

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

*
CECIL SCOTT, et al. *
*
Plaintiffs *
*
VS. * CIVIL ACTION NO.
* B-84-103-CA
*
MONSANTO COMPANY, *
*
Defendant *

VIDEOTAPE DEPOSITION OF

MONTE C THRODAHL

May 15, 1987
Holiday Inn West/Airport
St. Louis, Missouri

Reported by:

Linda S. Towery
Texas CSR No. 2413/Notary Public
Nell McCallum & Associates
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Houston, Texas 77006
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Taxable Cost: \$ _____
Charged to David M. Lacey, Bar No. _____
Attorney for Defendant

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21 Videotape deposition of MONTE C. THRODAHL,
22 taken on May 15, 1987, at the Holiday Inn West/Airport,
23 St. Louis, Missouri, commencing at 8:55 a.m., before
24 Linda S. Towery, CSR No. 2413 and Notary Public in and
25 for the State of Texas, pursuant to Notice.

I_N_D_E_XEXAMINATION_BY:PAGE

Mr. Lacey

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P_R_O_C_E_E_D_I_N_G_S

MR. FREEMAN: Before we swear the Witness, I'd like to make just a brief statement.

The Witness informed me late last night that he has a 2:00 o'clock commitment that has been scheduled prior to the time he was served with Subpoena; so, he has informed me that it is virtually impossible to reschedule that 2:00 o'clock appointment. So, we're prepared to work through the lunch hour and to take care of the obligations here today in every way we can. But we still intend to make the 2:00 o'clock appointment.

MONTE C. THRODAHL,

being duly sworn, testified as follows:

EXAMINATION BY MR. LACEY:

Q. Will you state your full name for the record please, sir.

A. Monte C. Throdahl.

1 Q. Where do you live Mr. Throdahl?

2 A. I live at No. 36 Briarcliff in Ladue, Missouri.

3 Q. That is a St. Louis suburb?

4 A. Yes, it's a suburb of St. Louis.

5 Q. How are you currently employed?

6 A. Well, I'm recently retired from Monsanto, 1984;
7 and I am a partner in a professional consulting
8 corporation that takes up some of my retirement time.

9 Q. What sort of professional consulting do you do?

10 A. It's management, largely involving research and
11 development, environmental policy, long-range planning,
12 international affairs, and the like.

13 Q. Is Monsanto one of your clients?

14 A. No.

15 Q. Tell me briefly about your educational
16 background.

17 A. Well, I have a degree in chemical engineering
18 from Iowa State University, 1941.

19 Q. Did you obtain any subsequent education beyond
20 that Bachelor's degree?

21 A. None of a formal nature.

22 Q. What was the first full-time employment that
23 you had following your degree?

24 A. I joined Monsanto immediately upon graduation,
25 in June of 1941. I had previously worked for Monsanto

1 the prior summer of 1940 as a temporary employee; and I
2 stayed with Monsanto continually through that some 43
3 years, until I retired.

4 Q. In 1984?

5 A. That's right.

6 Q. Would you describe for me very briefly the
7 different job positions you held with Monsanto.

8 A. From the beginning?

9 Q. Yes.

10 A. Okay. I joined the analytical department of
11 the manufacturing group at -- at a plant in West
12 Virginia; name was Nitro, N-i-t-r-o. I moved from the
13 analytical department to the research department about a
14 year and a half later.

15 I did organic synthesis in the research
16 department and was later -- somewhere around 1942 or
17 forty -- 1943, I was assigned to what was called the
18 rubber evaluation laboratory. The purpose of that was
19 to evaluate the efficacy of candidate chemicals for the
20 vulcanization and stabilization of rubber. I became a
21 group leader in about 1945 in this -- roughly the same
22 kind of activity. I became an assistant research
23 director somewhere around five years later.

24 I left Nitro in the summer of 1954. I that --
25 I had, by that time, spent about a year or so as a

1 development -- a commercial development manager in the
2 field of rubber at Nitro; but when I went to St. Louis,
3 I was an assistant director of development for the then
4 organic chemicals division.

5 I became the development director of that
6 division about 1956; and about 1960, I became director
7 of research and then director of marketing in that same
8 organic chemicals division in about nineteen -- late
9 1963 or early '64.

10 I became general manager of the international
11 division of Monsanto, and I held that job -- that was
12 a -- that became a vice-presidency. And I held that job
13 until -- let's see -- November of 1966, which I -- at
14 which time I became the senior corporate technical
15 officer, specifically vice-president for technology.

16 And I held that spot, with various other titles
17 that were accorded as one grew older, until mid-1977,
18 when I became senior vice-president for environmental
19 policy. And I held that assignment until I retired.

20 Q. Which was in 1984?

21 A. Yes, at the end of March of '84.

22 Q. And what was your highest position you
23 attained, senior vice-president --

24 A. Yes.

25 Q. -- for environmental policy?

1 A. Well, I was senior vice-president for
2 technology, as well; but as I said, those titles changed
3 from -- I guess about three different times.

4 Q. So, you had responsibility for both technology
5 and environmental policy?

6 A. Not at the same time.

7 Q. I see. Back and forth.

8 A. That -- no, no. I misled you.

9 I became vice-president for technology in
10 November of '66.

11 Q. Right.

12 A. Well, that title changed to group
13 vice-president a few years later.

14 Q. I see.

15 A. Then that title changed to senior
16 vice-president, but it was the same job. The -- the
17 company had ballooned, and that's why it was changed.

18 Q. And then in 1977, retaining a title of senior
19 vice-president --

20 A. Right.

21 Q. -- you moved over to environmental policy?

22 A. You're right.

23 Q. Okay.

24 A. I'm sorry. I should have said that.

25 Q. Okay.

1 What areas were you responsible for in your
2 position as the senior vice-president or a
3 vice-president or group vice-president or whatever the
4 titles were for technology?

5 A. Well, Monsanto was then, as it is now,
6 organized around a -- a decentralized system. We
7 call -- we called the decentralized operating units
8 "divisions" in those days. They're called "operating
9 companies" now.

10 But the responsibility I held then was for a
11 direct management of the -- what was called then
12 corporate research and development, which was a -- a
13 name given to something that was funded out of corporate
14 funds independent of what the various divisions might be
15 doing obviously related.

16 Then I had functional responsibility for the
17 direction and the quality of the research being done
18 within the various operating divisions at that time.
19 There were also other activities that would be ancillary
20 in nature, and they were assigned as -- and they varied
21 from time to time.

22 At one time, there was no formalized planning
23 effort for the corporation; and because so much of the
24 problems involving technology involved a sense of
25 direction, it was, I guess, sort of natural I started to

1 do it informally. And it kind of grew; and, so, I did
2 that for a while, until it became to the point where it
3 should be taken over by a special individual. Things
4 like that, they're -- I would say "ancillary" is perhaps
5 a good description of it.

6 Q. The research function that you had
7 responsibility for in your office over technology was a
8 staff-type function as opposed to a line-type function
9 within the company?

10 A. Yes. The only -- in Monsanto, at that time,
11 you were a line operation if you had profit
12 responsibilities. You were a staff organization if you
13 did not. So, the answer was, yes, that was a staff.

14 Q. And so I can understand that and -- and clearly
15 appreciate the difference between the two, there would
16 be certain groups -- and let's take the organic chemical
17 division --

18 A. This was -- that was the division I was in.

19 Q. Yes.

20 That division and -- and its changes over time
21 to operating units and companies and whatever, there you
22 would have people who would operate plants; and they
23 would report or have responsibility for running that
24 plant. And there would be someone upstream to whom they
25 would report, and there would be people who would be

1 responsible for selling the products that plant
2 generated. And they would have responsibility for
3 reporting upstream in a line type of function all the
4 way up to, eventually, a line leading to the president
5 of the company.

6 A. That's right.

7 Q. And those individuals in that line of
8 responsibility were responsible for marketing products,
9 for pricing products, for producing products that would
10 be sold --

11 A. That's right.

12 Q. -- and so on and so forth.

13 A. That's right.

14 Q. Then there's an entirely different type of
15 function, where someone is providing support or
16 preparation for that line-type organization which would
17 be, for example, research and development, where what
18 you did might or what your group did might result in a
19 new product, for example, that would then be put into
20 production, become a line responsibility, for example.

21 A. That's -- that's fairly accurate.

22 Q. Okay.

23 How many people, how many people at your level,
24 other than your own position in technology, were
25 supervising staff responsibilities at Monsanto as

1 opposed to line responsibilities?

2 A. Well, it's kind --

3 MR. FREEMAN: What period of time are
4 we talking about, Mr. Lacey?

5 MR. LACEY: Generally, without regard
6 to organizational title. I'm not so
7 interested in the organizational title as
8 to how the -- the actual functional
9 structure worked.

10 A. Well, this -- this vary -- this varied over
11 time, as you -- as you might -- as you might gather.
12 These things moved like accordians. Sometimes they'd be
13 squeezed in. Sometimes they'd be expanded. But --

14 Q. Well, let's take the period from the
15 mid-sixties to the mid-seventies, then.

16 A. Well, I suspect that there were probably --
17 two, three, four -- probably between -- between five and
18 seven. I -- I -- I'd have to think about the given
19 year, but somewhere along in there. There were about a
20 half dozen of us that were what we would call the senior
21 corporate staff officers.

22 Q. Okay.

23 A. Something like that.

24 Q. How were those different areas broken out?
25 Yours was research and development?

1 A. Yeah. It was called "technology" as a broader
2 thing. There was one for administration, and that --
3 that's the one that -- that had a -- it was kind of a
4 catch-all, but reasonably standard. There was one for
5 finance and -- finance and accounting. There was one
6 for engineering. There was one for manufacturing.
7 There was one for marketing.

8 See, these were functional in nature rather
9 than --

10 Q. Exactly.

11 A. -- mission in nature.

12 Q. Exactly.

13 A. Okay.

14 Q. Within that group, I understand that one of the
15 staff-type functions that existed within Monsanto was
16 the group known as the medical department.

17 A. That's right.

18 Q. Which group did that -- or which one of those
19 functions did that report to?

20 A. Well, in the -- in the -- up until '73, that
21 reported to the administration --

22 Q. Okay.

23 A. -- vice-president.

24 Q. So, up to 1973, the vice-president or group
25 vice-president, whatever it was, of administration had

1 the medical department.

2 What happened in 1973?

3 A. That was assigned to me at that point.

4 Q. Okay.

5 So, from 1973 until 1977, when you changed over
6 to environmental policy, you had the medical department.

7 A. And still continued to have it after 1973 --
8 after '77. Excuse me.

9 Q. Okay.

10 Let me see if I -- when you went to
11 environmental policy, did somebody replace you in
12 technology?

13 A. Yes.

14 Q. Okay.

15 Was environmental policy a new staff area?

16 A. Yes.

17 Q. And the medical department went along with --

18 A. That's correct.

19 Q. -- that new staff area?

20 A. That's correct.

21 Q. The new one was created by carving functions
22 out of the others into a new group?

23 A. Yes, in part. We -- we took the entire medical
24 group. It was expanded -- I don't know -- 20-fold, I
25 guess, by that -- about -- between '77 and '79,

1 somewhere along in there.

2 We took part of the analytical sciences, that
3 had grown up in another part of the corporation, out of
4 research; and we -- we created toxicology, which is --
5 had been a function performed outside of the
6 corporation, as many companies did at that time. And we
7 then added others, such as epidemiology and industrial
8 hygeine and occupational medicine and so on. And so
9 that formed, then, the thing called environmental
10 policy.

11 And we called it "policy" because that was the
12 most critical thing we felt we had to do, is keep
13 reminding people, each time we thought about it, that
14 it -- that the policy was the thing that had to
15 literally come first.

16 Q. Was this group, environmental policy group,
17 then, basically a very vastly expanded set of functions
18 of what had previously been in the medical department?

19 A. Oh, heavens, yes. The medical department in
20 the sixties was very, very, very small.

21 Q. Well --

22 A. You want numbers, I suppose.

23 Q. No, no, no. I'm trying to -- you described --
24 and I just want to make sure I understand -- what was in
25 the environmental policy group.

1 You had toxicology and epidemiology --

2 A. Right.

3 Q. -- and industrial hygiene and occupational
4 medicine.

5 A. Right. Okay.

6 Q. What else?

7 A. Well, we had people who were called
8 environmental managers, who looked after the
9 interpretation of the -- the environmental laws and
10 regulations and helped to shape policy in -- in that
11 sense; and we also had some other people that were
12 involved in -- in corporate planning for the
13 environment. We did all that on a corporate basis.

14 But the basic -- the basic change that I guess
15 we're sort of trying to focus on here is that it was in
16 the period probably beginning around the early -- early
17 seventies that I began to realize, as did others like me
18 in other companies, that these environmental issues were
19 very complicated. They are -- they're -- the -- the
20 laws themselves are complex enough. In fact, they're
21 almost contradictory at times.

22 The regulations that followed those laws were
23 even more complicated; and we simply couldn't permit
24 each manager of a plant, each director of research, each
25 director of marketing to deal with the agencies involved

1 on his own. Because it -- it was a decentralized
2 system, it was just -- it was impossible. They needed
3 guidance. That's what they needed most.

4 And I began to recognize that in the early
5 seventies; so, it was my idea to bring the corporation
6 under a -- a focal point of senior leadership. And I
7 proposed this, and guess what?

8 Q. You won the job.

9 A. I won the job; that's right. I played defense
10 for the rest of the time.

11 But it was -- it was something that -- that the
12 industry, while it -- I think, from the time I began to
13 work in the company, we had always been concerned about
14 what we called "personal safety." But in those days,
15 personal safety was mostly acute, you know, accidents,
16 things that if you -- if you were exposed to some
17 chemical by touching or inhaling or whatever, they were
18 concerned about acute effects.

19 The idea of chronic effects honestly didn't
20 appear in the -- in the industry lexicon until along in
21 the early seventies. "Acute" meaning -- "chronic"
22 meaning low level, long time, intermittent exposure
23 measured over years.

24 Q. If I understand what you've told me, basically
25 one of the goals or maybe the goal in developing this

1 environmental policy staff function was to provide both
2 expertise and a consistent position across the company
3 with regard to matters that related to things like
4 toxicology, epidemiology, industrial hygiene,
5 occupational medicine, and the like.

6 A. That's correct. And let me add one more thing
7 to it, because this is important.

8 We adapted a policy very early on that we were
9 going to be pro-active. We weren't going to simply
10 comply with the rules, for a number of reasons.

11 By the time you got to compliance, the needs
12 were going to be greater and the reauthorization of the
13 laws; and you perhaps are familiar with that sort of
14 thing. So, we wanted to be out front.

15 So, we took leadership roles in -- in every
16 aspect that we could, usually on a voluntary basis. The
17 Chemical Manufacturers Association was one. The -- The
18 American Industrial Health Counsel, Society of the
19 Plastics Industry, The American Petroleum Institute, and
20 on and on and on.

21 And we did that because, first of all, we
22 thought it was good citizenship. And, secondly, this
23 gave our people hands-on experience in dealing with the
24 regulating agencies themselves; that is, the people in
25 the agencies. We testified inordinately more than

1 others at various congressional hearings, and we did
2 this with a -- with a twofold purpose. First, it was
3 good responsibility; and, secondly, it taught us a great
4 deal of -- of -- of things that we would not have
5 learned otherwise.

6 And I spend a little time on this only to tell
7 you that we did a lot of this informally long before we
8 formalized it in '77. But the company was simpler in
9 those early days plus the fact that -- that the chronic
10 issues really had never surfaced.

11 It's -- it's an aside; but the pharmaceutical
12 people, even to this day, rarely -- rarely test for
13 chronic effects, because it's a rare individual that
14 takes medicine, you might say, all of his -- all of his
15 life. Insulin, yes, and so on.

16 But the point was: It was not -- when you look
17 back with retroactive wisdom, you say, "Well, why didn't
18 you know something 20 or 30 years ago?" It was simply
19 some -- it was simply something, as a concept, people
20 didn't -- didn't appreciate.

21 Well, at any rate, we started all this on a
22 formalized basis in '77; and it's still going pretty
23 much as I had left it in '84.

24 MR. FREEMAN: Mr. Throdahl, let me
25 ask you to do one thing for us. We're

1 trying to --

2 THE WITNESS: I'm sorry.

3 MR. FREEMAN: -- shorten this as much
4 as possible. You've got appointments at
5 2:00 o'clock, of course; and Mr. Lacey has
6 some questions he has to ask you.

7 THE WITNESS: Okay.

8 MR. FREEMAN: And if you could just
9 keep -- keep your answers confined to the
10 question, maybe that will make things go a
11 little quicker this morning. Thank you.

12 THE WITNESS: I'm always wanting to
13 make a point.

14 MR. FREEMAN: I understand.

15 BY MR. LACEY:

16 Q. Well, the point here, it may be most important
17 to try to answer some specific questions I've got; and
18 that would be maybe the most helpful thing you can do
19 for us today. If we had longer, I'd enjoy the -- the
20 philosophical discussion.

21 With regard to the environmental policy group
22 that was actually formed in 1977, you had responsibility
23 for starting in 1977 --

24 A. Uh-huh.

25 Q. -- it was your intention and direction that

1 your people be actively involved in industry groups,
2 correct?

3 A. That's right.

4 Q. Actively involved in meeting with governmental
5 people and giving testimony, in finding out and in
6 attempting to influence what was going on; is that
7 correct?

8 A. In a very ethical way, yes.

9 Q. Now, had those same approaches of being
10 actively involved in industry groups and meeting with
11 governmental officials and presenting Monsanto's position
12 existed in the company before 1977?

13 A. You say "did they exist"?

14 Q. Yes.

15 A. Well, yes; but you have to remember that EPA
16 wasn't formed until '70. And OSHA wasn't formed until
17 '70. And the Toxic Substances Act wasn't passed until
18 six years later.

