanna profit percentage would raise defense costs over $10 billion ... 2339, 2405, 2486, 2542
Defense Production Act:
Comptroller General suggests an examination of records clause in all contracts ... 2253
Hanna contracts negotiated under ... 2379
Nickel expansion program announced ... 2279
Nickel sales under ... 2244
Provisions of ... 2378, 2379
Redetermination clause in many contracts ... 2538, 2539

E

Elliott, Bill, Assistant Administrator, Office of Defense Mobilization ... 2391
Ernst & Ernst, auditing firm ... 2270, 2346, 2349, 2427, 2433, 2571
Annual report to GSA did not disclose items expensed which should be capitalized ... 2271
Hanna accountants for 40 years ... 2499, 2515
Hanna relied on judgment of ... 2347, 2510
International firm ... 2499
Lesser, Henry, corrects testimony regarding work papers ... 2270, 2271
Work papers and annual report to GSA ... 2271
Work papers show items expensed rather than capitalized ... 2270–2272, 2494

F

Falconbridge Nickel Mines, Ltd ... 2384, 2407
Fish, Russell C., president, Hanna Nickel Smelting Co ... 2294, 2296, 2309, 2310, 2323, 2337, 2350, 2351, 2432, 2450, 2482
Ford, John G., Director, Contract Negotiation's Division, DMPA ... 2254, 2266, 2268, 2269, 2306, 2312, 2317, 2389, 2406, 2410, 2440, 2445, 2540
Hanna pays cost of trip to mine location ... 2313–2315, 2327, 2329, 2330
Superiors fully informed that trip was paid for by Hanna ... 2329
Fox, Richard, auditor, GSA ... 2535

G

General Services Administration:
Audit, most contracts carry provision for ... 2258
Cost to Government of nickel from Hanna ... 2235–2241
Custodial responsibilities for stockpile ... 2377
Fully informed of negotiator's trip to mine paid by Hanna ... 2329
Hanna contracts:
Audit, no provision for ... 2258
Redetermination, no provision for ... 2258
Interest payments charged to ... 2238, 2239, 2260
Loan to Hanna, method of liquidation of ... 2240, 2241
Organizational structure for stockpile purchasing ... 2377–2381
Paper profit on nickel ... 2567
Redetermination clause a policy ... 2537
Responsibilities under Defense Production Act ... 2379
Gentry, M. B., consulting engineer, DMPA ... 2276, 2463
Grant, Charles L., auditor, GSA ... 2535
Greene, A. H., General Counsel, DMPA ... 2268, 2306, 2312
Greenlee, John R., tax department, Hanna Mining Co ... 2458
Gustafson, M., consulting geologist, Hanna Mining Co ... 2294, 2309, 2458, 2459

H

Hanna Coal & Ore Co. (*See* Hanna companies, Hanna Mining Co.)
Hanna companies:
Amount of nickel to be delivered ... 2237
Book profit, explanation of ... 2567
Comptroller General of the United States, report of contracts ... 2252–2254
Cost per pound of nickel ... 2235–2243, 2563
Depletion allowance, alleviate sale of capital assets ... 2431, 2432
Hanna Development Co.:
Acquires lease on Oregon property ... 2273, 2455
Subleases Oregon property to Hanna Nickel Smelting Co ... 2273
Wholly owned subsidiary of Hanna Mining Co ... 2273, 2455

