

Mr. STAATS. I do not know of any.

Mr. HAMMOND. I don't know of any case where they have penalized them. The cases we found where a contractor was using equipment without approval, the contractor was charged rent for the day that he was caught using it without approval.

Chairman PROXMIRE. He was what, again?

Mr. HAMMOND. He paid rent for the day that he was found to be using it.

Chairman PROXMIRE. On that particular day?

Mr. HAMMOND. We didn't find any cases where a contractor was penalized. For example, charged a month's rent when he was caught.

Chairman PROXMIRE. Now this is done on a massive scale. You say there are roughly \$11 billion, more or less, depending on depreciation, and so forth, \$11 billion of this equipment throughout American industry that is being used, owned by the taxpayer, owned by the Federal Government, and being used at no cost, virtually no cost by private firms to produce private commercial production.

Mr. HAMMOND. In most cases where the contractors obtained approval, they did pay rent in accordance with the rental arrangement with the contractor.

Chairman PROXMIRE. But, in the overwhelming majority of cases, apparently they did not pay, and there is little or no record to know how much they are using this.

You have some samples, some excellent demonstrations of the abuse here, but you don't have any comprehensive record of how much this is being used or abused. In one case it is 78 percent of the commercial time, 22 percent Government time; in another case you have a 58-percent example.

Mr. HAMMOND. Yes.

Chairman PROXMIRE. Apparently it is being used a great deal.

Mr. WEITZEL. Mr. Chairman, one of the biggest problems is a lack of machine-by-machine utilization recording and reporting system.

Chairman PROXMIRE. Then what we have, the contractor keeps the records.

PENALTY PROVISIONS IN ASPR

Mr. WEITZEL. The ASPR provisions provide for a penalty for the full monthly rental without credit for each item for each month or part thereof in which an unauthorized use occurs.

However, and here is the hooker in it, "The contracting officer can waive the contractor's liability, if he determines the contractor exercised reasonable care to prevent such unauthorized use."

And then, he is only liable for the rental that would otherwise be due as a regular rental, so that in the few instances where the unauthorized use was detected, the penalty wasn't imposed because of the reasonable care limitation.

So, we have asked them to consider a more stringent provision in the ASPR's, and also the feasibility of applying this rent on a machine-by-machine basis.

Chairman PROXMIRE. And, you have already testified that you have an example of a case in which a contractor did keep records. It cost \$7,400. You feel that the rental would have been increased half a million, a return of about 80 to 1, if this is a fair example of the situation.