19 I said that we did these things more or less on
20 an informal basis, and -- and actually environmental
21 hearings were unheard of in -- in the Congress on
22 environmental issues until, oh, in the late seventies.

23 The medical -- the medical officer -- who at
24 that time was Dr. Kelly, Emmet Kelly -- the medical
25 officer, in my judgment, performed, in his way, for our

1 size at that time, some of the roles that I performed
2 later on a corporate basis.

3 Q. My specific question is: Was Monsanto pursuing
4 those same courses, to the extent that it was possible
5 to do so, before you came in; or was your approach a
6 brand new direction for the company?

7 A. My approach was a -- a development of -- of a
8 policy of consistency and leadership.

9 Time doesn't permit it, but there were other
10 examples where the -- the senior management of the
11 corporation, on advice from -- from the medical
12 director, shut off the manufacture of several chemicals
13 that they found were -- were causing a -- at that time,
14 measurable bad effects.

15 Q. Okay.

16 If I understand your testimony correctly, then,
17 the idea of being actively involved with the groups that
18 might be regulating or looking to regulate the chemical
19 industry was not new when you started in 1977. Others
20 had been doing that before at Monsanto, correct?

21 A. Right.

22 Q. The idea of being a leader in industry groups,
23 chemical manufacturers' association, others that would
24 attempt to set forth an industry standard, an industry
25 position, was not new when you came on in 1977. That

1 had been going on before; is that correct?

2 A. In a much lesser way and a much more sporadic
3 way.

4 Q. Okay.

5 A. But that's right.

6 Q. And the difference between what happened when
7 the environmental policy group was formed in 1977 and
8 what had existed before was, number one, you had a
9 larger budget and many more people employed in those
10 areas, correct?

11 A. That's right.

12 Q. And if I understand what you're saying,
13 essentially the medical department, which had previously
14 carried out whatever functions there were like what the
15 environmental policy group did after 1977, was an
16 organization manyfold smaller than the environmental
17 policy group that you staffed up after 1977.

18 A. Yeah. That's right.

19 Q. In fact, did the medical department have all
20 of -- even have capabilities in each of the areas that
21 you formed?

22 A. Oh, no, no, no; and I didn't mean to give that
23 impression. I said insofar as the needs were perceived
24 in that -- in that manner, it was Dr. Kelly who -- well,
25 as a matter of fact, the -- the medical department still

1 is responsible for toxicology; but he handled many
2 things in those days with the regulatory people that,
3 later on, were handled by others.

4 Q. Okay.

5 Am I correct in understanding that,
6 essentially, prior to 1977, Dr. Kelly and those who
7 worked for him, to the extent the company did it,
8 basically carried out the functions that the
9 environmental policy group later carried out?

10 A. Some of the functions, but not all.

11 Q. What other groups in Monsanto, other than the
12 medical department, carried out the environmental policy
13 group functions prior to 1977?

14 A. The plant managers, as I mentioned.

15 Q. Okay.

16 And that would be by actually visiting with
17 regulatory people, presenting company positions, and the
18 like?

19 A. Uh-huh. And -- and to make certain that they
20 were, indeed, in compliance with whatever the state or
21 the Federal regulations were.

22 Q. Okay.

23 There's a man by the name of Pappageorge,
24 Mr. Pappageorge.

25 Are you familiar with him?

1 A. Yes.

2 Q. Was he carrying out, in the early seventies,
3 the sort of function that would have been in the
4 environmental policy group had it been in existence at
5 that time?

6 A. Well, I don't -- I don't have a accurate
7 recollection of all the things that Bill did, although I
8 know he was involved with a number of chemicals and
9 their various appropriate applications.

10 Prior to -- Bill became -- Bill became a
11 director of environmental operations within one of the
12 operating units in 1977. We formed a -- you might say a
13 smaller organization in each of the operating companies
14 that did what we did on a corporate basis.

15 So, my relationship with a fellow like Bill
16 Pappageorge was that he reported to me in a functional
17 manner; but he reported to his -- his boss in the line
18 for his paycheck.

19 Q. I understand. And what I'm trying to find out
20 is, in the period prior to 1977 --

21 A. Yeah, I --

22 Q. -- whether Mr. Pappageorge was carrying out
23 functions of the type that later were carried out by the
24 environmental policy group.

25 A. Yeah. He was -- he was in a manufacturing role

1 of some kind, but I don't remember what it was at that
2 point.

3 Q. Okay.

4 From 1964 forward, you became a corporate
5 officer?

6 A. No. It was in November of '66.

7 Let's see. Yeah, November of '66 I was elected
8 to the board and made a corporate officer.

9 Q. Okay.

10 I -- I guess I was under the impression, maybe
11 when you were in the international division, you had an
12 office; but you did not?

13 A. I was a vice-president; but I was not a
14 corporate officer in that sense, you see.

15 Okay. I see what you're driving at. You dwelt
16 sometime on -- on corporate staff roles. I became that
17 corporate staff officer for technology and a member of
18 the board in November of '66. I was not a member of the
19 board prior to that time, although I carried a
20 vice-presidency.

21 Q. Okay.

22 A. But I was not considered a corporate officer in
23 that sense.

24 Q. Okay.

25 But in 19 -- in November of 1966, you became a

1 member of the board of directors?

2 A. Yes.

3 Q. Of Monsanto Corporation?

4 A. Yes.

5 Q. The Monsanto Company, I guess it is.

6 A. Yes.

7 Q. And, in addition, you then held a position that
8 would be considered within Monsanto to be a corporate
9 officer.

10 A. That's right.

11 Q. Even though you'd previously held a title of
12 vice-president. But that wasn't that important a
13 position to be a real corporate officer.

14 A. Well, none of them were.

15 Q. Okay.

16 A. Division managers were also vice-presidents.

17 Q. Okay.

18 A. And the -- the international division was an
19 operating division of sorts at that time.

20 Q. But the time -- when you became the
21 vice-president that you were over technology in November
22 of 1966, you were then truly a corporate officer of
23 Monsanto?

24 A. Yes.

25 Q. How long did you remain on the board of

1 directors?

2 A. Till I retired.

3 Q. So, you were a board member from '66 till 1984?

4 A. That's right.

5 Q. And throughout that entire period of time, you
6 also remained a corporate officer in the sense that the
7 company uses that word?

8 A. Yes.

9 Q. Was there any particular division of
10 responsibility in the board -- at the board of directors
11 between those people who were full-time employees of
12 Monsanto as officers of the company and also members of
13 the board and those people who were members of the board
14 but not employees of the company? And by that I mean
15 outside directors, if you understand what I mean.

16 A. Uh-huh.

17 Was there a difference in their function, you
18 say?

19 Q. Yes, as directors.

20 A. Well, yes. The -- the outside directors did
21 not involve themselves in any of the operational aspects
22 of the corporation. They couldn't. I mean physically
23 they couldn't.

24 Q. Uh-huh.

25 A. But when it came to the -- to the vote on

1 whatever the board may be -- may have been considering,
2 we all acted as the same kind of person.

3 Q. So, in terms of the operational aspects of the
4 company and the day-to-day affairs and day-to-day
5 decisions, the outside directors weren't normally
6 involved in that; but the inside directors or the
7 officer directors would be involved?

8 A. That's right.

9 Q. When a matter actually came to the board of
10 directors and there was a vote, everybody had one vote?

11 A. That's right.

12 Q. Okay.

13 Now, how did the board of directors decide to
14 have the company make policy decisions? Did it set up
15 any groups or committees or anything like that that had
16 responsibility for making recommendations and making
17 evaluation of day-to-day aspects of the company's
18 business?

19 A. Of course, that had been going on ever since
20 the company was formed, I'm sure.

21 Q. Tell me something about the committee structure
22 as it existed at Monsanto from the time you came on the
23 board in 1966. And I'm talking about the committees
24 that made the top level policy decisions for the company
25 now.

1 A. There's always been an executive committee of
2 the board.

3 Q. Okay.

4 A. And an executive committee of the board was
5 simply doing the board's work at times the board was not
6 in session. That was usually composed of the chairman
7 and the president and maybe one or two other seniors.

8 There was usually another kind of committee,
9 usually -- it was called, variously, different things.
10 There was a Corporate Development Committee. There was
11 a Corporate Administrative Committee. There was a
12 Corporate Management Committee. The -- they performed,
13 roughly, the same function you're seeking to understand
14 here, but called slightly different names.

15 Q. They were called the Corporate Development
16 Committee, the Corporate Administrative Committee, and
17 the what?

18 A. The Corporate Management Committee.

19 Q. Corporate Management Committee.

20 A. Yeah. And the Corporate Executive Committee
21 then really shrank into almost a -- almost an -- an --
22 kind of an honorary situation, dealing with things
23 that -- well, they had to have one; but they never --
24 they never really -- in the time I was there, they never
25 really exercised the executive committee as a -- as a

1 policy-making role, really.

2 Q. Did it recommend salaries for directors or
3 anything like that?

4 A. No. No. There was a board committee of --
5 let's see. What was it called?

6 I've forgotten the precise name; but it had to
7 do with management development, which meant developing
8 people, developing salary, compensation. Yeah, it was
9 call the Compensation Committee; and that was a -- that
10 was a -- a -- an actual board committee. And that dealt
11 with the overall policies of what presidents and
12 vice-presidents and senior -- senior directors and the
13 like were to be -- were to be compensated for.

14 And there were other committees of -- there's a
15 Finance Committee of the board, and there was a -- later
16 on there -- in -- in 1978 or '79, a Social
17 Responsibility Committee of the board was created
18 entirely of outside directors. And, by now, you know,
19 the board compositions have changed. It's almost
20 entirely outsiders; whereas, when I came on, it was
21 about an even split, as I remember.

22 Q. So, basically, the executive committee didn't
23 have a lot of day-to-day decision-making functions?

24 A. No. No.

25 Q. There were separate committees that dealt with

1 things like corporate salary structures for top
2 executives --

3 A. Right.

4 Q. -- selecting new officers, and things like
5 that.

6 A. Right.

7 Q. But the major, what I'll call,
8 meat-of-the-company decisions went to this Development
9 Committee, Administrative Committee, and Management
10 Committee?

11 A. Yes. They didn't exist simultaneously, you
12 understand.

13 Q. Okay. Well, let me see.

14 Are those basically three different names for
15 essentially the same type of body?

16 A. Yes. That's what I was trying to tell you.

17 Q. Okay.

18 Which one of those three came first, or which
19 one was the committee called first?

20 A. Well, in my term -- since my term -- in my term
21 of office, I -- I listed them in the order.

22 Q. Okay.

23 So, when you first came on the board, there --
24 it was the Corporate Development Committee, correct?

25 A. (Nodding head)

1 Q. You need to answer verbally.

2 A. Yes. Oh, I'm sorry.

3 Q. The camera will get it, but the -- the written
4 transcript won't.

5 Then at some point changed its name to the
6 Corporate Administrative Committee?

7 A. Yeah.

8 Q. And then some point again changed its name to
9 the Corporate Management Committee?

10 A. That's right.

11 Q. And all three of those committees had
12 essentially the same function?

13 A. Yes.

14 Q. And had essentially the same responsibility
15 from the board of directors as far as what they were to
16 do?

17 A. Yes.

18 Q. Would there be decisions made by those
19 committees that would not require an actual board vote,
20 "We vote to do this or that"?

21 A. Many.

22 Q. What sort of decisions were actually voted on
23 by the board of directors itself? I mean, what things
24 did they actually have to vote on?

25 A. They voted on capital appropriations above a

1 certain minimum level. They voted on -- on directional
2 change. They obviously voted on dividend policy. They
3 voted on, oh, any number of matters that had to do with
4 fiscal issues, who was to be the -- the -- the
5 corporate -- the outside -- the outside --

6 Q. Auditors?

7 A. Hun?

8 Q. Auditors?

9 A. -- corporate auditors, yeah, and things of that
10 type. I guess it would be appropriations and
11 directional changes is where the -- the board would be
12 involved in that mostly.

13 Q. What do you mean by "directional changes"?

14 A. Well, if the management believed that the kind
15 of technical programs ought to pursue a -- a different
16 direction for a given purpose, that would be summarized
17 and presented to the board, probably over a period of
18 several meetings, so that they would begin to get the
19 gist of what was intended.

20 If there was a -- an international policy that
21 had to be thought up, to what extent was the corporation
22 going to become multinational, they would take on those
23 kinds of directional change decisions.

24 Q. Would that include a day-to-day decision about
25 whether to produce more or less of a particular

1 product --

2 A. No.

3 Q. -- that sort of thing?

4 A. No.

5 Q. Those would be handled at some lower level
6 within the company below the board of directors?

7 A. The president would usually handle that.

8 Q. Okay.

9 What was the relationship between -- and what's
10 the best way -- I'd like to just find one name we can
11 use to refer to this committee that was the Development
12 Committee then the Administrative Committee and then the
13 Management Committee. What -- is there one single name
14 that sort of capsulizes all of that?

15 A. Well, it's -- it's broadly management. That's
16 what it's about.

17 Q. Okay. Can --

18 A. Why don't you --

19 Q. Can we just use the term Management
20 Committee --

21 A. Sure.

22 Q. -- to talk about the Development Committee, the
23 Corporate Administrative Committee, and the Corporate
24 Management Committee?

25 A. That's right.

1 Q. What was the relationship between this
2 Management Committee and the president of the company?
3 Did they work together? Did he --

4 A. The president was always -- now, the president,
5 in the day that I came on the so-called Corporate
6 Development Committee, the president was the chief
7 executive officer; and the chairman was not. That
8 changed in somewhere around '72, when Mr. Hanley came
9 in. He became -- he came in as president; but shortly
10 thereafter, he was made chairman and CEO. And it's
11 remained that.

12 But whoever it was, the chief executive
13 officer, whatever he was called, was the chairman of
14 that committee and that was his committee and that
15 committee was to give him advice. He -- he voted. He
16 voted for everybody.

17 Q. Okay.

18 A. But -- and that's the way it was set.

19 Q. I understand.

20 So, this -- this Administrative or Management
21 Committee --

22 A. Uh-huh.

23 Q. -- was basically a group of senior management
24 that the board expected to give the president advice;
25 but basically, he would finally make the decision --

1 A. You bet.

2 Q. -- on what was brought to it.

3 A. Make no mistake.

4 Q. Okay.

5 His vote counted 51, and everybody else's
6 together counted 49 or something like that.

7 A. Well, there was plenty of time for argument and
8 there was plenty of time to present ones views and there
9 was plenty of time to reconsider. But in the last
10 analysis, someone had to say, "We're going to do this,
11 and we're going to do it this way."

12 Q. Okay.

13 Now, was everybody who was an officer of the
14 company, in the terminology we've used, like you became
15 an officer of the company in 1966, a member of this
16 management-type committee that consulted with the
17 president?

18 A. Yes, I think so. I -- I -- the chief counsel
19 sometimes was a member, as I recall it, and sometimes
20 was not. And he was always -- he was -- he was always a
21 vice-president of the corporation, but the chief counsel
22 in Monsanto's never been a member of the board.

23 So, it's a little fuzzy, to answer your
24 question directly; but by and large, anybody who was a
25 corporate officer was on that Management Committee.

1 Q. So, you were, then, throughout the period of
2 time from 1966 through --

3 A. Yeah.

4 Q. -- 1984?

5 A. Yeah.

6 Q. Did those -- strike that.

7 Were there regularly scheduled meetings of that
8 committee?

9 A. Yes.

10 Q. They were held in St. Louis?

11 A. Yes.

12 Q. And was it customary for all the members of the
13 committee to make those meetings?

14 A. Yes, except if important travel, such as
15 overseas or something of the sort, might cause him -- a
16 man to be away. Generally you were expected to be
17 there.

18 Q. These were not a come if you choose to today?

19 A. No, no. No, no, no.

20 Q. How often did the group typically meet on a
21 schedule, if it had a schedule?

22 A. They were usually weekly.

23 Q. And how long would these meetings last?

24 A. Most of the day.

25 Q. So, you're talking about one day a week,

1 basically?

2 A. Something like that.

3 Q. Okay.

4 Minutes, formal minutes, were kept of these
5 meetings?

6 A. Yes.

7 Q. Were they reviewed by the committee for their
8 accuracy after they were prepared?

9 A. Yes. There was always a secretary of the
10 committee that was a -- a -- it was -- it was an -- it
11 was an appointive job; and it was -- it was a difficult
12 one, because he had to --

13 Q. Write it all down.

14 A. Well, he had to write it all down; and he had
15 to -- he had to keep track of the -- of the agenda items
16 and how often they would come up for reexamination or
17 whatever. So, that was a full-time job for him.

18 Q. There was a written agenda that was prepared
19 for these meetings?

20 A. Yes.

21 Q. Did things come up on the meeting informally;
22 or it was basically, if it wasn't on the agenda, it
23 wasn't going to be discussed that week?

24 A. Oh, no. There were -- there -- there were many
25 times when things came up. It was always a round robin

1 reporting of something that might have occurred that
2 would be interesting, but not necessarily needing
3 anyone's action. It was a matter of communication.

4 Q. So, each of the officers of the company might
5 report on what was happening in his particular group
6 that was of interest?

7 A. Yes, or it could be something that had happened
8 externally that was important to the company one way or
9 the other.

10 Q. Were there people that would, from time to
11 time, come to this committee and make presentations to
12 it?

13 A. Oh, yes.

14 Q. Was that a regular or an irregular event?

15 A. Depended on the agenda; but if there was a --
16 if there was a -- if there was a problem involving,
17 let's say, an expansion of a plant facility, a change
18 of -- any -- anything that might be a significant change
19 of one kind or another, whether it was incremental or
20 directional in nature, would come before that committee.

21 And usually the proposers would come, sometimes
22 one, sometimes two or three; and they would make
23 presentations. Sometimes they would be very short,
24 five, ten minutes. Sometimes they would be very
25 lengthy. They might be preceded with a -- a report

1 ahead of time that you would read and --

2 Q. A written report, you mean?

3 A. Usually.

4 So, yeah, it varied, depending on the nature of
5 the -- of the information.

6 Q. The people that would come and make
7 presentations, were these usually -- usually very
8 knowledgeable people about the area to be presented
9 within the company?