Hanna companies—Continued
Hanna Mining Co. (formerly Hanna Coal & Ore Corp.): Page
Administrative expense 2364–2367
Allocation of 2366–2371, 2413–2418, 2432, 2560
All profits to mining company 2341
Capital investment 2267
Contract negotiations:
Ceiling price negotiated in last week of discussions 2313
Costs furnished to justify price 2295, 2460
Examination of books and records asked by Government 2388, 2394
Government wanted Hanna to finance smelter 2301, 2302, 2460
Liquidated damages won by Hanna 2389, 2390, 2395, 2461
One contract for nickel asked by Government 2303, 2387, 2394, 2401
Price never varied 2294, 2296, 2307, 2310, 2389, 2460, 2470, 2477
Price redetermination asked by Government 2305–2310, 2312, 2323, 2324, 2341, 2394, 2469–2474, 2538
Renegotiation provision refused by Hanna 2321, 2322, 2388
Cost estimates, defense of 2349–2351, 2353
Depletion benefits 2304
Development and research costs 2359–2363, 2425, 2426, 2433, 2436, 2560
Development costs 2356, 2357, 2560
Divisions, description and activities of 2343–2345
Divisions of 2414
Exploratory expenses, allocation of 2418–2422, 2433, 2561, 2570
Feasibility provision 2328, 2474–2477
First considered wholly owned subsidiary to mine nickel 2288, 2289, 2454–2457
First overture to Government concerning sale of nickel 2282, 2283
First price contemplated in rough drafts 2291–2294, 2337, 2457
First rough draft of proposal to be offered Government 2286–2291, 2454–2457
Formal proposal to Government 2283–2286
Government negotiators given trip to Oregon mine 2313, 2314, 2327–2330
Government studies to aid Hanna refine nickel ore 2275
Income taxes 2358, 2561, 2562
Loss on Hanna contracts as of December 31, 1962 2567
Michigan and Minnesota division had no Government contracts 2339, 2340
Michigan division profits:
On cost 2483
On sales 2262, 2338, 2340, 2409, 2440, 2483
Mine and smelter operation planned in first drafts 2281, 2286–2291, 2299, 2300, 2456–2458
Minnesota division profits:
On cost 2683
On sales 2262, 2338, 2339, 2340, 2409, 2440, 2483
Nickel division only Government contract 2340
No risk in contracts 2311
One contract with Government planned in first drafts 2281, 2286–2292, 2296, 2303, 2454–2457
Pamphlet, "A Conspicuously Successful Case," explanation of 2371–2375
Preliminary draft of June 26, 1952 from Hanna files 2297, 2298
Preliminary expenses 2333, 2336, 2337
Preliminary testing of Oregon nickel holdings 2273–2280
Price never deviated from, after negotiations started 2294, 2296, 2309, 2310, 2460, 2469, 2470, 2477
Processes tested, cost of 2333, 2336
Profits:
Company figures 2346, 2353–2375, 2420, 2424, 2438, 2445, 2446, 2490, 2491, 2559–2562
Allocation of expenses explained by accountants 2496–2498
Comparison with other divisions 2439, 2440
Developed past summer 2354, 2420, 2443
Differences in income tax figure and claimed profits explained 2353–2375, 2420, 2433, 2485
Many deductions for income tax purposes taken on mining company return 2444

Hanna companies—Continued
Hanna Mining Co.—Continued
Profits—Continued
Company figures—Continued
Page
On costs 2438
On investment 2439
Hanna Mining Co., Nickel Division, chart 2543
Discussion of 2559–2562
Hanna profits near Government estimates 2487, 2488, 2540
Nickel Division about 20 percent of total company earnings 2338, 2483
Nickel Division higher than any other division 2309, 2340, 2483
On costs 2340, 2483, 2542
On costs, 228 percent in 1 year 2323
On investment, percentage 2338, 2409
On sales 2267, 2268, 2338, 2409, 2423, 2440, 2441, 2483, 2542, 2562
Total net profits 2357, 2358, 2483, 2569
Reasons for entering into contracts 2310, 2311
Reasons for two contracts 2303, 2304, 2461, 2462
Research work on Oregon holding 2273, 2274, 2300
Separate contracts, first thoughts of discussed 2299
Smelter tax deducted from mining profits 2422–2425, 2433, 2434
Studies of Oregon nickel holdings 2274, 2275
Survey report of ferronickel market 2277, 2278
Tax benefits of two contracts 2304, 2461–2464
Tax loss, 1953 2358
Two processes studied to refine nickel 2275
Total profits of company 2338, 2483
Hanna Nickel Smelting Co.:
Acquires smelter through residual payment price 2330
Balance of deliveries due by June 30, 1965 2331
Cancellation provision 2474, 2475
Capital expenditures made without approval of the Government 2452
Capital investment 2267
DMP–50, contract changes to permit use of new process 2331, 2332
Differences in request of plant manager and main office in requests for plant improvement 2447–2452
Expensing versus capitalization:
All auditors working on contract except Tippit felt items should be capitalized 2572, 2574
Company made decisions 2427
Hanna official gives company position 2347
Storage bins for nickel sales to private industry expensed 2519
(*See also* Brown, Robert; Tippit, Hassel.)
First consideration of acquiring smelter plant 2492
First estimated cost of ferronickel to Government 2464–2469
Government advance to build smelter 2447
Government approval needed for capital expenditures 2477, 2448
Government loan, method of liquidating 2240, 2241
Government pays all costs of smelter 2341
Government pays for testing new process 2332
Improvements in smelter 2431
Management fee to Hanna Mining Co 2341
Nonprofit operation 2267
Ore sold to Government, back to smelter company and nickel resold to Government 2456
Purchase of smelter explained by company official 2346, 2347
Residual payment for smelter 2235, 2239, 2240, 2243, 2481, 2563
Residual payment provision 2341
Smelter insured for $16 million 2341
Subleases Oregon property from Hanna Development Co 2273
Tax carryover 2437
Insists Government must finance smelter 2239, 2461
Lease nickel property 2268, 2334
Royalty payments 2334, 2336
M. A. Hanna Co. operates pilot plant for all Hanna companies 2275
Negotiators' trip to mine costs not available 2428, 2429

Hanna companies—Continued
Nickel contracts: Page
Amount still to be delivered 2263, 2537, 2564
Audit, no provision for 2258
Hanna negotiators and Humphrey statement cannot be reconciled 2264, 2265
Negotiates on take-it-or-leave-it basis 2261
Profits on:
Investment 2263
Sales 2262, 2267, 2268, 2483
Redetermination, no provision for 2258
Signed January 16, 1953 2257, 2266, 2273
Nickel cost to Government compared to costs from other sources 2245, 2246
Nickel delivered to Government 2235, 2237
Power cost 2430, 2431
Record management program:
Description of plan 2347, 2348
Mining contract provides for retention 3 years after fulfillment of contract 2349
Naremco Services, Inc., sets up program 2347
Nickel contract provides for retention of records 3 years 2349
Review ordered in September of 1961 2348
Records destruction:
Canceled checks destroyed as per program 2349, 2427
Dates of 2429
Hanna official gives statement on 2347–2349
Possible contract violation discussed 2348, 2349
Vouchers destroyed 2427, 2428
Smelter cost to Government 2235, 2237–2243
Harrison, Perry G., sales official, Hanna Coal & Ore Corp 2350, 2463
Henson, Walter supervisory accountant, General Accounting Office:
Auditors who do not agree with Hassel Tippit 2572
Basic difference with Hassel Tippit accounting practice 2571, 2572
Building construction should have been capitalized 2570, 2571
Cost above market price 2564
Cost of nickel per pound to date 2563, 2565
Experience 2569
GAO report did not include an audit 2565
Hanna Mining Co., Nickel Division,, chart 2543
GAO auditor corrects chart 2559–2562
Hanna owes Government for items not agreed upon for capitalization 2566
Hanna pamphlet figures cannot be reconciled 2570
Hanna profits after adjustments 2570, 2571
Nickel cost per pound on completion of contract 2564
Testimony of 2543–2574
Humphrey, George M., former Secretary of the Treasury and former Hanna officer 2262, 2283, 2288, 2299, 2302, 2322, 2323, 2370, 2398, 2401, 2402, 2430, 2432, 2481, 2565
Contracts must be concluded before taking office 2257
Hanna profits as computed by 2263
Made all important decisions 2310, 2324, 2337
Wants no mortgage against mining property 2304
Humphrey, Gilbert W., president, Hanna Mining Co 2286, 2287, 2289, 2293, 2294, 2309–2311, 2317, 2322, 2323, 2326, 2337, 2432, 2539, 2565
All contracts signed at same time 2480, 2481
Basis for no redetermination clause 2484
Cancellation provision, discussion of 2474–2477
First draft contemplated one contract with Government, discussion of 2454–2457
First price contemplated $4.50 a ton 2458, 2459
Hanna Company offices held 2454
Liquidated damages for company but not for Government strong Hanna position 2478–2480