10 A. Yes, sir.

11 Q. Experienced employees, not low level employees,
12 generally?

13 A. Generally, yes.

14 Q. Before you reach the level of being a corporate
15 officer and a member of this committee, do you ever have
16 the privilege of making a presentation to the committee?

17 A. Yes. Yes.

18 Q. And was that a relatively significant event
19 in an employee's life, if he was going to make a
20 presentation to that committee?

21 A. You sweat a lot.

22 Q. It was a chance to either do well or do poorly?

23 A. You always wanted to do well.

24 Q. And doing well could lead to advancement or at
25 least help you along the way on advancement. Doing

1 poorly could do the opposite?

2 A. Well, I suppose.

3 Q. Was it your observation that people who brought
4 matters to the committee while you were a member of it
5 appeared to always work very hard to get their facts
6 accurate, to make an effective presentation and present
7 what they had to say in a way that would be understood
8 and able to be relied upon by the committee members?

9 MR. FREEMAN: Object to the form of
10 the question. It calls for nothing but
11 pure speculation on behalf of this
12 Witness.

13 Q. I'm asking for what you observed. Does that --
14 did you observe those characteristics among the people
15 that were making presentations?

16 A. I think everyone wanted to do his best.

17 Q. You didn't observe anybody who ever came and
18 made a presentation and looked like they hadn't made a
19 serious effort to get the facts correct before they
20 brought it?

21 A. Speaking to that exact question, I'd say I --
22 I -- I did not observe that, no.

23 Facts have a way of changing.

24 Q. Certainly.

25 A. But it was never -- I -- I -- I'd have to say

1 that the intent here was to -- was to tell the -- the
2 good and the bad equally with -- equally well.

3 Q. And, in fact, that was a key matter. If the
4 committee was to function correctly, it had to have all
5 the information.

6 A. That's right.

7 Q. It couldn't be slanted one way or the other and
8 have the committee do its job correctly.

9 A. Well, slanting is difficult to avoid,
10 obviously, because you're a proposer of something.

11 Q. Certainly.

12 A. And many times there would be independent
13 people that would be asked to give opposing views, or an
14 outsider would be invited to present an evaluation or
15 this sort of thing. This always happened with changes
16 of direction.

17 Q. I guess what --

18 A. We had outside consultants for that purpose.

19 Q. I guess what I'm trying to find out is whether
20 people would -- would slant the facts, not present a
21 proposal with one recommendation or another.

22 A. No, they wouldn't do that, not to my knowledge.

23 Q. That certainly would not have been what the
24 Management Committee was seeking.

25 A. No way.

1 Q. Because when things were brought to the
2 Management Committee, it was ultimately for that
3 committee and the president of the company to decide
4 what to do.

5 A. That's right.

6 Q. And you had to have accurate information in
7 order to make an informed, correct decision.

8 A. Again, now, "accuracy" is a difficult word,
9 because that depends on whether you're measuring the
10 most fundamental thing. And sometimes things that were
11 accurate at one point in time are no longer accurate at
12 a later time.

13 Q. Oh, I understand. But the information needed
14 to be accurate at the point that it was given, in any
15 event.

16 A. That's correct.

17 Q. You understand that we're here on a lawsuit
18 that involves claims by various people who were exposed
19 to materials containing polychlorinated biphenyls?

20 A. I understand that.

21 Q. Can we just -- I don't want to go into the
22 details of the chemical composition, et cetera.

23 You are familiar with what polychlorinated
24 biphenyls are?

25 A. Yes.

1 Q. Can we just use the shorthand, PCBs, to refer
2 to them?

3 A. Uh-huh. That's fine.

4 Q. Did the Management Committee ever address, to
5 your recollection, matters relating to PCBs?

6 A. They did.

7 Q. Okay.

8 In terms of PCBs, separate and apart from your
9 role on the Management Committee --

10 A. Uh-huh.

11 Q. -- did you ever have any functions that had
12 anything to do with PCBs in terms of your -- your
13 day-to-day management operations within the company?

14 A. No. These were mature products, had been for
15 many years; and they were the full responsibility of
16 the -- whatever the operating division was at the time.
17 They were usually in -- at that -- I guess -- let's see.
18 The organic division was the mother church, as it were.
19 And it retained organic chemicals until the final name
20 change some -- many years later.

21 But as long as they were mature products, it
22 was my job to maintain a -- at least enough familiarity
23 with the research that would be going on that we
24 wouldn't be caught napping with somebody inventing a
25 competitive process or something that was better.

1 If that were going along smoothly, I probably
2 wouldn't pay very much attention to it.

3 Q. I guess my question is: When did you first
4 have any involvement that you can recall, separate and
5 apart from the Management Committee functions, with
6 PCBs?

7 A. Well, certainly I -- I knew from my own reading
8 that PCBs, following DDT, had -- had some ecological
9 effects that had never been measured before. I was
10 aware of that. But I was mostly aware when, indeed, we
11 began to realize that -- that, on a corporate -- from a
12 corporate basis, certain things had to -- had to be made
13 to happen. And I -- I recall that the Management
14 Committee had some sessions on that.

15 Q. Yeah. And I'm trying to separate out, if it's
16 possible, whether or not you had anything to do with
17 PCBs other than just reading because you knew the
18 company made it or what you did at the Management
19 Committee versus things you did, for example, in your
20 role as the vice-president over technology.

21 A. No. I tried to explain that by saying that --
22 that I was aware of literature that was going on; and I
23 may have had informal conversations from time to time
24 with -- with Dr. Kelly or some of -- of his people. I
25 certainly may have had them with who made -- who might

1 have been the research director of that division at that
2 point in time, but I -- I can't recall specifically any
3 deep involvement on that.

4 Q. Nothing more than informal conversation, as
5 best you recall?

6 A. That's correct.

7 Q. And to the extent that Dr. Kelly came formally
8 under your supervision in the technology group in
9 1973 --

10 A. Uh-huh.

11 Q. -- from 1973 to 1977, did you have any
12 day-to-day involvement with whatever he might be doing
13 about PCBs or what his successors might be doing about
14 PCBs?

15 A. Well, I probably did; but again, at that point,
16 until we ceased manufacture and sale of -- of the
17 products, there's nothing stands out in my mind that
18 focused my attention on that.

19 Q. Did Dr. Kelly report directly to you beginning
20 in 1973?

21 A. Uh-huh. Yes.

22 Q. In other words, there weren't three officers in
23 between you --

24 A. No.

25 Q. -- and he?

1 A. No.

2 Q. And with regard to whatever he might be doing
3 on PCBs, he might make some informal reports; but
4 basically he had your authority to keep on going with
5 whatever programs he had?

6 A. That's correct. And I would certainly never
7 have had the time to review everything that he and his
8 people were doing. It would have been impossible.

9 Q. Okay.

10 So, it was pretty much up to him in his
11 department to decide what to do, if anything, about PCB
12 matters, separate and apart from whatever the company
13 was doing at the Management Committee level, as far as
14 medical department efforts were concerned?

15 A. Yeah. But he certainly was informed about what
16 the Management Committee was concerned about.

17 Q. I understand.

18 A. Yeah.

19 Q. I guess what I'm trying to do is, again, just
20 understand the extent of your day-to-day involvement;
21 and I understand it was very, very limited.

22 A. That's right.

23 Q. Those were matters left to Dr. Kelly and his
24 successors who reported it to you.

25 A. They reported to me, but they served an

1 operating company very much as a consultant might serve
2 them.

3 Q. Right.

4 And, again, somebody would come -- an operating
5 company would come to them seeking their expertise.

6 A. Absolutely.

7 Q. And basically, I guess, as I picture it, they
8 have the expertise; and they are providing that to the
9 company.

10 A. That's correct.

11 Q. And you're not interfering on a day-to-day
12 basis with what they do in that function.

13 A. They would never come to me and say, "Can you
14 do this and this and this," unless it turned out that
15 the medical group, or any group, might not have had the
16 priority or whatever.

17 But that was so rare that -- in fact, that's
18 the way we worked in Monsanto for many years, that we
19 try to avoid this -- this up, down -- this going up and
20 then over and down.

21 Q. Tried -- tried to put authority in the hands of
22 people who needed it functionally to get the job done
23 instead of some specific line chart structure. Is that
24 what you're saying?

25 A. Well, when it -- when it certainly involved --

1 you said the word "support" earlier on, and that's one
2 of the functions of the medical group. It was to
3 support the operations.

4 And they would take initiative, by the way, in
5 many instances and say, "You ought not to do this," or,
6 "You ought to do such and so with certain kinds of
7 constraints," whatever.

8 Q. And --

9 A. So, they took initiatives.

10 Q. And, again, that was their function --

11 A. That's their --

12 Q. -- and their right --

13 A. That's right.

14 Q. -- within Monsanto?

15 A. Yes, sir.

16 Q. And to the extent that they wanted to take
17 initiatives with regard to matters that related to
18 safety and health, that was their function, to go out
19 and take those initiatives, correct?

20 A. That's right.

21 Q. To whom had the medical department reported
22 before it got assigned to you, the administrative group?

23 A. It reported to the vice-president for
24 administration.

25 Q. Do you know who it was who had been receiving

1 the medical department reports prior to 1973?

2 A. I -- I -- I can't -- I -- it might -- it might
3 have been a man named Bible. I'm fuzzy on exactly who
4 had that job, but I think it was Bible.

5 MR. FREEMAN: This is prior to '63?

6 MR. LACEY: No. Prior to '73.

7 A. '73. I -- I'd have to look.

8 Q. Okay.

9 When you obtained that responsibility in 1973,
10 I take it you didn't make any significant changes from
11 the way things had been proceeding prior to 1973; is
12 that correct?

13 A. Well, no.

14 Q. What did you do to change the medical
15 department when you took over in 1973?

16 A. The first thing we did was to get them to draft
17 a long-range plan, which they had not been doing. They
18 had been more or less responding to requests. And while
19 we were going to continue to do that, I felt it
20 absolutely necessary, with things becoming more
21 complicated.

22 We, at that time, were considering -- we hadn't
23 made the final decision -- to do our own toxicology.
24 That meant a big facility. It had to be thought up,
25 considered, planned. Moneys had to be approved by the

1 board, eventually.

2 There were other things that we wanted to do
3 that, I think between Kelly and me and also Dr. Roush,
4 who came in as an assistant medical director -- and he
5 sort of ran side -- or he rode sidesaddle with Kelly for
6 a year or so, until Kelly retired. That was the purpose
7 of it. But we definitely wanted to increase the medical
8 role; and, so, that's along -- that was the first thing
9 we did.

10 Q. Did that involve more budget allocation?

11 A. Yeah, it -- yes.

12 Q. Did you have any difficulty to the extent you
13 needed to go higher than yourself to get authority
14 getting the medical department's budget increased?

15 A. None.

16 Q. To your knowledge, from your work on the
17 Management Committee, whatever the name may have been
18 prior to 1973, had the Management Committee or the
19 president of the company ever denied any funding to the
20 medical department that it had sought for anything it
21 thought necessary to do?

22 A. That's a hard question to answer. I -- I
23 would -- I would think that the answer would have to be
24 "no." There might have been an occasion when somebody
25 wanted to -- not to perform a service or perform a

1 function, but it might have been to modify something
2 in -- in some respect.

3 But that's -- I'd have to guess. But Dr. Kelly
4 was the first of the medical directors we had. I think
5 he started in '39. Previous to that time, this had been
6 done on a part-time basis by a number of physicians.

7 And, so, it's -- it's my impression, though,
8 that Kelly was a -- was a pretty innovative guy; and he
9 had vision. And, so, when Emmet said, "We ought to do
10 this and this and this," people generally fell in line
11 and said, "Well, that -- that makes sense. We'll do
12 it."

13 But I couldn't say there never was a negative
14 decision.

15 Q. But you don't specifically recall any decisions
16 by the Management Committee while you were on it from
17 1966 forward to deny something sought by the medical
18 department?

19 A. Not to my knowledge.

20 Q. Okay.

21 The long-range planning that you instituted in
22 the medical department after you became the person
23 responsible for it in 1973, was that something that
24 Dr. Kelly had sought; or was that an idea that you
25 brought to the process?

1 A. I -- I -- I brought that.

2 Q. Okay.

3 The idea of increasing the role of the medical
4 department and enlarging it and making it a more
5 prominent function within the company, was that an idea
6 that Dr. Kelly had had and you affirmed; or was that an
7 idea you had and you brought to the area in 1973?

8 A. Well, I suspect that was pretty much a joint --
9 a joint effort. Again, I think that Dr. Kelly had been
10 recognizing that changes were occurring. He -- he had
11 been -- he had been running one of the least costly
12 departments in the corporation and was always
13 congratulated, you know, for running a tight ship.
14 Running a tight ship and being penurious are not the
15 same thing.

16 So, I would say that Kelly had ideas; but he
17 was perhaps more conservative about making the push.
18 And my role was to push him over and say, "Emmet, if you
19 had your druthers, what would you like to do that we
20 ought to be doing but you really haven't brought it up
21 for a number of reasons?"

22 And when you get used to living in the -- in
23 the same atmosphere for a while, you tend to become
24 accustomed to it and think, "Well, we can't do any
25 more." And that's what the outsider -- and I was an

1 outsider in a sense -- said, "Well, come on. Let's get
2 on with it." And I -- I think I'm being fair with Emmet
3 about that.

4 Emmet wasn't much of a planner, because he'd
5 never had to do that. When you work by yourself, you
6 are your planner; and whatever you think about, that's
7 it. But when you've got a bunch of people with you,
8 you've got to do something of that sort.

9 So, actually, that was George Roush's role for
10 the first two that we created. He -- George led the --
11 led the medical effort and the planning. And I -- I was
12 the fellow that would stand behind him; and I'd -- I
13 would crack the whip, saying, "No, that's not good
14 enough, yet." And that's the way you do planning, by a
15 series of variations.

16 So, this was -- this was really the basis of
17 the modern medical department that included doing
18 toxicology, included epidemiology. We had never done
19 that before on any kind of a consistent basis. We'd
20 hired epidemiologists to do the work for us at times,
21 but we wanted to do -- we wanted to get to do it in
22 house as much as possible.

23 Q. What is epidemiology?

24 A. Well, epidemiology is a study of the disease of
25 populations.

1 Q. And what was your interest in epidemiology?

2 A. Well, we wanted to find out, in effect, whether
3 or not the working conditions all throughout the company
4 were such that our people were not being exposed to
5 injurious amounts of whatever; and -- and that's --
6 that's what one does. You study -- the term for that is
7 you study the cohorts; and oftentimes in the chemical
8 industry, since there aren't lots of people working in
9 the plants, you almost have to go to cohorts of his
10 company and your company and my company making the same
11 thing and say, "Can we share our -- our records with
12 each other?" And you do statistical analyses on -- on
13 injuries and on illnesses and whatever. And you -- you
14 couple epidemiology with industrial hygiene and with
15 toxicology, and the three have to be together. You
16 can't do one without the other two. So, that's why we
17 decided to do those three simultaneously.

18 Q. And prior to 1973, you -- you hadn't had any
19 epidemiologists in your medical department?

20 A. No. We hired that done by outside people, at
21 the universities usually, a common practice at that
22 time.

23 Q. These outside epidemiologists were hired by
24 Dr. Kelly prior to your getting responsibility.

25 A. That's right.

1 Q. Do you recall who was hired or anything about
2 the facts of that?

3 A. Oh, gosh. There's a fellow at Pittsburgh, I
4 think, named Interline; and he would be one that they
5 used. I -- I -- I can't remember any more just right
6 off the bat.

7 Q. Then I take it, also, from what you've said you
8 did not have your own toxicology function that was being
9 done in house prior to your getting involved?

10 A. That's right.

11 Q. And, again, was that done by outside people?

12 A. Yes.

13 Q. Okay.

14 And do you know who was used for that?

15 A. Oh, yes. Several. Hazeltine outside of
16 Washington. Industrial Biotest was one.

17 There were -- there were several more of a
18 smaller nature that since have been merged with others,
19 and I don't remember the original names. But there --
20 and there weren't many of them outsiders -- there
21 weren't many outsiders in those days that did this.

22 But the theory or the philosophy was that if an
23 outside group did it, they would not be thought to be
24 self-serving and they would do this -- get the answers
25 and give you the response. And that was practiced for a

1 long time.

2 Q. Did the company have its own industrial
3 hygienist before you got involved?

4 A. Yes. Yes. Elmer Wheeler was one such
5 individual, and a man named Garrett was another such
6 individual.

7 And, indeed, they trained, on a limited basis,
8 people within the plants to practice industrial
9 hygiene -- not nearly to the extent that we insisted
10 upon it after '73. But they were a source of expertise,
11 and they were the ones that had most of the outside
12 contacts.

13 Q. Outside -- what do you mean by "outside
14 contacts"?

15 A. Well, dealing with industrial hygiene with
16 other companies, with the agencies that -- that existed
17 such as they did prior to the formation of the EPA or --
18 I'm sorry -- OSHA.

19 Q. Was the function of the medical department
20 primarily limited to working with and protecting the
21 health and safety of workers within Monsanto, or did it
22 also have functions that related to customers of
23 Monsanto?

24 A. Both. Obviously the worker -- the worker
25 exposure was a prime concern, but the product -- the

1 product safety was also their concern.

2 Q. Was it the -- the goal of the medical
3 department, at least from the time you were involved, to
4 try to provide sufficient worker protection that none of
5 Monsanto's employees actually in production or in any
6 other function where they could come into contact with
7 chemicals that Monsanto made would be exposed to enough
8 chemicals to be harmed by it?