Humphrey, Gilbert W., etc.—Continued Page
Price redetermination, refusal of 2469–2474
Profit versus risk, discussion of 2484–2486
Proposal to steel companies to acquire smelter 2481, 2482
Reasons for two contracts 2461–2464
Subsidiaries set up for administrative purposes 2487
Testimony of 2453–2491

I

Industry profits, average for last 4 years 2440–2443, 2485
International Nickel Co.:
Canadian holdings 2261
Largest producer in world 2261, 2262, 2392

J

Johnson, Hon. Lyndon, Senator from the State of Texas 2282, 2283
Jones, Day, Cockley & Reavis, attorneys 2342, 2349

L

Larson, Jess, former Administrator, Defense Materials Procurement Agency 2255, 2306, 2307, 2326, 2337, 2469, 2538
Administrative appointments by President Truman 2393
Comptroller General report, discussion of 2405, 2406
Conditions secured by Hanna not normal in Government contracts 2396
Congressional policy to get nickel 2394
Efforts by negotiators for a single contract 2387, 2394, 2401
Evaluation of Hanna contracts 2402, 2403
Fair profits, discussion of 2403–2405, 2409
Government service 2376, 2377, 2385
"Gray" market in nickel 2393, 2394
Hanna disregard of Government interest 2398
Hanna takes little financial risk 2402
Limitation on profits, views on 2396, 2397, 2403, 2408
Mineral losses deductible on income tax 2407
Negotiations with foreign companies for nickel 2382, 2383
No special inducements ever offered by Hanna 2400
Organizational structure of GSA for stockpile duties 2377–2380
Overriding need for nickel dictates contracts 2383, 2384, 2390, 2391, 2396, 2399
Points in dispute in contract negotiations 2387–2390, 2394, 2395
Testimony of 2376–2411
"Toughness" of Hanna proposal 2383, 2387, 2395, 2398, 2399, 2408
Lesser, Henry M., supervisory auditor, General Services Administration:
Audit for 1960 results in bill to Hanna 2271, 2272
Corrects testimony re Ernst & Ernst work papers showing items expensed rather than capitalized 2270, 2271
GSA reviewing years previous to 1960 now 2271
Relied chiefly on Ernst & Ernst audits 2270
Reviewed work of field auditor on Hanna contracts 2270
Testimony of 2267–2272
Letters:
Boutin, Bernard L., Administrator, GSA, to Hon. Stuart Symington, Senator from Missouri, dated November 26, 1962 2567
Campbell, Joseph, Comptroller General of the United States, to—
Boutin, Bernard L., Administrator, GSA, dated October 5, 1962 2529
Rayburn, Hon. Sam, Speaker of the House of Representatives, dated April 26, 1961 2253
Fish, R. C., president, Hanna Nickel Smelting Co., to H. F. Holtz, Commissioner, Defense Materials Service, GSA, dated October 9, 1957 2450
Ford, John G., Director, Contract Negotiations Division, DMPA, to G. W. Humphrey, vice president, Hanna Coal & Ore Corp., dated December 22, 1952 2478
G. W. H. (Gilbert Humphrey) to L. W. Spang dated June 23, 1952, containing first rough draft of proposal 2290–2292

Letters—Continued
Humphrey, G. W., vice president, Hanna Coal & Ore Corp., to— Page
DMPA, containing second proposal, dated August 19, 1952 2465–2468
Ford, John G., Director, Contract Negotiations Division, DMPA:
November 4, 1952 2472, 2473
January 9, 1953 2479, 2480
Mollard, Earl, manager, Hanna nickel smelter, to Larry W. Spang, secretary, Hanna Mining Co.:
June 21, 1957 2523
October 3, 1957 2448
Lyon, Tom, Director, Domestic Expansion Division, DMPA 2254, 2255