9 A. That certainly was the goal.

10 Q. And that goal included both not being harmed in
11 either an acute fashion -- that is, immediately -- or
12 being harmed in a chronic fashion; is that correct?

13 A. Insofar as you understood chronic relationships
14 in those days.

15 Q. Well, the goal was to keep from having a
16 chronic problem?

17 A. That's right. That's right.

18 Q. And what we would mean by that is an acute
19 problem would be if you have the exposure and
20 immediately something bad happens to you.

21 A. Or if you had a spill and you got -- you
22 inhaled -- or your skin was contacted in some way or
23 other.

24 Obviously, that's what the purpose of the
25 nurses and plant doctors were for, was to take care of

1 that. They also gave routine physicals as appropriate.
2 They also recommended and -- and carried out the
3 surveillance on the industrial hygiene practices for,
4 you know, various containment things; such as,
5 inhalators, respirators, this -- all this sort of thing.
6 And they -- they supervised that.

7 Q. My question is just to make sure I have clearly
8 fixed in my mind the difference between acute and
9 chronic.

10 Acute would mean if I got a -- a one-time
11 exposure to a chemical and something bad happened to me.
12 That would be an acute problem.

13 A. That's right.

14 Q. A chronic problem would be a situation where I
15 have an exposure over time and nothing bad happened
16 immediately but maybe somewhere after a series of months
17 or years of exposure, something bad would happen. Is
18 that what chronic is talking about?

19 A. That's what chronic disease is, yeah.

20 Q. Okay.

21 And the function and the goal of the medical
22 department, at least, would be to keep Monsanto
23 employees from having either acute or chronic effects
24 from exposure to chemicals they were handling.

25 A. That's right.

1 Q. Okay.

2 Now, how did the medical department relate to
3 product safety and customers' products when you were
4 involved with them in 1973 forward?

5 A. Well, certainly with chemicals that were
6 acutely poisonous, our medical group made certain that
7 the customer was qualified to know what to do. If I can
8 illustrate with one example.

9 We sold hydrogen cyanide. That's pretty
10 lethal. We refused to ship hydrogen cyanide by any
11 commercial vehicle: ship, barge, train, truck. Other
12 companies wanted that risk; but we just said, if there
13 was an accident, we didn't want to have any part of
14 that. So, we would only sell it on an over --
15 over-the-fence basis, meaning they put a plant next to
16 ours and we'd pipe it over or we make a derivative of
17 hydrogen cyanide; sell them the derivative, which was
18 not poisonous; and they reconvert it back to hydrogen
19 cyanide. We did those things for the acute things.

20 And in many of our pesticides, we insisted
21 that -- that distributors and dealers and even farmers
22 understand thoroughly the safety precautions that
23 they've got to take. So, that's been uppermost in our
24 mind.

25 You've got to remember, though, that what was

1 good 10 years ago, 20 years ago, 30 years ago, by
2 today's terms -- I don't have to finish that. You know.
3 Retroactive wisdom.

4 Q. Let me see if I understand what you're saying.

5 It was Monsanto's desire and effort with the
6 knowledge available 10 years ago or 20 years ago or 30
7 years ago, in that time and place, to provide enough
8 information to the customer, based on what was known,
9 for them to handle the products safely so they wouldn't
10 be hurt.

11 A. That was the goal.

12 Q. And what you're telling me is, in some cases or
13 maybe even many cases, not enough was known back then to
14 have the same precautions you would take today.

15 A. Yes. In part, that's right. After all, you --
16 you cannot force a customer, unless you take
17 considerable legal precautions yourself, because
18 you're -- you're really monkeying around with his
19 business. So, you've got to be very careful about that.

20 But I think our people have always done their
21 best to see to it that the people who purchased our
22 products knew about the necessity for proper handling of
23 them. And in the event of a -- of an accident, our
24 people often went to the scene of the accidents and were
25 helpful on that score. That's always been true.

1 Q. And it was the goal of the company --

2 A. Right.

3 Q. -- to have the customer have the same level of
4 information about how to handle the chemical safely --

5 A. Uh-huh.

6 Q. -- that you at Monsanto had?

7 A. Yeah.

8 Q. And if -- obviously, if you didn't yet know
9 enough, you couldn't convey more than you knew.

10 A. That's right.

11 Q. Okay.

12 And if I understand correctly, you were
13 concerned, not only about the person you initially sold
14 it to, but other people who might come into contact with
15 it, actual people who'd use it.

16 A. Insofar as we knew who they would be.

17 Q. And that was important to Monsanto, too.

18 A. Yes. But, remember, when you sell a chemical
19 to a customer and then he uses that to make another
20 chemical, that first one ceases to exist.

21 Q. The first chemical ceases to exist?

22 A. (Nodding head)

23 Q. Right.

24 But in each case, you were looking to make sure
25 that the people who were going to use it had the

1 information -- or be exposed to it had the information
2 that they needed to handle it safely?

3 A. That was our goal, yes.

4 Q. And that meant the same amount of information,
5 at least, that Monsanto itself had?

6 A. That's right.

7 Q. Okay.

8 And nothing that you did changed that goal of
9 the medical department, did it? That was still the goal
10 when you took over?

11 A. Yes. If I did anything of a constructive
12 nature, it was to enhance the capabilities of even doing
13 that father -- further.

14 Q. How did you do -- how did you enhance the
15 capability?

16 A. Well, we started out with planning. We started
17 out, then, by saying we're going to be pro-active, we're
18 going to try to do prevention before something occurs.
19 We're -- we -- we would insist upon people examining --
20 we -- we had a -- a technical and an environmental risk
21 review on every capital project over \$5 million. I sat
22 in on that. My counterpart, senior vice-president for
23 engineering and manufacturing, sat in on it. The
24 technical directors of the appropriate locations were
25 also part of that.

1 And we went through that whole process, "How
2 are they going to do this," "How are they going to
3 that," "What was going to be -- what was the worst thing
4 that could happen," "What preventive measures have been
5 taken?"

6 We sent them packing to redo it until they got
7 to the point where they knew that we were going to do
8 the state of the art regardless of where in the world we
9 made the product, not just the U.S. So, that's what you
10 call blowing the whistle.

11 And we -- we insisted that -- that that be
12 done; and that was a matter of record, when it went to
13 the board for their final approval. And they would
14 always ask me, as the environmental officer, "Are you
15 satisfied that this plant is properly designed?" And
16 I'd have to sign off on it.

17 Q. Let me ask you about the policy of the company.
18 And, again, I guess this would be from 1966 forward,
19 when you were a part of the group that was responsible
20 for company policy.

21 Was it the policy of the company that Monsanto
22 standards for safety and the like apply equally outside
23 the U.S. as in the U.S.?

24 A. Well, insofar as one can do that, the answer
25 was "yes." I said I managed the international division

1 for a time, and I've got to tell you that you can't do
2 things in England that you can do here because medical
3 records aren't kept the same way in England.

4 So, insofar as it's possible, we -- we wanted
5 to operate as well. It was -- it was the surveillance
6 that was the most difficult abroad, because records
7 aren't kept the same way. But our intent has always
8 been to have a plant that operates in Ar -- in Argentina
9 operates just as well as we can operate it here in
10 St. Louis or wherever.

11 Q. And would it have been your intent worldwide to
12 provide the same level of information to customers about
13 safe handling of your materials and conveying what they
14 need to know?

15 A. We do that.

16 Q. You would not intend to have a different level
17 of information for one place --

18 A. No way. No way.

19 Q. When you were in the international division,
20 where was that physically located?

21 A. The headquarters were here.

22 Q. But were you -- did you stay here even though
23 you were over the international group?

24 A. Yes. I stayed here for about half the time. I
25 went to Europe to live because of a management problem

1 we had there. I had to unify several subsidiaries in
2 Europe that were operating pretty much independently;
3 and with the presence of the Common Market and the --
4 and the merger of the European Free Trade Association
5 into the Common Market back around '64 and '5, somewhere
6 in that region, we had to do something about unifying
7 our management in Europe because it was so huge. And we
8 wanted to put a lot more investment there.

9 So, I lived there; but I commuted back and
10 forth each month. I spent time each month in different
11 place -- in both places.

12 So, yes, it's been our intent to -- intent to
13 use the best practices, whether they comply -- I'm
14 sorry -- whether they are more stringent than are
15 required somewhere else or not.

16 Q. So, it's the effort to use the most stringent
17 practices that apply anywhere everywhere?

18 A. That's our intent.

19 Q. Okay.

20 A. That's a part of policy, by the way.

21 Q. What policy?

22 A. The written policy. We have written
23 environmental policies.

24 Q. Okay.

25 Those were developed by you?

1 A. Yes.

2 Q. Okay.

3 And I guess my question: Was that the policy
4 before you developed the written policy, to apply the --

5 A. Of course, but that was more informal. It
6 was -- in many cases, it wasn't written. And this is
7 where our people had more leeway than -- and they
8 interpreted things differently, as you might expect.

9 Q. One of the -- one of the effects that can arise
10 from this decentralized effort is inconsistency, I take
11 it.

12 A. Well, it's a lot more difficult to have
13 everybody see things the same way.

14 Q. And I suppose there are things in the chemical
15 business that if you don't have it centralized, where
16 there's a final single decision maker, reasonable people
17 can disagree with what ought to be done.

18 A. And do.

19 Q. And that has happened in Monsanto's history.

20 A. I can't think of situations where the condition
21 was serious that they did disagree. There may have been
22 interpretations on compliance that I'm not aware of; but
23 going back to the early fifties, this same Dr. Kelly did
24 enough -- had enough epidemiology done for him -- for
25 him to know that we had to remove ourselves from the

1 manufacture and sale of the product very quickly. It
2 was a -- it was a bladder carcinogen.

3 Q. Uh-huh.

4 A. And he presented that to the operating division
5 manager at the time; and he said, "You've got to get out
6 of this. My evidence is irrefutable. We can't
7 continue." And it was done. There was no argument. In
8 fact, it was done without the board approving it. They
9 were told that it was done.

10 So, I -- I got -- I think that, over time, that
11 our senior management has been concerned for safety in a
12 way that, as I look back on it, I -- I don't have any
13 apology for it.

14 Q. My only real question was: Prior to the sort
15 of centralization that you instituted, at least in your
16 area, there was certainly room for management people in
17 Monsanto, operating in a decentralized way, to disagree
18 upon what to do about specific circumstances?

19 A. That's right.

20 Q. And that doesn't mean one person's good or one
21 person's bad. It just means that reasonable people can
22 disagree about things.

23 A. I'm only qualifying what you say by saying I
24 think that was minor.

25 Q. Okay.

1 But in order to avoid those types of minor
2 things, that's why centralization came along?

3 A. Uh-huh. And also in the anticipation that the
4 rules and the regulations were going to become more
5 onerous and more complex.

6 Q. Okay.

7 A. And we weren't disappointed in that.

8 Q. Okay.

9 Let me turn your attention to some of the
10 actions of the management committees that we previously
11 discussed; and we have some documents that reflect, to
12 some extent, what the -- and maybe entirely, I really
13 don't know. Well, actually I do know. They're not
14 entirely complete -- but, to some extent, what the
15 Management Committee had to do with regard to PCB
16 materials during the time that you were on the
17 Management Committee.

18 And the first excerpt we have -- and let me
19 just show you the document first to make it clear how
20 this worked. Let me show you Document 22280 dash 81,
21 and I guess the actual text of the minutes would be on
22 the second page.

23 Normally you would have -- the actual minutes
24 would be a full page or more in length, correct?

25 A. Uh-huh.

1 Q. And it appears what -- what's happened there,
2 some portions of that document have been taken out; and
3 we have other portions left --

4 A. Uh-huh.

5 Q. -- correct?

6 A. It seems that way.

7 Q. The first page of that document, it has a
8 listing of who the attendees at the meeting were, as I
9 understand it.

10 Is that the way that these things started, with
11 a list of the attendees and the --

12 A. Yes.

13 Q. -- date of the meeting?

14 A. Yes.

15 Q. And that was a meeting that you attended in
16 1968?

17 A. It says I did.

18 Q. Okay.

19 May I see the document again for a moment,
20 please.

21 A. (Tendering)

22 Q. So, this is at least the format of the way
23 minutes were kept.

24 A. Yes.

25 Q. Now, when you got on the Management Committee

1 in 1966, were environmental concerns about PCBs a matter
2 that was before the Management Committee?

3 A. I don't think so. I don't know that for a
4 fact. I'd have to review that to refresh myself, but I
5 don't think so.

6 Q. Okay.

7 Do you recall from your reading that the
8 problem of PCBs as an environmental problem came to
9 light in 1966 or '67 as a result of Swedish work that
10 was done in discovering them as a persistent chemical in
11 the environment?

12 A. You mean did the Management Committee know
13 about --

14 Q. No, no, no. I'm talking about what was -- what
15 was known in the -- what was known in the scientific
16 world, in the chemical business.

17 MR. FREEMAN: Are you asking about
18 this Witness' specific recollection or his
19 specific knowledge about that work --

20 MR. LACEY: Yeah. I'm trying to find
21 out -- yeah, what he --

22 MR. FREEMAN: -- or what he knew?

23 MR. LACEY: Well, not so much what he
24 knew but generally that the -- not the
25 substance of the work but generally that

1 that problem cropped up in 1966, 1967.

2 A. I honestly don't know. When you fix it to
3 those two years, I honest -- I -- I -- I can't remember.
4 You've got to -- I only -- I'm not -- often, when a
5 piece of literature appears, it's isolated; and if it's
6 at variance with what had been supposed to be true,
7 people are going to be skeptical. And I suppose many of
8 those things happened at the time.

9 And, so, as far as that year, that period of
10 time, my memory does not suggest that we were that
11 concerned about it; but it -- it was shortly after that
12 that we became aware.

13 Q. Okay.

14 Let me show you this document again, 22280 and
15 81. The portion we have has a reference to what appears
16 to be a report that was made about a particular product
17 group.

18 Was it customary that there would be reports
19 from time to time to the Management Committee about
20 product groups?

21 A. Oh, yeah.

22 Q. And reports would be made concerning what the
23 plans were and how to continue with the company's growth
24 and profitability and so on and so forth?

25 A. Yes. You see, this committee also looked at --

1 at -- at the proposed budgets for the ensuing budget
2 year and the -- and the future period. Let's see
3 what...

4 Q. Aroclor was Monsanto's name for PCBs, was it
5 not?

6 A. Yeah.

7 Q. And at the time of this meeting in --

8 A. '68.

9 Q. -- April of -- is it April of '68?

10 A. April 22.

11 Q. -- a report is being made about the plan for
12 Monsanto's Aroclor business; and what is being sought at
13 that point is to increase sales and to maintain the
14 profitability --

15 A. Yeah.

16 Q. -- of that business.

17 A. That's right.

18 Q. There is a reference to the domestic supply
19 position.

20 What was the company's domestic supply position
21 with regard to PCBs, if you recall?

22 A. Well, we were leaders in the -- in the field
23 of -- of supplying these materials and had been, I
24 suppose, since the thirties, somewhere in there.

25 Q. I'm talking -- when we use the term "domestic,"

1 we're talking about in the United States; is that
2 correct?

3 A. Yes. Yes.

4 Q. Do you recall whether Monsanto was, in fact,
5 the sole manufacturer of PCBs in the United States?

6 A. At this point in time, I don't know.

7 Q. Okay.

8 But at least it was the leader in the supply of
9 PCBs in the United States?

10 A. Yes. There could have been others imported,
11 you see; and I -- I -- I'm not familiar enough with the
12 details to give you any more than a "I don't know."

13 Q. All right.

14 THE WITNESS: Is there a Diet Coke or
15 something over there?

16 MR. LACEY: Why don't we take a
17 break.

18 THE WITNESS: I don't need a break.
19 I just -- is there a Diet Coke over there?

20 (RECESS)

21 BY MR. LACEY:

22 Q. Let me show you a set of minutes dated
23 November 17th, 1969, 22284 to 22286.

24 You were apparently present at that meeting; is
25 that accurate?

1 A. Doesn't show me. It doesn't show me as
2 present.

3 Q. You were not?

4 A. It doesn't show me.

5 Q. I see.

6 Where were you at that time? Do you know?

7 A. I don't know.

8 Excuse me. I -- I have no idea.

9 Q. Okay.

10 So, you're not familiar with what went on at
11 that time, then?

12 A. Oh, I'm not -- you didn't ask me that.

13 Q. Oh, I'm sorry.

14 A. And I haven't read this; so, I -- I just don't
15 know.

16 Q. Okay.

17 Well, let me ask you to take a look at that and
18 see if you know anything about what went on at that
19 time.

20 A. (Complying)

21 A. I think I have the gist of it.

22 Q. From the presentation or the discussion that
23 took place at that day, are these matters that are
24 normally discussed on one occasion and put aside and
25 left to rest; or is there continuing discussion on an

1 informal basis between people in the company? In
2 particular I'm talking about now officers and directors
3 of the company.

4 A. Well, this last page shows a twelve-point -- I
5 guess I'd call it a plan, where they've appointed a
6 project manager to get on with it. So, that would
7 suggest, without much doubt, to me that since that --
8 that person was pulled from some other job and put on
9 this for some ad hoc basis that he's going to be making
10 regular reports to this committee as well as having
11 conver -- conversations with others.

12 Now, all of these names are familiar to me; and
13 these were all people that had something to do with
14 the -- with the product and the -- and also from the law
15 department and -- and the medical department. So -- and
16 research. Yes, here's Robinson.

17 So, I think that there was a summary of what
18 they've learned; and it says here that they -- they --
19 they feel that there's no -- there are no acute
20 effects -- acute effects but they're seeing some other
21 things on ecological buildup.

22 And I guess at that point that's about all they
23 could really say they honestly knew. But they're going
24 to try to be responsive to this sort of thing, and all
25 of these points here suggest specific things to be done.

1 I don't know what -- what followed, but my
2 guess is that there are more things like this that were
3 reported over a period of months or maybe even longer to
4 the -- so, this is typical of what might be found in one
5 of these; and -- and the secretary -- let's see -- who
6 was Ehlers at that time -- it was his task to keep this
7 thing going.

8 Q. Did you get a copy of the minutes of each
9 meeting?

10 A. Yes.

11 Q. Would you review the minutes of meetings that
12 you missed to be up to date on what had gone on?

13 A. I generally did, yes. I certainly read them;
14 and if there was action that involved me, you bet I did.
15 But if there was -- if there was information, it's
16 conceivable that I might have simply noted it.

17 Q. But it was your practice to review --

18 A. Yes.

19 Q. -- minutes for meetings you missed?

20 A. Yes.

21 Q. Was it the practice of the secretary to provide
22 a copy of the minutes to each member of the committee?

23 A. That was automatic.

24 Q. Whether they were present or not?

25 A. Yes.

1 Q. And, that way, people could be kept up to date
2 on what was going on, even if they had to be away for
3 some reason?

4 A. Yes.

5 Q. There is a reference in these minutes, and you
6 made a reference to a legal representative.

7 Who was that?

8 A. Well, Rodney Harris. At that time, he probably
9 was -- he probably was the associate general counsel for
10 the corporation.

11 Yes, Harris is the only one from law here.

12 Q. Was it customary that when matters of
13 significance about the company's business came up that
14 you get input from all various aspects in the company?

15 A. Insofar as it -- that could be determined, the
16 appropriate -- appropriate people who were thought to be
17 able to contribute were -- were usually invited.

18 Q. And that would involve legal considerations as
19 well as others?

20 A. In this case, yes.

21 Q. Do you remember a -- an individual in the legal
22 department named French?

23 A. Yes. Yes. I can't think of his first name
24 right now.

25 Q. How did Mr. French relate to -- was it

1 Mr. Harris was the --

2 A. As I said, I think Mr. Harris, at that time --
3 let's see. What was the date on that, sixty --

4 Q. November 17th, 1969.

5 A. '69. Well, I think Rod Harris probably was
6 associate general counsel.

7 Q. And was Mr. French in a higher or lower --

8 A. Lower.

9 Q. -- position? Okay.

10 Would it be customary for the secretary to note
11 each of the presentations that someone might make to the
12 committee and make some note of what the presentation
13 said?

14 A. Oh, yes. That was his main job.

15 Q. So, if a presentation was made by Mr. Harris,
16 then it would be customary to have that noted in the
17 minutes?

18 A. Yeah.

19 Who made this one? I -- I...

20 Q. Well, there seems to be a presentation by
21 Mr. Wheeler; and there's a presentation by Mr. Bergen
22 and Mr. Springgate. And then there's a section that we
23 don't have, and I was just wondering if that was
24 Mr. Harris' presentation that got left out.

25 A. Well...

1 Q. It appears that that document has a two and a
2 half-page discussion about the topic; and in the middle,
3 there's a part that's not there.

4 A. Well, that's a long time ago.

5 Q. I see.

6 A. I -- I -- I can't help you.

7 Anybody that performed, in terms of having
8 something to say formally, usually was noted this way.

9 Q. The way that Mr. Wheeler's noted or the way
10 that Mr. Bergen and Mr. Springgate are noted?

11 A. Right.

12 Now, there's a Smith, Mason, another Smith
13 were -- they were -- they were senior -- senior officers
14 in that operating division at that time. I think Smith
15 was the boss of Bergen, or maybe it was -- yeah,
16 T. K. Smith was the boss of Bergen and so on.

17 Springgate was one of the manufacturing people,
18 I think; but, you know, I shouldn't -- I shouldn't think
19 at this point, because that's a long time ago. And
20 their jobs may or may -- may have changed, or maybe I
21 remembered them under a little different context.

22 Q. Would the presentation often include slide
23 shows and things like that to demonstrate graphs,
24 charts, things like that?

25 A. Yes.

1 Q. Would, if there were -- strike that.

2 Oftentimes people who made those presentations
3 would make the presentation from a prepared text, would
4 they not?

5 A. Yes.

6 Q. In fact, that was the customary practice, was
7 it not?

8 A. Well, certainly the -- if slides were used,
9 they might serve as the text; and he would fill in as
10 the slides went along. Often the -- they used both.

11 Q. If there were prepared text, was it customary
12 that the members of the committee received a copy of the
13 prepared text?

14 A. Sometimes that text was -- was sent out with
15 the agenda because of the nature of the material that
16 required maybe thought and reflection upon reading. And
17 other times they wanted to take you through this on a
18 walk-through basis and let you read the text later.

19 Q. But was it customary that at some point in time
20 you got the text, either before, to be prepared for the
21 meeting, or --

22 A. Yes.

23 Q. -- after, with the minutes?

24 A. Yes.

25 Q. Let me show you a document marked 22295 through

1 22319 (tendering) and ask you if that appears to be a
2 portion of the prepared text for that meeting that took
3 place on November 17th, 1969.

4 A. Well, now, wait a minute. This was when I
5 wasn't present.

6 Q. I understand. But you would have gotten the
7 text for the meeting either along -- before the meeting
8 or after the meeting with the minutes, correct?

9 A. Who put this date on here? Is this -- is this
10 accurate?

11 Q. It was provided to me by Monsanto just the way
12 you see it.

13 A. Okay.

14 Q. It does reference the -- the heading of the
15 document is "PCB Presentation to the Corporate
16 Development Committee," is it not?

17 A. Yeah.

18 Q. And the minutes of the meeting that are dated
19 here are the meetings of the meeting of the Corporate
20 Development Committee; and it -- it talks about the PCB
21 presentation, does it not?

22 A. Right.

23 Okay. So, these come from Springgate's
24 presentation, apparently, these 12 items here. Yeah,
25 it's almost the identical language.

1 Q. The secretary at the meeting did a pretty good
2 job of writing this down.

3 A. Or else he had it there; and he decided, well,
4 that's as good as he could do it and he'd use it.

5 Well, without -- without trying to refresh
6 myself on all the details here, I -- I -- this is
7 typical of what would be presented here; and I have no
8 idea whether the -- whether the slide meant that they
9 had these alternates on the slide or not. I can't tell
10 from the way this is, but it looks to me like -- like
11 this must have been Slide 1. And maybe all of this was
12 on a slide.

13 Q. Okay.

14 A. Because the room is small and you could use
15 ordinary type on a 35 millimeter or an overhead
16 projector and it would work out.

17 But -- have I answered your question?

18 Q. I think so. Let me just -- the type of
19 document that we have here at 22295 through 22319 is the
20 sort of prepared text that often would accompany a
21 presentation to the Corporate Development Committee?

22 A. Yes.

23 Q. And it's the type of prepared text that a
24 member of the Corporate Development Committee would
25 receive either with the agenda for the meeting, if it

1 was desired that he review it all before the meeting, or
2 after the meeting, along with the minutes of the
3 meeting?

4 A. Yes.

5 Q. Let me direct your attention to Page 22298,
6 where there is a chart there relating to Monsanto's
7 worldwide Aroclor business; and that's the same thing as
8 their PCB business, correct?

9 A. Yes, uh-huh.

10 Q. It's indicated there that there are a total of
11 four plants worldwide, correct?

12 A. Yes.

13 Q. Two --

14 A. This -- this was the daughter company in Japan,
15 Mitsubishi-Monsanto. So, it was a 50/50 ownership at
16 Yokkaichi so that the wholly owned were three. This
17 one, we would have no control over.

18 But that's a detail. You said there were
19 four -- there were four plants making that Aroclor,
20 that's right.

21 Q. Well, it says "Monsanto production locations";
22 and it lists four.

23 A. I understand that, but I'm trying to correct
24 you and say that -- that at Yokkaichi, that was a Mon --
25 that was a Mitsubishi-Monsanto daughter company that was

1 making it, for which we -- we did not manage it in
2 Japan, you understand.

3 Q. It's sort of a three and a half deal, three and
4 one -- three and --

5 A. Sure. Sure. But go ahead.

6 Q. And it describes there the sales figures for
7 Monsanto, both in terms of quantity and price and those
8 things.

9 A. That's right.

10 Q. There is an indication on there of -- at one
11 point, N slash I. What is that?

12 A. Oh, that's Monsanto over industry. That is
13 what is -- a percentage of the total industry
14 participation, and it would be 62 percent.

15 Q. What does that mean?

16 A. Well, if there were -- if the industry were a
17 hundred and Monsanto had 62 parts of it, then that's 62
18 percent participation.

19 Q. Okay.

20 So, then, Monsanto was producing 62 percent of
21 the entire PCBs being produced worldwide?

22 A. That was their estimate, yes.

23 Q. Okay.

24 A. It would be Bayer and Kanagafuchi and some
25 eastern European producers not named. Flick and

1 Cafarro, Protolect. I think Flick was British.
2 Protolect was French. Cafarro was Italian. And
3 Kanagafuchi was Japanese

4 In addition to the -- they must have included
5 the daughter company here of -- yeah -- of at least half
6 of their production. Okay. But -- yes, that's what
7 that means.

8 Q. But would that be the way to do that? Half of
9 that was for the benefit of Mitsubishi, and half was for
10 the benefit of Monsanto?

11 A. That's the way they usually did it, yeah.

12 Q. Okay.

13 I notice one of the plants that's listed there
14 is Newport, which is in the United Kingdom?

15 A. Yes, that's -- that's right. It's in Wales.

16 Q. Did that plant sell to any countries other than
17 countries in the UK, Scotland, Wales, England, Ireland?

18 A. Yes, I presume so. They were free at that
19 time -- at that time to sell wherever they could.

20 Q. The Common Market would allow them to do that;
21 or when you say "free to," what do you mean?

22 A. Well, the -- at that time, the U.K. operation
23 was owned two-thirds by Monsanto and one-third by the
24 British public. So, from that point of view -- and
25 we -- and we -- we operated them by Monsanto -- by

1 Monsanto people. But the -- and that was called
2 Monsanto Chemicals, Limited; and they were -- they were
3 free to sell wherever in the world they could. They
4 could even sell here in this Country if they wanted to.
5 They could compete with us if they wanted to.

6 Q. Did they subsequently become not free?

7 A. No, not in the sense of -- this is a later
8 subject; but where you had subsidiaries that were using
9 your trade marks and your products and your processes
10 and trying to sell to the same customer, you got that
11 customer kind of confused if you used different --
12 different terms with them. And that was part of a
13 problem later on that we had to tidy up. But --

14 Q. How did you tidy it up?

15 A. Well, we did -- we did the planning on our
16 worldwide system for product lines.

17 Q. Well, did somebody buy back this stock from the
18 British public; or do they still own the stock in that
19 company?

20 A. No. That's a detail I can't -- it's not
21 important right here.

22 Q. Who owned the stock didn't really matter about
23 how it was actually run?

24 A. No.

25 Q. That was run as a Monsanto Company as though it

1 were owned a hundred percent by Monsanto, even though
2 some British people owned stock and got dividends?

3 A. We owned two-thirds of the shares, of course.

4 Q. That means you controlled it?

5 A. That's right.

6 Q. And to the extent you had management people or
7 you needed to make any decisions, you had the ability to
8 influence what the company did?

9 A. Sure.

10 Q. Where was the corporate headquarters for that
11 United Kingdom company? Did it have a -- did it have
12 its own corporate offices?

13 A. London.

14 Q. Do you remember where in London?

15 A. Yeah. It was No. 10 Victoria Street.

16 Q. And did it have more than one plant or just
17 that one plant?

18 A. No. There was another plant in Ruabon, North
19 Wales at that time. There was a -- let's see. This is
20 now '69. So, Seal Sands wouldn't have existed.

21 There was a third plant -- there was -- it was
22 a small one in the south of England that did -- did some
23 formulating, but at this point I can't -- I can't recall
24 the details of it. But basically that was it, the
25 Ruabon and Newport.

1 Q. And was it the effort of Monsanto to have as
2 much safety for the workmen in those plants in the U.K.
3 as it did for the ones in the United States?

4 A. Well, now, you're not going to apply 1984
5 standards --

6 Q. No. The same -- the same -- the same
7 provisions for safety, at whatever period of time you
8 had them in the U.S., as you had in the United Kingdom.

9 A. That certainly would have been the goal.

10 Q. And the same level of information provided to
11 customers with regard to products in the United Kingdom
12 was supplied in the U.S.?

13 A. That's not likely that that would -- that would
14 not likely have happened, because, by and large, the
15 U.K. people sold to U.K. customers and usually European
16 customers.

17 All right. I mentioned earlier that there were
18 different practices that went on within certain
19 countries on such things as medical. There were -- and
20 at that time, there was not the kind of -- of -- of
21 product -- worldwide product planning and product
22 coordination that later came into the company after the
23 Common Market had been going for -- for a while on that.
24 But often the French would modify things to suit their
25 French customers that would be different. The

1 Brazilians would do this or the Argentineans or the
2 Japanese or so on.

3 And at that point, I would say that there was
4 probably freedom -- much more freedom than we try to
5 give them, particularly on environmental issues.

6 Q. What about health and safety issues?

7 A. I suspect that, at that time in our corporate
8 lives, the health and safety executive in England
9 certainly had a different role than the EPA did in this
10 Country; and there was no such thing as an OSHA in
11 England. So, it -- the odds are pretty fair that, in
12 1969, there were different operating practices; but
13 I'm -- I'm only making a supposition here. I do not --
14 I don't remember the details of that.

15 Q. But your best recollection is that they would
16 have been free to operate the business the way they
17 thought was best in those sorts of things?

18 A. Well, certainly if it were at serious odds with
19 our own senior management's views, there would have been
20 some -- there would have been some correction of that.
21 If it was minor, I suspect they were -- they were
22 allowed to -- to do it at -- at their pleasure.

23 MR. LACEY: We need to change the
24 tape and the reporter's paper here.

25 (RECESS)

1 BY MR. LACEY:

2 Q. When Monsanto management people use the word
3 "franchise," what do they mean?

4 A. The use of the product's trademark and, of
5 course, the -- the Monsanto image that went with that;
6 and sometimes it would be the -- I suppose a geographic
7 franchise.

8 But in terms of our overseas subsidiaries,
9 that -- that franchise really -- really boiled down to
10 the process, the name, and the trademark.

11 Q. Let me direct your attention to the
12 paragraph -- the first full paragraph, I guess it
13 is, on Page 22300 of the presentation document for
14 November 17th, 1969 (tendering). If you would, just
15 take a look at that.

16 A. Is that "by competition"?

17 Q. I think it says "not by competition."

18 A. Oh, "not by --" okay "-- not by competition."
19 Yeah. "Do not discuss..." Okay. All right.

20 Q. Can you tell me what is meant there by the use
21 of the term "franchise"? I mean, I think of a franchise
22 like a MacDonald's restaurant; and I don't know if
23 that's what it's talking about.

24 A. No, no. In industrial terms, that's never
25 the -- never the same. A MacDonald's franchise gives

1 them certain authority within certain -- certain
2 geographic regions, doesn't it?

3 MR. FREEMAN: Mr. Wheeler, the
4 question was: Do you know what the word
5 "franchise," as used in the context of
6 this document, means? If you know, tell
7 us. If you don't, just say you don't
8 know.

9 A. I'll still stay with it. They had a trademark.
10 In this case, I think the franchise meant that the
11 trademark carried itself; and they were a prominent
12 producer. And -- and from that point of view, I think
13 maybe that word was used loosely.

14 Q. Okay.

15 And when we're talking about "they," we're
16 talking about Monsanto had a trademark?

17 A. Yeah, in the U.S.

18 Q. Okay.

19 And that trademark was Aroclor?

20 A. That's right.

21 Q. And the statement that's made here, then, that
22 the market has grown to one of Monsanto's most
23 profitable franchises, would mean the trade -- one of
24 the most profitable trademark products. Is that your
25 understanding?

1 A. Well, I'm really not much of an authority on
2 that.

3 Q. Okay.

4 A. So, I...

5 Q. Is that -- is that sort of information and
6 understanding the type of thing that, because of your
7 background in the company, you don't have any real
8 experience with understanding and interpreting?

9 A. Well, that's -- that's a blunt way to put it.

10 Q. Okay.

11 From time to time, matters relating to
12 Monsanto's production of PCBs came to the Management
13 Committee.

14 A. Uh-huh.

15 Q. Did you ever gain an understanding of whether
16 or not PCBs were a profitable product for Monsanto?

17 A. Sure, they were profitable. They weren't --
18 they weren't the most profitable thing to be made, but
19 they were very important products to us. And certainly
20 they fitted -- they fitted, not only an economic need,
21 but they also had a societal need, which they served
22 admirably. And that's what they were originally created
23 for.

24 Q. Well, were you aware of the fact that they were
25 one of the better performing products, in terms of

1 profit, that Monsanto made?

2 A. Yes, in this -- in that sense.

3 Q. Let me show this page back to you again, 22330
4 (tendering). There is a reference at the end of that
5 paragraph that we've already looked at, about a
6 presentation that's going to be made by --

7 A. Wheeler.

8 Q. -- by Mr. Wheeler.

9 A. Yes.

10 Q. Let me show you another document now marked
11 22287 through 22294 and ask if that isn't the
12 presentation that Mr. Wheeler made (tendering).

13 MR. FREEMAN: I'm going to object to
14 the form of the question. The Witness has
15 already testified that he wasn't present
16 at that meeting. He doesn't have any
17 recollection of what went on at that
18 meeting, other than what the documents
19 contain.

20 A. Where do I stand here, now? What is it you
21 want to know? Is this what I think Elmer Wheeler made?

22 Q. Whether that's Elmer Wheeler's presentation or
23 not.

24 A. Well, he's right; I wasn't there. But this --
25 this could be the kind of thing Wheeler would have done,

1 yeah.

2 Q. In fact, at the end of the document, it
3 references the introduction by Mr. Wheeler to the next
4 speaker, in the minutes, does it not, Mr. French?