Mc

McDermott, Edward A., Director, Office of Emergency Planning 2255

M

Mansure, Edmund F., Administrator, General Services Administration 2329
Marting, W. A., president, Hanna Mining Co.:
Advantages to Government of Hanna contract 2351, 2352
Deductions from profit shown on income tax to show company's claimed profits 2413–2426, 2433, 2444
Expensing versus capitalizing charges discussed 2347
Explains acquisition of smelter 2346, 2347
Hanna companies, previous employment by 2342
Hanna corporations, reasons for multiple 2435, 2436
Hanna profits from nickel contract 2346, 2353–2375, 2420, 2424, 2438, 2445, 2446, 2483
Misrepresentation of mining costs, refutation of 2350, 2353
Profits claimed to be $7½ million instead of $10 million 2353–2375
Records destruction and retention plan 2347–2349
Testimony of 2342–2375, 2413–2446
Memorandums:
Ford, John G., Contract Negotiations Division, DMPA, to A. H. Greene dated January 16, 1953 2268, 2269
Levinson, Morris, Assistant General Counsel, DMPA, to John G. Ford, Director, Contract Negotiations Division, GSA, dated October 23, 1952 2305, 2306
Lyon, Tom, Director, Domestic Expansion Division, to John G. Ford, Director, Contract Negotiations Division, DMPA, dated July 9, 1952 2254, 2255
Mollard, Earl S., manager, Hanna nickel smelter 2448, 2450

N

Naremco Services, Inc 2347
National Lead Co 2382, 2391, 2453
New York Times 2401
Nicaro Nickel 2382
Nickel:
Ferronickel new product 2276, 2282
Government sales to industry:
Amount 2242, 2244, 2245
Profit realized 2245
Value 2242, 2244
Hanna contracts:
Amount of metal delivered 2235, 2237, 2239, 2564
Amount to be delivered 2263, 2237, 2564
Average cost per pound of nickel when contract is completed 2564
Cost above market price 2564
Cost compared to cost of nickel from other sources 2245, 2246
Cost per pound 2235, 2243, 2563, 2565
General Services Administration explanation of paper profits 2567
Government costs:
Accessorial costs 2235, 2238, 2241
Cash outlay for metal 2235, 2237, 2239, 2243
Interest 2235, 2238, 2239, 2241, 2243, 2260
Smelter construction 2235, 2237–2243

Nickel—Continued
Hanna contracts—Continued
Page
Profits 2262, 2263
Residual payment to Government for smelter 2235, 2239, 2240, 2243, 2563
Hanna holding only source of nickel in United States 2249, 2261, 2391
International Nickel Co. largest producer 2261
Efforts to meet demand 2381
Excess 2567
Expansion program announced 2279, 2381, 2382, 2386
Market drop 2429, 2430, 2567, 2568
Market prices, 1954–1962 2246
Need for 2381
Steel companies interested in buying ferronickel 2278
Stockpile inventory 2567

O

Oregon Nickel Co 2334

P

Pattarson, D. A. N., field auditor, General Services Administration 2270, 2271
Pfeifer, Norman, representative, Naremco Services, Inc 2348, 2349, 2429
Pierce, H. L., Vice-President, Hanna Mining Co 2278, 2279, 2280, 2293, 2294, 2296, 2309, 2310, 2311, 2317, 2323, 2326, 2337, 2386, 2480, 2482

R

Rayburn, Hon. Sam, Speaker of the House of Representatives 2252, 2253
Renegotiation Act:
One contract would have been subject to renegotiation 2339
Recognizes mineral exemption 2338
Robinson, Melville, negotiator, DMPA 2266, 2295, 2305, 2307, 2313, 2317, 2459, 2540
Visit from Lawrence Spang in Florida 2315, 2316
Hanna pays cost of trip to mine in Oregon 2313–2315, 2327, 2329, 2330
Superiors fully informed that trip expense paid by Hanna 2329
Russell, Johnston, Director, Financial Analysis, DMPA, Criticisms of Hanna contracts 2526