5 A. Yes.

6 Q. And you would have gotten a copy of
7 Mr. Wheeler's portion of the presentation, either with
8 the agenda for the meeting or with the minutes along
9 with the other text, correct?

10 MR. FREEMAN: I'll object --

11 A. No.

12 MR. FREEMAN: -- to the form of the
13 question. The witness has testified it
14 was customary to receive --

15 A. Yeah.

16 MR. FREEMAN: -- to receive such
17 text.

18 Whether he has -- did in this
19 particular instance, he doesn't have any
20 idea, as he's testified to.

21 Q. Well, let me ask the question differently.

22 If Monsanto's customary practice was followed
23 with regard to this matter of PCBs, you would have
24 received that group of documents, including
25 Mr. Wheeler's presentation, correct?

1 A. In this case, he is -- he is -- he is making
2 some anecdotal recording. This might not have appeared
3 in detail unless somebody would have -- would have asked
4 for it.

5 The Springgate thing would have, but I -- I
6 don't know. But this is short. It's all anecdotal. It
7 may or may not. I couldn't say.

8 Q. Okay.

9 So, you normally would have customarily
10 received the larger package presentation by
11 Mr. Springgate but not necessarily the presentation by
12 Mr. Wheeler?

13 A. That's possible.

14 Q. And when you refer to it as being anecdotal,
15 can you explain what you mean by that terminology.

16 A. There aren't any numbers in it.

17 Q. Okay.

18 A. And one of the things that committee's
19 concerned with is numbers, right?

20 A. Well, yeah. Evidence, usually if -- if Wheeler
21 had test data that he would have and if he were
22 reporting on somebody's test results, that would not have
23 been anecdotal.

24 Q. That committee was interested in how much it
25 cost, what the upside and downside might be. Those were

1 the sorts of things that were of importance to the
2 committee.

3 A. In part.

4 Q. Let me just direct your attention to Page 22309
5 of the Springgate document; and those are the sorts of
6 things that were often considered by the committee, the
7 presentation of what businesses were at risk, how much
8 money might be lost both in sales and in profits from
9 that?

10 A. I'd answer that the same way, in part; but it
11 wasn't the total.

12 Q. I see.

13 A. In fact, this was not -- this final decision
14 was not made on the -- on the basis of numbers only.

15 Q. Those were certainly a part of the decision --

16 A. Of course.

17 Q. -- process, were they not?

18 A. But, remember, this was a -- this was a
19 socially responsible product that had been used for many
20 years for the safety purposes; and this was what was
21 being threatened. And you can assume that was a very
22 natural kind of a reaction to give.

23 Q. Well, Monsanto's approach to products, whether
24 socially responsible or not, was to produce products
25 that were profitable, correct.

1 A. Of course.

2 Q. You weren't in the business of producing a
3 product that was socially responsible as a loss leader?

4 A. No. But you can do it -- you can do one or the
5 other. The trick is to do both at the same time.

6 Q. I understand.

7 The alternatives that were considered and
8 presented to the committee --

9 A. Uh-huh.

10 Q. -- included the alternative of getting out of
11 the business, did it not?

12 A. Yes.

13 Q. That was not the alternative that the committee
14 adopted, correct?

15 A. Ask that again.

16 Q. Yes.

17 Getting out of the business was not the
18 alternative that that committee in the company adopted.

19 A. Well, it was later on, not in this time.

20 Q. Well, that's what I'm talking about. In 1969
21 one of the alternatives presented to the Management
22 Committee, the policy making portion of the company, was
23 getting out of the PCB business, correct?

24 A. It was an alternative, yes.

25 Q. And the committee, considering the

1 alternatives, did not choose to accept that alternative,
2 correct?

3 A. At that time.

4 Q. Yes.

5 A. Okay.

6 See, you're not asking me why.

7 Q. Well, the alternative that was selected --
8 let's talk about the one that was selected.

9 The alternative that was selected was the
10 alternative that was presented as No. 4, according to
11 Mr. Springgate's report, was it not?

12 A. That's what it says.

13 Q. And that alternative, among other things, was
14 in Monsanto's best interest, wasn't it?

15 A. As well as the best interest of the customers
16 and the -- at that time, the general public.

17 Q. Well, one of the things that was presented to
18 the committee in support of that alternative and the
19 committee took into account in adopting that alternative
20 was the best interest of Monsanto; and by that we're
21 talking about continuing to be able to sell a profitable
22 product, correct?

23 A. Under these constraints that were listed here.

24 Q. I understand.

25 A. Okay.

1 Q. And had Monsanto, for example, chosen the
2 alternative in 1969 to simply go out of the business,
3 then you would have had to close down four different
4 production facilities: one in Anniston, Alabama; one in
5 East St. Louis, Illinois, or Sauget; one in the United
6 Kingdom; and one in Japan, correct?

7 A. (Nodding head)

8 Q. Is that correct?

9 A. Yes. Yes.

10 Q. And if those facilities were closed down at
11 that point in time, you'd have a lot of idle plant, a
12 lot of investment that would have to be written off, and
13 a substantial loss, correct?

14 A. Yes.

15 Q. Continuing in the business under the plan that
16 was adopted meant that those four plants were not closed
17 down at that point in time, correct?

18 A. You're making a supposition that you're not --
19 you're not elucidating here.

20 Q. Well, can I just ask you to answer the
21 questions for me.

22 Isn't that correct, those four plants were not
23 closed down?

24 A. They were not closed down.

25 Q. Monsanto continued --

1 A. At that time.

2 Q. Yes, at that time.

3 Monsanto continued to sell the product and make
4 a profit on it, correct?

5 A. Yes.

6 Q. By keeping those four plants open, Monsanto
7 continued to be able to depreciate those plants and
8 write off the investment in it instead of having to
9 write it off as a loss to reduce it from what it would
10 owe in taxes; correct?

11 A. Yes.

12 Q. And to the extent that Monsanto later made a
13 decision to go out of the business, it had benefitted
14 from the profit it earned in the meantime as well as the
15 write-offs or depreciation of the plant and facilities,
16 correct?

17 A. Narrowly.

18 Q. When you say "narrowly," what do you mean?

19 A. Narrowly correct.

20 Q. I see.

21 Were those economic types of considerations
22 matters that the Corporate Development Committee took
23 into account in making decisions?

24 A. In part.

25 Q. Do you recall Congressman Ryan and the bills

1 that he introduced in the Congress that had a
2 relationship to PCBs that were produced by Monsanto?

3 A. No.

4 Q. Do you recall any efforts by Monsanto to
5 develop replacement products for the PCB products that
6 it sold?

7 A. Yes.

8 Q. That was done, in part, to try to maintain
9 Monsanto's market share in the various product lines
10 where PCBs were being used, correct?

11 A. Say that again.

12 Q. That was done, in part, to try to maintain
13 Monsanto's market share in the various product lines
14 where PCBs were being used.

15 A. It was done to permit Monsanto to continue to
16 serve its customers with safe products that they had
17 been enjoying with the Aroclors.

18 Q. Well, Monsanto was concerned, not only about
19 the customer having a satisfactory product, but also
20 about that satisfactory product being produced and sold
21 by Monsanto, wasn't it?

22 A. That's correct.

23 Q. The --

24 A. The main concern is to sell the customer the
25 product that he needs and wants.

1 Q. And to make sure that Monsanto has the
2 capability of doing that.

3 A. Right.

4 Q. While from a, I guess, intellectual standpoint
5 it may be satisfying to Monsanto that a customer is able
6 to buy what he wants from a business standpoint,
7 Monsanto wants to make sure it's the one that's selling
8 the product, assuming it's a profitable one.

9 A. Whenever it's possible. It all starts with the
10 customer first. That's what I'm trying to say to you.

11 Q. Certainly. Nobody to buy the product, you
12 won't make it.

13 A. That's right.

14 Q. Let me show you a copy of the minutes of the
15 Corporate Management Committee of April 20, 1970,
16 Document 22321-22322.

17 And you were at that meeting, were you not?

18 A. Yes.

19 Q. There is a reference in those minutes -- and I
20 believe it's on the second page -- to developing a
21 replacement product -- I think the reference may be to
22 NCR or carbonless carbon paper -- on a crash basis.

23 A. Would you repeat that last question.

24 Q. Sure.

25 There is a reference in those minutes to

1 developing a replacement product for a certain
2 application of PCBs on a crash basis.

3 A. I'm trying to find the word "crash."

4 Q. I believe it's down at the bottom there, under
5 "Conclusions."

6 A. Oh, yes, here it is.

7 Q. And I'm not sure. Is the reference to NCR or
8 carbonless carbon paper?

9 A. Yes, NCR.

10 Q. And NCR refers to National Cash Register?

11 A. Yes.

12 Q. And they purchase PCBs from Monsanto for the
13 carbonless carbon paper.

14 A. That's right.

15 Q. Those are the documents you can press on the
16 top one and it comes through on the succeeding page
17 without a piece of carbon paper?

18 A. Right.

19 Q. PCBs were used for that application?

20 A. That's right.

21 Q. And Monsanto decided to stop selling PCBs for
22 that application?

23 A. And others that involved noncontainment, that's
24 right.

25 Q. And the Corporate Management Committee

1 concluded that Monsanto should develop an alternative
2 product to PCBs for use in that carbonless carbon paper
3 on a crash basis, correct?

4 A. Uh-huh. Yes.

5 Q. Is that the type of thing that would been --
6 would have been undertaken in the technology area that
7 you were over?

8 A. No. That would have been undertaken by the --
9 the then organic chemicals division, their research
10 department.

11 Q. What's the difference between developing an
12 alternative product on a crash basis and any other
13 basis?

14 A. Well, I think the way they've used the term
15 "crash" here is that they would put it as very high
16 priority and try to do this as -- as expeditiously as
17 they could.

18 This was an important product to NCR, in their
19 own -- in their own paper. Their -- this was the only
20 product they found that would do the job that they
21 wanted done; so, because they were large, they were an
22 important customer, and they had -- they had a business
23 that they were supporting with it, these people
24 obviously concluded that, if at all possible, they would
25 do something as fast as possible.

1 Q. Well, "these people," that included you, didn't
2 it? You were one of these people, weren't you?

3 A. This is being written from the point of view
4 and by the people from the organic division, which the
5 committee's nodded, saying, "Yes, we agree with that."

6 Q. But the point is the conclusion section of
7 those minutes are the conclusion that the committee
8 reached and authorized, correct?

9 A. Yes.

10 Q. And this -- this is the committee of the most
11 senior management of Monsanto; so, it's really
12 Monsanto's decision, through yourself and the other
13 members who were present that day of that committee?

14 A. Yes.

15 Q. Now, the world could function with carbon
16 paper, I guess, for having documents written and get a
17 copy, correct?

18 A. Yes.

19 Q. It wouldn't cause any serious threat to
20 national security or our ordinarily -- ordinary daily
21 lives if we didn't have carbonless carbon paper, would
22 it?

23 MR. FREEMAN: I'm going to object to
24 the form of the question. Mr. Lacey,
25 sarcasm really does not have a place here.

1 MR. LACEY: Well, it's not sarcasm at
2 all. I want to know the answer.

3 MR. FREEMAN: Implying the national
4 security of this Country is dependent upon
5 carbonless carbon most certianly does,
6 thank you very much.

7 MR. LACEY: Well, I'm sorry.

8 Q. There was nothing about carbonless carbon paper
9 that made it critical for any particular national
10 interest that there be carbonless carbon paper.

11 A. No. But the key word here is "replacement"
12 product.

13 Q. I understand.

14 A. Not "Aroclor." It's "replacement."

15 Q. I understand. You're missing the point of my
16 question. Let me raise it again.

17 A. Maybe I'm not.

18 Q. If no replacement for PCBs in carbonless carbon
19 paper were found --

20 A. We're out of the business.

21 Q. And we go back to using carbon paper.

22 A. Yes.

23 Q. Okay.

24 And while that may not be desirable, especially
25 not to National Cash Register, who made the product,

1 society could function with carbon paper.

2 A. So?

3 Q. But -- really not "so." Isn't that correct?

4 A. If you say so.

5 Q. Well, not if I say so. I'm trying to find out
6 your understanding, Mr. Throdahl.

7 MR. FREEMAN: I'm going to object to
8 the form of the question. This Witness is
9 not a socioeconomic expert in the makings
10 of this Country that contained 200 million
11 people in 1970. And it's a ridiculous
12 question, Mr. Lacey; and the answer's
13 obvious. Go on to something else that's
14 relevant.

15 Q. The answer is: Obviously we could function
16 without it, couldn't we?

17 A. If you say it could.

18 Q. Well, I'm trying to find out your opinion; and
19 you are a man who was on -- and, again, in all candor,
20 Mr. Throdahl, you were on the board of directors of a
21 major company in this Country for, what, 20 years?

22 A. I'm having trouble understanding the relevance
23 of your questions, sir.

24 Q. You need not worry about the relevance.

25 A. Yes, I do.

1 Q. The Judge will take care of the relevance of
2 questions. The jury will decide what they can --

3 A. I may not get a chance to say this again.

4 Q. I understand you won't. All I need is the
5 answer to the question.

6 A. Well, I'm not going to answer it.

7 MR. FREEMAN: Very good. Go on to
8 something else.

9 Q. I see. I see.

10 In any event, the board of directors -- I'm
11 sorry -- the Management Committee of the company --

12 A. Uh-huh.

13 Q. -- authorized and directed a crash program to
14 develop an alternative chemical to PCBs so that
15 carbonless carbon paper could be produced, correct?

16 A. Yes.

17 Q. Well...

18 MR. FREEMAN: If you have something
19 else to say, Mr. Throdahl, go ahead and
20 feel free to answer his question as
21 completely as you can.

22 A. Well, it's totally beside the point of the --
23 of the interrogation.

24 Q. Well, then, if it's not an answer to the
25 question, we probably don't need it.

1 MR. LACEY: I mean, if you want to
2 ask him what he wants to say, feel free.

3 MR. FREEMAN: It's not necessary.

4 Mr. Throdahl, a lot of these
5 questions may, indeed, be irrelevant,
6 immaterial; and those are issues that will
7 be taken up with the Court at the time the
8 deposition is used in court. So, let me
9 instruct you just to do the best you can.

10 THE WITNESS: Okay.

11 MR. FREEMAN: And the procedure we
12 operate hereunder today is that all
13 objections to Mr. Lacey's questions are
14 waived except for a very few types
15 specific objections. So, we're operating
16 on a little different basis today versus
17 in the courtroom.

18 THE WITNESS: Well, he was attempting
19 a trap question that had nothing to do
20 with the safety of Aroclor. That's all.

21 Q. Would you explain the trap to me. I'm afraid I
22 missed it.

23 A. You were trying to get me to -- to agree with
24 you that it was an inane idea for the Management
25 Committee to authorize a crash program to develop a

1 replacement for Aroclor in carbonless paper which really
2 wasn't necessary to society's functioning. That's all
3 you were trying to say to me.

4 Q. Well, let me just ask you: What did you think
5 about that, as a member of the committee? Were you in
6 favor of a crash program?

7 A. Yes.

8 Q. Why?

9 A. You said "why"?

10 Q. Why?

11 A. Because we were serving a customer. We wanted
12 to keep the customer. If we could keep it with another
13 product that was safe, fine.

14 Q. Surely. And it was a -- that was a
15 sufficiently important consideration to authorize a
16 crash research program, correct?

17 A. Yeah. Let's go on.

18 Q. Is a crash research program typically more
19 expensive than doing it in the ordinary course of
20 business?

21 A. Not necessarily. It just gets higher priority.

22 Q. Are there occasions where crash programs turn
23 out to be more expensive because of the effort to
24 expedite --

25 A. Sometimes.

1 Q. -- and speed up?

2 A. Sometimes.

3 Q. Do you recall the Corporate Management
4 Committee authorizing any crash research program for any
5 other replacement of PCB products?

6 A. Yes.

7 Q. What other PCB replacement products did the
8 Corporate Management Committee authorize crash research
9 programs?

10 A. I must object to the use of the word "crash" in
11 this case.

12 Q. Well --

13 A. You're -- you're using it there; and, now, if
14 you're going to apply that to this next question, then
15 I'm not going to answer that.

16 Q. Mr. Throdahl, I'm using the word that was
17 used -- who -- who was the secretary of these minutes
18 who took -- who wrote these minutes down on April 20th,
19 1970?

20 A. John Ehlers.

21 Q. Mr. Ehlers used the word "crash program," did
22 he not?

23 A. Yes.

24 Q. And Mr. Ehlers was in the practice of writing
25 down what was said at the meetings, wasn't he?

1 A. Yes.

2 Q. So, apparently what was said at the meeting was
3 that a crash program would be undertaken to find a
4 replacement for the use of PCBs in carbonless carbon
5 paper, correct?

6 A. If you'll use "high priorities," I'll go along
7 with you.

8 Q. Well, can't we use the word "crash"?

9 A. No. No.

10 Q. What's wrong with the word "crash"?

11 A. That's his -- that's his term, "crash." I
12 don't think we edited that. If you want to persist in
13 that, then I'm not going to answer the question. I will
14 go along with "high priority."

15 We put high priority effort on all of the
16 Aroclor replacements for contained uses and for -- for
17 open uses. And -- and the open uses we found we
18 couldn't do it, and for contained uses we found we
19 couldn't do it.

20 Q. Couldn't do what?

21 A. We couldn't -- we couldn't come up with similar
22 firesafe products that would do the job nearly as well.

23 Q. And all of those research programs were on a
24 high priority basis?

25 A. Sure.

1 Q. Equal to the priority on the replacement of
2 PCBs as carbonless carbon paper?

3 A. I don't know.

4 Q. Okay.

5 The meeting on April 20th, 1970, that we've
6 already discussed in part was a relatively major
7 presentation on the PCB situation, was it not?

8 A. I'd just have to answer, "Probably." I can't
9 tell from the way the language is worded here. It was
10 important enough to get this kind of a summation; but
11 the conclusion statements which guess that there must be
12 more to come, I can't say anything more on that one.

13 Q. Well, let me show you a document, 22343 through
14 22362 (tendering), and ask you if that does not appear
15 to be the presentation text that was actually made at
16 the meeting on April 20th, 1970.

17 A. Yeah, that's pretty comprehensive.

18 Q. Does that appear to be the report that was made
19 at the April 20th, 1970, meeting?

20 A. Does it appear to be?

21 Q. Yes.

22 A. It appears, but I don't know if it is exactly.
23 But it appears to be.

24 Q. All right.

25 Is that a report that you, in the customary

1 business, would have received either with the agenda for
2 the meeting or --

3 A. Probably.

4 Q. -- or that you would have received with the
5 minutes of the meeting after the meeting?

6 A. Probably.

7 Q. But you don't recall?

8 A. No, sir. That's 18 years -- 17 years ago. I
9 don't recall it, no.

10 Q. One of the decisions that had been made by the
11 Management Committee in 1969 was to replace Aroclor 1254
12 and 1260; is that correct?

13 A. Yes, I think so.

14 Q. And in response to that problem or in response
15 to that direction from the Management Committee,
16 Monsanto made the customers aware of the proposal,
17 correct?

18 A. That's right.

19 Q. One customer objected to the cessation of
20 production of 1254 and 1260, did it not?

21 A. Is that the one -- is that the GE response?

22 Q. Yes.

23 A. Yeah. That's what it says there.

24 Q. Do you recall that?

25 A. What is that?

1 Q. That GE --

2 A. Yes.

3 Q. -- objected to --

4 A. Yes.

5 Q. -- the cessation of the availability of
6 Aroclor 1254 and 1260.

7 A. Yes.

8 Q. And the basis for GE's suggestion to Monsanto
9 that it not cease using those or make those products
10 available was that there wasn't sufficient evidence to
11 incriminate them as a contaminant in the environment,
12 correct?

13 A. That's what it says there.

14 Q. Well, do you recall that being brought to the
15 Management Committee?

16 A. Well, I recall in many -- many discussions over
17 a period of time that the evidence that began with
18 sporadic reports in the scientific literature and then
19 gradually increased into the more public literature
20 still contained rather specious results, as people
21 perceived them to be at the time. And I guess to
22 summarize this, they didn't appear to be believable at
23 first.

24 Now, this goes over -- this goes over quite a
25 long period of time, I suppose -- years, in fact -- and

1 there are still question as to whether that -- that some
2 of the alleged effects are, indeed, real.

3 So, the fact that General Electric reacted as
4 it did, it was using -- the company was using these
5 products because they were safe from a fire -- fire
6 hazard point of view. They were going to be -- they
7 were suddenly going to be eliminated from purchase or
8 supply to them, and naturally they could see that --
9 that their firesafe -- fire safety of their own systems
10 was going to be seriously affected. And that seemed to
11 be a very normal kind of reaction at the time.

12 Q. Monsanto --

13 A. There simply wasn't a logical replacement that
14 could be put into place that was equally firesafe.

15 Q. Monsanto's own corporate decision had been that
16 it should cease production of Aroclor 1254 and 1260,
17 correct?

18 A. That's right.

19 Q. In response to a request from General Electric,
20 Monsanto relented on that decision, correct?

21 A. I don't know that. I -- the way you ask it, I
22 honestly don't know that.

23 Q. Well, did the company change its decision and
24 continue to manufacture --

25 A. I don't remember that. I'd have to refresh

1 myself, and I don't -- I haven't had that opportunity.

2 Q. Okay.

3 At what point in time did the Management
4 Committee decide that the customers to whom it would
5 continue to sell PCBs for dielectric use would have to
6 execute indemnity agreements to Monsanto in order to be
7 able to purchase the materials?

8 A. At what -- at what point in time?

9 Q. Yeah.

10 A. I can't remember.

11 Q. Do you recall whether that became a topic of
12 discussion when GE requested Monsanto to continue to
13 supply them with the material that Monsanto management
14 had decided should not be supplied?

15 A. The question was do I recall?

16 Q. Yes.

17 A. No, I don't recall.

18 Q. Did Monsanto have a corporate policy of trying
19 to maintain its image as a responsible and respected
20 member of the industry?

21 A. Did they have a policy then?

22 Q. Yes.

23 A. Yes.

24 Q. Was considerable effort expended in trying to
25 maintain that image?

1 A. Yes. These -- these minutes would suggest that
2 they tried to do that.

3 Q. Let me show you the minutes of the Corporate
4 Management Committee for May 11th, 1970 (tendering).

5 A. Okay. What is your question, now, about this?

6 Q. This was another major --

7 A. Yes.

8 Q. -- presentation with regard to PCBs that was
9 made to the Management Committee, was it not?

10 A. Yes.

11 Q. That's a two-page -- or a page and a half
12 document, 22363 through 22364.

13 One of the things that the committee determined
14 was that there be no delay in getting out of certain
15 aspects of the business without committee approval,
16 correct?

17 A. Yes.

18 Q. And that's because the committee was concerned
19 that it was important to get out of the business --
20 those specific businesses referenced there -- and that
21 they did not want anybody below the committee level in
22 the company making a decision for any reason to change
23 what the plan was.

24 A. These dates that were shown here were the dates
25 recommended by the division in question, being, as I

1 recall, about as fast as they could develop these
2 replacements -- or close the loops, as they indicated in
3 some of these things -- about as fast as this could be
4 done in what they considered to be a prudent manner.

5 And I think the record of this was to serve as
6 a -- as both a -- a point of reference for the -- for
7 the Management Committee as well as the division itself.
8 And I don't remember now whether they made these dates
9 on time or not, but they came -- I think they probably
10 came reasonably close.

11 They had to -- they had to deal with their
12 customers in respect to all of these applications. In
13 fact, that was probably -- if it hadn't been for the
14 customer's, naturally, the shutdown could have been
15 effected almost at once. But as I remember that, that
16 was a rather traumatic day.

17 Q. Let me show you document 22365 to -- through
18 22388 and ask you if that isn't the presentation that
19 was made to the committee that day along with a memo
20 from Mr. Mason actually transmitting the presentation to
21 Mr. Bergen and Mr. Springgate.

22 A. Yes. Okay.

23 Q. One of the things that the Management Committee
24 directed the operating division to do was to raise the
25 prices on products sufficient to cover the expenses that

1 were associated with PCB problems; isn't that correct?

2 A. That's what it says.

3 Q. Okay.

4 And that was one of the directions that came
5 from the Management Committee to the division in that
6 May the 11th, 1970, presentation and the results
7 thereof?

8 A. That's what it says.

9 Q. Okay.

10 And that was the policy, is it not?

11 I mean, you were present at that meeting,
12 correct?

13 A. I was present.

14 Q. And that was, in fact, the decision made by
15 that group and directed by the president of the company.

16 A. Yes.

17 Q. Okay.

18 Next I'm going to show you the reports of a
19 meeting of the Corporate Management Committee on
20 June 2nd, 1970, Document 22389; and the committee gets a
21 report that those prices have been raised in accordance
22 with its direction, correct?

23 A. That's what it says.

24 Q. Later that month, at the June 29th, 1970,
25 meeting of the Corporate Management Committee, Document

1 22390, there is a report regarding the functional fluids
2 group, in which the PCB products were a line, correct?

3 A. Can I see the last one we had, because I
4 don't...

5 Q. Surely. I believe that's it (tendering).

6 A. Well, I guess I don't -- I don't understand the
7 difference in the language here, "with less than a
8 month." In the June 2, it says they're not currently
9 planning to enter the market.

10 Well, I guess maybe that's right. Then the
11 June 29, "The action on expansion is being deferred
12 until the PCB area is resolved."

13 Oh, I see. I guess -- I guess that's simply
14 saying -- on the 2nd of June, they said, "We don't think
15 we're going to go into the heater business"; and I guess
16 maybe they're saying, "Well, whatever we're going to do,
17 we're going to wait until we resolve the PCB -- "and the
18 word "area" here is not a misprint; but they mean the
19 PCB problems, I think.

20 Q. Right.

21 A. But I guess that just simply means they're
22 going to delay that decision on expanding into the
23 heater systems.

24 Now, what is your question?

25 Q. Okay.

1 PCBs were part of the functional fluid group,
2 were they not?

3 A. Yes.

4 Q. And --

5 A. They were also plasticizers, part of the
6 plasticizer group, too, at one time.

7 Q. The largest applications -- and by that I'm
8 referring now to dielectrics, heat transfer fluids, and
9 hydraulic fluids -- were all part of functional fluids,
10 were they not?

11 A. Yes. Yes.

12 Q. And that group, the functional fluids group,
13 had always been or had been, at least for some period of
14 time, a high margin specialty group, correct?

15 A. Uh-huh. Yes.

16 Q. By that is meant they had a higher rate of
17 return than was true over the company generally,
18 correct?

19 A. Yes. Over that division is as far as I can go
20 on that, but...

21 Q. Okay.

22 Within the -- and that's the organic division?

23 A. Right.

24 Q. Within the organic division, the functional
25 fluids group, which included the majority of the PCB

1 applications, had had a higher rate of return than the
2 division in general.

3 A. That's right.

4 Q. And the problem that faced the functional fluid
5 group in June of 1970 was the problem of how to resolve
6 the PCB affairs.

7 A. Uh-huh.

8 Q. That was the thing that was threatening the
9 continued high margin return on the functional fluid
10 group, correct?

11 A. That certainly was a resultant.

12 Q. I mean, that was a factor that was threatening
13 that high margin, correct, the problem with PCBs?

14 A. It had to be paid for some way; and the way
15 these -- the way these accounting systems were working,
16 the product -- the product business that had such a
17 problem had to pay for it out of its own earnings.

18 Q. Okay.

19 The cost of covering all these additional
20 expenses wasn't spread across the company generally?

21 A. No.

22 Q. And, in fact -- and if we look at the
23 July 27th, 1970, minutes of the Corporate Management
24 Committee, Document 22391, it is reported that the
25 organic division has a relatively poor year, correct?

1 A. That's what it says.

2 Q. And that's consistent with your recollection,
3 is it not, that PCBs contribute to poor performance in
4 the organic division in 1970?

5 A. I can't remember that.

6 Q. I see.

7 A. That's much too specific.

8 Q. I see.

9 Is there any reason we should not rely on the
10 minutes of the Corporate Management Committee to
11 correctly report information contained in them?

12 A. No, there's no reason to suspect that.

13 Q. Okay.

14 Let me show you the minutes of the Corporate
15 Management Committee meeting on September 14th, 1970,
16 Document 22392 through 22394; and I'm going to be
17 interested in asking you about the summary section of
18 that in particular after you've had a chance to look at
19 it (tendering).

20 A. Okay.

21 Q. Have you had a chance to review the minutes?

22 A. Yes, sir.

23 Q. In the summary section, it discusses the impact
24 of the cost with regard to PCB matters and the relative
25 price changes in terms of affecting the return on

1 investment; is that correct?

2 A. Yes.

3 Q. Is that type of information information that
4 you're familiar with and can speak to; or again, because
5 of your particular background coming up in the company,
6 is that something you're not generally able to speak to?

7 A. What do you mean by "speak to"?

8 Q. Well, address whether that -- that return's a
9 good return, an excellent return, a fair return, how it
10 was viewed by the top management of the company, that
11 sort of thing.

12 A. Well, I'm not very bright about this; but a
13 reduction of an income in 1970 of \$400,000 was worth
14 count -- was worth counting; and certainly gross
15 investment return from eleven and a half to eight four
16 was sure in the wrong direction. But -- by some means,
17 because -- and the fact that you have to increase the
18 gross only to get lower return on it and the -- the SARE
19 expense -- those are overhead expenses: sales,
20 administration, research, and engineering; that's what
21 SARE meant -- a half a million increase because of the
22 extra expense involved, all the numbers are going in the
23 wrong direction. So, yes, I -- even I understood that.

24 Q. Okay.

25 Do you know what performance income was at

1 Monsanto?

2 A. Do I know what it was?

3 Q. Uh-huh.

4 A. Well, it was a term that was used for a while
5 that was the income on -- it was earnings before tax and
6 other general corporate overhead expenses that were --
7 that were just a -- a matter of law, and they had to
8 be -- they had to be allocated on the basis of the
9 amount of capital you carried.

10 So, it was a -- that's where the word
11 "performance" came from. It's, "What did you do on the
12 performance on the capital you were assigned to earn
13 on?" And that term was used for a while.

14 Q. Would SARE expenses be deducted before you got
15 down to calculating performance income?

16 MR. FREEMAN: I'm going to object to
17 this line of questioning. This Witness is
18 not an expert on the financial affairs of
19 the company. You were provided with the
20 corporate representative designated under
21 30(b)(6) designation yesterday
22 specifically for this area of inquiry.

23 So, I'm going to object to this
24 continued -- this entire line of
25 questioning.

1 MR. LACEY: He's a fact witness. He
2 was a director of the company from 1966 to
3 1984. I -- I'm certainly entitled to ask
4 a director of the company what he knows
5 about the financial matters of the
6 company. If he doesn't know whether SARE
7 expenses are --

8 A. Well, I don't remember it in that year.

9 Q. Fine. That's fine. That's all I want to know.

10 A. Good.

11 MR. FREEMAN: I just want to avoid
12 some specific technical accounting
13 questions, which is what you were doing.

14 MR. LACEY: It's not very technical.
15 It's just the level of knowledge that this
16 man had.

17 BY MR. LACEY:

18 Q. Let me show you the minutes of the Corporate
19 Management Committee meeting that took place on March 8,
20 1971, Document 22397 through 22399 (tendering). Would
21 you review those briefly, please.

22 A. Okay.

23 Q. The plan that the Corporate Management
24 Committee had was that the pricing of PCB products would
25 be raised sufficient to offset the additional expenses

1 chargeable to them so that the profitability of those
2 products would be maintained; is that correct?

3 A. No, not PCB products. PCB replacements.

4 Q. I see.

5 A. Different products.

6 Q. I see.

7 So, the pricing was to be such that the
8 expenses of PCB problems were to be borne by the non-PCB
9 replacements.

10 A. Yes. That's all -- that's all you can have.

11 Q. Well, let me see if I understand what happened.

12 A. Look at it as a product group rather than what
13 you're doing.

14 Q. Okay.

15 Well, there were PCB products that the company
16 was still selling in the period '71 to --

17 A. In contained systems, that's right.

18 Q. There were PCB products continuing to be sold
19 in that period of time, correct?

20 A. In contained systems.

21 Q. Were those products' pricing strategy a part of
22 the overall effort to maintain the profitability of that
23 group?

24 A. I cannot answer -- I cannot answer you on
25 the -- on the explicitness of that question. I can only

1 answer you on the replacement products. I -- I just
2 don't know. I wouldn't have been privy to how they
3 would have handled the pricing of PCBs --

4 Q. Versus replacement products?

5 A. No. We continued to sell PCBs for closed
6 system use. I do not know what the pricing strategy was
7 on that.

8 Q. Okay.

9 A. I just don't know.

10 Q. Do you know what the pricing strategy was on
11 replacement products, those which replaced PCB products
12 you no longer sold?

13 A. It was -- it was recommended by the -- by the
14 committee that those prices be such to compensate for
15 the loss of the PCB profits. That's what that meant, to
16 me.

17 Q. And your committee was interested in what the
18 results were in maintaining the overall profitability of
19 the functional fluids group, correct?

20 A. Yes.

21 Q. And, in particular, at least in 1971, the
22 thought of the Corporate Management Committee was that
23 the functional fluid group had essentially met the goals
24 that had been set out for it by the Management
25 Committee, correct?

1 A. "The goals" meaning the elimination of PCBs
2 from those uses where the environmental questions were
3 at issue. That's the way I understand that. Yes, they
4 did.

5 Q. And the goal was also to do that in a
6 profitable fashion?

7 A. Yes.

8 Q. And in 1971, it is noted that those goals had
9 been met while maintaining the profitability of that
10 group.

11 A. It says without a major reduction in
12 profitability. That's what it says.

13 Q. And that would then maintain that group as a
14 profitable group, correct?

15 A. Relatively so. But the -- the profitability
16 had dropped from eleven -- it's somewhere in here --
17 yeah, eleven five to nine two.

18 Q. Okay.

19 And was nine two an acceptable rate of return?

20 A. No.

21 Q. I see.

22 Well, the last sentence, then, I have a hard
23 time understanding. It notes that the president
24 commended the division for the excellent results.

25 A. What's your problem?

1 Q. Well, that doesn't seem to be consistent with
2 your view, that that's not an acceptable rate of return.

3 A. That's not what that sentence says.

4 Q. I see.

5 A. The excellent results are the elimination of
6 PCBs from the uses that were endangering the environment
7 and -- as well as the operating practices and slipping
8 only from 11 and a half to 9.2. Taking the whole
9 package is what the president had in mind there, my
10 judgment tells me.

11 Q. Well --

12 A. But he wouldn't be satisfied with 9.2 percent.

13 Q. I see. I see.

14 A. But I think, as a conclusion statement, that --
15 is that the one I was present in when...

16 Q. No, it doesn't appear that you were there.

17 A. No. But having -- having read it now and --
18 let's see. Sommer was present.

19 No. Bock was chairman then. There was a --
20 there was an entire mood throughout the period of time
21 in question. You've moved from '68 onward here.

22 Q. We're going right up in order of the documents
23 that have been provided to me.

24 A. All right.

25 But there's a prevailing mood on the part of

1 the senior management and the division management that
2 the company had a -- had a problem. It was trying to
3 deal with that problem responsibly without significant
4 damage to its profitability. And that's what they did.

5 And, so, when the president says, "That's an
6 excellent report," I'm certain that he's taking into
7 provision he'd sure like to have had better than 9.2
8 results but he couldn't do it. But he got most of it;
9 so, he said, "That's excellent."