S

Sherritt Gordon Mines, Ltd 2393
Shiff, Robert, president, Naremco Services, Inc 2348
Spang, Lawrence W., secretary, Hanna Mining Co 2459, 2483
All contracts signed January 16, 1953 2317, 2318
Attests signatures at signing of contracts 2317
Contracts drawn up and executed on same day, discussion of possibilities 2317–2319, 2324, 2325, 2337, 2338
Cooperated in examination of records 2319–2321
Defends profit on contract 2339–2341
Employment with Hanna companies 2272, 2273
First consideration of acquiring smelter plant 2492, 2493
Redetermination clause refusal probably a company decision, not one individual 2323, 2324
Renegotiation clause elimination, reasons for 2338, 2339
Signing of contracts, description of 2325, 2326
Testimony of 2272–2341, 2446–2452, 2491–2493
Visits Melville Robinson in Florida 2315, 2316

T

Tables and charts:
Hanna Mining Co.:
Comparison of allocation of expenses (company's basis; other basis) 2544
Expenses as originally charged on company books 2544
Net profit after Federal income taxes as percentage of sales 2547

Tables and charts—Continued
Hanna Mining Co.—Continued Page
Net profit before Federal income taxes as percentage of sales 2548
Net profit per books, after taxes, as compared with gross income by divisions 2552
Net profit per books, after taxes, as compared with gross income by divisions and subdivisions 2550
Net profit per books, before taxes, as compared with gross income, by divisions 2551
Net profit per books, before taxes, as compared to gross income by divisions and subsidiaries 2549
Profits per company books 2543
Adjustments proposed 2543
Results of nickel division's operations per profit and loss statement 2558
Schedule of profits realized 2442
Schedule of profits realized by the three divisions 2546
Leading industries, net profit after income taxes 2443
Leading industries, net profit after taxes as percentage of sales, with attachments by years 2553–2557
Nickel purchased from Hanna 2235
Summary of nickel smelter operations 2498
What Government received from Hanna 2235
Thomas, William, auditor, GSA 2535
Tippit, Hassel, managing partner, Ernst & Ernst 2346, 2347
Accounting principles, discussion of 2505, 2506, 2517
Auditors who disagree with expensing of items 2513, 2528, 2532
Capital advances provided by contract 2507, 2508
Capital investment requests to Government for items later expensed 2522–2525
Company policy on expensing items 2495, 2496, 2502, 2510, 2516
Contract intentions quoted 2494, 2495
Conveyor expensed 9 days before smelter purchase would be an error 2521, 2522
Defends conveyor expensing 2528
Dust collection system, expensing of defended 2494, 2495, 2504–2509
Dutch ovens expensed 2495, 2509
Ernst & Ernst work papers available to GSA 2494
Expensed items deductible in 1 year 2516
Expensing of items affects price of metal 2518
Expensing of items in 1960 defended 2496, 2500
Expensing of items in 1960 should have been capitalized according to auditor at plant 2503
Expensing of storage bins pending sales to industry 2519, 2520
GAO report contained no criticism of accounting 2496
Hanna deductions from income tax profit explained by accountant 2496–2498
Internal Revenue Commissioner believes conveyor should be capitalized 2527, 2528
Member, American Institute of Accountants 2514
Minor items capitalized in 1957; in 1958 similar items expensed 2512
Overruled field auditor on capitalizing of items 5203, 2504
Policy followed throughout period of contract 2511
Summary of nickel smelter operations, table 2498
Explanation of table 2526
Testimony of 2493–2528

V

Vedensky, D. M., consulting metallurgist, Hanna Mining Co 2294, 2299, 2300, 2309, 2332, 2459
Report discussed 2274–2276, 2281

W

Page
Walsh, A. J., commissioner, GSA 2329, 2378
Williams, Hon. John J., Senator from Delaware 2387, 2406, 2453

Y

Young, Howard I., Deputy Administrator DMPA 2255, 2278, 2279, 2306, 2307, 2317, 2337, 2386, 2400, 2406, 2407, 2410, 2440, 2445, 2469, 2538, 2540

○

KANSAS STATE UNIVERSITY LIBRARY
JAN 7 1963
MANHATTAN, KANSAS