10 Q. Well, what was the overall Monsanto return on
11 investment result?

12 A. Of that year? I -- I can't remember.

13 Q. Well, generally. What sort of numbers did
14 Monsanto produce in return on investment results?

15 A. Are those returns on gross -- gross profit
16 returns or --

17 Q. Let me just give that document to you
18 (tendering).

19 A. Yeah. Return on investment, that's net after
20 tax. Probably, at the time that was going on, it was in
21 the neighborhood of 10 percent or so.

22 Q. The reason I'm asking: We know from the
23 minutes of the June 29th, 1970, meeting that the
24 functional fluids group, which included these products,
25 had been a high margin group, correct?

1 A. That's what it says.

2 Q. And the old margin was 11.5, which must have
3 been a high margin.

4 A. Yes.

5 Q. And the new products are returning 9.2.

6 A. Yes.

7 Q. And your recollection is that the average
8 margin was somewhere between those two.

9 A. You said that the Monsanto Company --

10 Q. Yes.

11 A. All right.

12 Now, at that time, the fibers part of the
13 company was making lots of money. The agricultural
14 company was making -- or the agricultural division was
15 making lots of money, probably outearning the organic
16 division at that time. But I -- I just don't remember
17 that long ago what the numbers were of that -- of that
18 period.

19 Q. If I provided you with a 10K, would you be able
20 to look at that and help us figure that out?

21 A. Well, if you don't have anybody else to talk
22 to, I guess maybe I'll try it; but I -- I'm really not
23 the guy to do that.

24 Q. I see.

25 A. I haven't earned the right to opinions,

1 although I have them.

2 Q. Being a director for, what was that, 18 years
3 doesn't qualify you to have opinions on that?

4 A. You're putting words in my mouth when you say
5 that.

6 Q. Well, you were a director for 18 years, weren't
7 you?

8 A. Correct.

9 Q. And I just -- I guess I -- I guess I've always
10 understood that a director of a company had a right to
11 have opinions about its profitability and what were
12 simple rates of return and how to achieve desirable
13 results.

14 MR. FREEMAN: He's already answered
15 the question, that he doesn't recall the
16 specific rates of return in 1971. You --

17 A. I can't help you.

18 MR. FREEMAN: -- questioned somebody
19 extensively yesterday about the 10K's and
20 all sorts of subjects about that
21 yesterday, Mr. Lacey.

22 MR. LACEY: Let me -- let's take
23 about a five-minute break so I can find
24 the documents that I want to look at next.

25 (RECESS)

1 BY MR. LACEY:

2 Q. The Corporate Management Committee or Corporate
3 Administrative Committee, whatever name we use for it as
4 it changed over time, determined the areas that Monsanto
5 was going to stop selling PCBs in, correct?

6 A. They approved the -- the proposal of the
7 operating division, yes.

8 Q. And they had the ability to either approve or
9 disapprove the proposal.

10 A. That's right.

11 Q. The decision that was approved by the Corporate
12 Management Committee resulted in a situation where,
13 after about 1972, PCBs were only being sold for
14 dielectric uses, correct?

15 A. Yes.

16 Q. As a part of that policy of only selling PCBs
17 for dielectric uses, the Corporate Management Committee
18 also approved instituting a requirement that everyone
19 who bought PCBs for dielectric uses sign an agreement
20 indemnifying Monsanto from any actions that might result
21 from the purchase of those PCBs, correct?

22 A. I was not a part of the formation of that; and
23 I assume, if you -- if you say that that was done, it
24 was. I -- I paid -- I knew that -- I knew that the
25 customers had to act with certain constraints; but

1 beyond that, I am not familiar with the details of
2 whatever agreements were signed.

3 Q. Well, were you familiar with the fact that
4 there were certain requirements put on customers?

5 A. Yes.

6 Q. And that was a part of the overall sales policy
7 instituted by the Corporate Management or Corporate
8 Administrative Committee, correct?

9 A. Well, I don't recall that exact kind of
10 discussion being made in my presence.

11 Q. I see.

12 A. But it could have been; and I might have let it
13 pass, because there would have been no way I could have
14 influenced that or that I particularly cared. Somebody
15 that was responsible was doing it.

16 So, if you ask me if it's correct, I'd have to
17 assume that you'd know as much about it, from the
18 records, as I would.

19 Q. Well, let me show you a document, No. 15117
20 through 15119, which I believe is one of the indemnity
21 letters that the company required its dielectric
22 customers to provide to the company.

23 My question to you about that is: Have you
24 ever seen that type of document before? Would that come
25 to your attention in your role as a director of the

1 company or in your role as a member of the Corporate
2 Administrative Committee?

3 A. No. There would be no reason for me to see
4 that.

5 Q. What group within the company would be
6 responsible for the development of those types of
7 documents?

8 A. The law department.

9 Q. And would they be the ones to approve their
10 use?

11 A. I would certainly think so.

12 Q. And they would have the ability to do that
13 without bringing it to the Corporate Management or
14 Corporate Administrative Committee?

15 A. Oh, sure.

16 Q. And it is your recollection, then, that the
17 Corporate Management or Corporate Administrative
18 Committee never made a decision one way or the other
19 whether to have customers sign that type of document
20 before they could continue to purchase PCBs for
21 dielectric use; is that correct?

22 MR. FREEMAN: I object to the form of
23 the question. It's misconstruing the
24 Witness' testimony completely.

25 MR. LACEY: That's why I'm asking the

1 question. He can tell me if that's
2 correct or incorrect.

3 A. I don't know.

4 Q. Okay.

5 Was there a written sales policy for the sales
6 of PCBs as dielectric fluids after all other uses had
7 ceased?

8 A. I don't know if there was a written sales
9 policy.

10 Q. Okay.

11 A. I -- I don't recall ever seeing one, but that
12 doesn't mean it didn't exist.

13 Q. Well, PCBs were a product that got more
14 attention from the Corporate Management Committee than
15 many other products of Monsanto, correct?

16 A. Certainly over that period of time in question.

17 Q. And I guess I'm trying to just understand how
18 much latitude was left by the top management of Monsanto
19 to the normal business people in terms of deciding what
20 to do about continuing the sale of PCBs and how to
21 handle the details of that.

22 A. Well, those documents you've shown to me would
23 suggest that not much latitude was given once it was
24 proposed and approved. They also suggest that,
25 beginning with almost the earliest -- earliest document

1 you showed me, that the senior management's concern was
2 more about acting responsibly.

3 And, mind you, there was no Toxic Substances
4 Act at that time; and there was no enforcing regulation
5 to cause the company to go out of that business. That's
6 left unsaid in these -- in these minutes, of course.

7 But exactly how these operating people did
8 their jobs is not shown in the minutes, either. But
9 certainly the inference from the testimony that they
10 presented would suggest that once they were on the track
11 of taking on an assignment, they took it on with -- with
12 considerable finesse; and I think they did it very well.

13 Those comments of excellence from either Bock
14 or Sommer aren't lightly given, and that's the only
15 basis I'd have to share with you as to the latitude they
16 may have had.

17 Q. Okay.

18 Mr. Bock and Mr. Sommer gave praise only when
19 well deserved.

20 A. Rarely. Rarely.

21 Q. Was it customary for the Corporate
22 Administrative Committee to be advised of lawsuits that
23 were filed against the company?

24 A. Yes.

25 Q. Let me show you a document, 22407 through

1 22446, and ask if this represents a presentation
2 document for the Corporate Administrative Committee
3 (tendering).

4 A. The name has changed here. Now it's the
5 Corporate Administrative Committee. Now I see.

6 Q. Oh, okay.

7 A. This must be Potter, R-G-P.

8 Q. Who was Mr. Potter?

9 A. Well, Potter probably, at that time, was either
10 a product manager for that business group; or he could
11 have been one of the general managers. I -- again, '76
12 is a long time ago. This is a young man fast on his way
13 up. But I think that -- I think that's right.

14 Q. All right.

15 A. Oh, yeah, here it is.

16 Oh, wait a second. No. This is -- this isn't
17 Potter. Who did this?

18 Q. Must have been a long meeting.

19 A. Yeah.

20 THE WITNESS: We flunked here

21 (indicating).

22 A. We have Russell Train on that day, and the
23 Russell Train today are two different people.

24 Q. You need to speak up so the court reporter can
25 hear you.

1 A. Oh, no. I'm mumbling to myself.

2 Well, I don't know who wrote this. I don't
3 know who made this.

4 Q. But that is a presentation to the -- for the
5 committee, is it not?

6 A. Yeah. That's what it says.

7 Q. And it's got a lot of attachments, charts and
8 graphs.

9 A. Well, I'm not going to go through those unless
10 you're going to ask me questions about them.

11 You were asking me did I reflect that this is
12 typical of what we brought to this -- the Management
13 Committee. Yeah, it is; but I -- I -- Potter didn't do
14 this because -- oh, he -- Potter was the functional
15 products -- they called them functional products then.
16 Functional products business group director, that's what
17 he was in '76.

18 And then there was a specialty chemicals
19 division, which is -- by that time, organic division had
20 been subdivided differently. Okay.

21 But I don't know who this is, who's re -- who
22 authored this. I can't tell.

23 Q. Somebody who was going to make the
24 presentation, or did Mr. Potter and others actually make
25 the presentation?

1 A. No. This is an overall summary, which recalls
2 many of the events that are in early -- earlier things
3 you've given me. And this could have been -- this could
4 have been the managing director of the operating
5 company, of which Potter's business group and the
6 specialty products division was a part. I don't know.
7 I'd just have to go back to a catalog of some kind and
8 see who was on what base at that time. I just don't
9 know.

10 But this -- this -- this could well have been
11 presented by a managing director.

12 Q. Let me show you the Corporate Administrative
13 Committee minutes for June 14th, 1976, Document
14 22405-22406, and ask you to take a brief look at that
15 (tendering).

16 A. Now, this "Dielectrics business directions,"
17 5-21 and June 7th. Okay. This must have been -- this
18 must have been the 5-21 date -- well, it would have been
19 logic that would be prepared before this was given.

20 This could have been Fitzgerald that -- that
21 did this. No. Fitzgerald was mentioned -- well,
22 either -- it's either Harbison, then -- well, it's not
23 important. He doesn't care about who did that.

24 Okay.

25 Q. There was a major presentation to the

1 Corporate -- is it Administrative Committee now?

2 A. Yeah.

3 Q. -- the Corporate Administrative Committee on
4 June 14th, 1976, regarding PCBs, correct?

5 A. Dielectrics business direction, which is
6 broader than PCBs.

7 Q. Well, actually, the dielectric business that
8 Monsanto had was PCBs, was it not?

9 A. That was a major part of it.

10 Q. And there was a major presentation to the
11 Corporate Administrative Committee and a major
12 decision-making process that took place on June 14th,
13 1976, correct?

14 A. Yes. That's what it says here.

15 Q. Now, the document that we've looked at that
16 talks about the dielectric presentation to the Corporate
17 Administrative Committee, which begins at 22407, has as
18 its header an indication that it was anticipated the
19 presentation would take place on June 7th, 1976,
20 correct?

21 A. That's what it says.

22 Q. In looking at the actual minutes of the
23 Corporate Administrative Committee meeting, however, it
24 appears that that presentation was actually made one
25 week later, does it not?

1 A. I guess it does. I don't know.

2 Q. Well, can you tell that the substance of the
3 things that are discussed by the Corporate
4 Administrative Committee on June 14th, 1976, deal with
5 the matters that were to be presented initially on
6 June 7th, 1976?

7 A. Well, I'll have to take more time to -- to poke
8 at this, then, because I think --

9 Q. Do that, please.

10 A. Well, yes, it's essentially the same; but I
11 can't describe -- I -- I can't explain the -- the
12 seven-day difference here. I don't know.

13 Q. Well, it's certainly possible that the
14 committee didn't meet on that day or the presentation
15 got bumped for some reason, correct?

16 A. It could be. It -- it could be any of those.
17 I -- I -- I just don't know.

18 Q. I mean, that's not -- I'm not trying to figure
19 out why it got moved a week or anything like that; but
20 that's what appears happened, is it not?

21 A. It looks like it, but I -- I'm guessing. I --
22 if you need a -- if you need an explicit answer, I guess
23 I don't know.

24 Q. Okay.

25 Well, given the fact that we've not been

1 provided any minutes of the Corporate Administrative
2 Committee for June 7th, 1976, and we have supposedly
3 been provided with all the minutes of the meetings that
4 dealt with PCBs, I'm certainly making the assumption
5 that there must not have been a presentation on PCBs on
6 the 7th.

7 A. Well, one of these dates is in error. Let's
8 put it that way.

9 Q. Okay. I think that solves the problem. That
10 really -- that -- that's all I wanted to establish, they
11 were talking about the same thing.

12 A. You realize I was quoted in here, and you
13 didn't even ask me about that.

14 Q. I'm going to ask you about it.

15 A. Okay.

16 Q. I first wanted to get these two documents
17 linked together, and then I want to talk about them.

18 A. All right.

19 Q. I certainly don't want to fail to give you a
20 chance to comment on your quotations there.

21 The -- the minutes of the Corporate
22 Administrative Committee of June 14th, 1976, show the
23 people who attended part time; and those are people who
24 would make presentations for one part of the program,
25 correct?

1 A. Yes. These -- these -- these people --
2 Harbison, Potter, Collin, and Lapthorn -- were
3 presenters or people who were part of that dielectrics
4 business direction plan; so, they appeared at the
5 committee for only that portion of what was on the
6 committee's agenda for that day. That's what that
7 means.

8 Q. And these presenters included Harbison and
9 Potter; and Potter was the same fellow you had mentioned
10 earlier that --

11 A. Yes.

12 Q. -- you thought might be involved in this?

13 A. Yeah. Well, see that "RGP" up in the corner,
14 that looks like that was Potter's copy.

15 Q. Oh, okay.

16 A. That's all I can suggest.

17 Q. And then, in putting these things together, if
18 we start at Page 22415 in the document on the
19 presentation to the Corporate Administrative Committee,
20 that's the dielectric business plan that --

21 A. That's referred to here.

22 Q. -- in the Corporate Administrative Committee
23 minutes?

24 A. Right.

25 Q. And that document, according to the minutes,

1 was first circulated in -- on approximately what date?

2 A. Well, it -- the request to the committee was
3 dated 5-21.

4 Q. Okay.

5 A. And that was distributed with the agenda. And
6 apparently Harbison -- well, now it begins to make some
7 sense here. This -- this front part --

8 Q. The back part, actually. Oh, the front part?

9 A. This part (indicating).

10 Q. Okay.

11 A. That -- that is Harbison, and he must have been
12 the managing director at that time. And Potter worked
13 for him, or else Harbison was the -- was the general
14 manager.

15 But the pecking order here had to have been
16 Fitzgerald, Harbison, and Potter, for some reason.

17 Q. Starting with Fitzgerald at the top --

18 A. Yeah.

19 Q. -- and Harbison and then Potter?

20 A. Yeah. And what -- what this is about here is
21 that this -- this business plan was under Potter's
22 supervision; and he, apparently, at that time reported
23 to Harbison, who reported to Fitzgerald.

24 So, I would say that, in a sense, this and this
25 are the same (indicating).

1 Q. Okay.

2 A. Okay.

3 This ought to be probably the sign-off in terms
4 of -- I -- this takes a long time to read, but the
5 key -- one of the keys in here is that the -- that the
6 research people struck out in developing substitute
7 products that had the required fire safety provisos as
8 well as other physical properties and costs.

9 Q. Well, let me see if we can work our way through
10 what happened; and maybe the minutes will be a -- a
11 place to start.

12 There is the reference in the minutes to the
13 effect that Monsanto made the decision in December of
14 1975 to terminate production and sale of PCBs as soon as
15 customers could get replacement fluids.

16 Who made that decision? Was that made by the
17 Corporate Administrative Committee?

18 A. Yeah, they would have -- they would have
19 reacted to a -- sure. That was a part of the sequence
20 you showed me.

21 Q. Well, actually, it wasn't. I don't have copies
22 of the minutes of that meeting, for some reason.

23 A. Forgive me.

24 The whole -- the whole lineup, the whole parade
25 of papers has -- has been a -- a kind of an iterative

1 process between division and corporate management,
2 division saying -- or corporate management saying,
3 "We're terribly concerned. What can you do? How can
4 you get out? How can you make this safer?" The
5 divisions coming back saying, "We can do these things,
6 we hope."

7 They did most of them, but not all of them.
8 And then finally it became clear that, bang, it had
9 to -- had the -- had to go out. And then this business
10 direction paper -- that's what this was called -- had to
11 be created to say, "Well, what do we do now," you know,
12 over as long a period of time as they could think about
13 it.

14 So, this also contains the defeats that the
15 technical people suffered in not -- in not developing
16 the substitute products.

17 Q. My question to you specifically is: The
18 decision that took place, according to these minutes of
19 the Corporate Administrative Committee dated June 14th,
20 1976, in December, 1975, for Monsanto to stop selling
21 PCBs as dielectrics was a decision that would have been
22 made by the Corporate Administrative Committee?

23 A. Yes.

24 Q. And that should be recorded in the minutes of
25 that committee meeting somewhere?

1 A. Well, isn't that what this is?

2 Q. Well, no. Those are the minutes of June 14th,
3 1976. That's what I'm trying to find out.

4 A. Oh. All right.

5 Now, what is it you're asking, again?

6 Q. Yes.

7 According to those minutes of June 14th, 1976,
8 Monsanto made the decision in December of 1975 to
9 terminate the production and sales of PCBs for
10 dielectrics, correct? I believe it's about the third or
11 fourth line there.

12 A. Yeah.

13 Q. The question I'm trying to get clear in my mind
14 is whether or not that decision that was made in
15 December, 1975, was a decision that would have been made
16 by the Corporate --

17 A. Yeah.

18 Q. -- Administrative Committee.

19 A. That's right.

20 Q. Okay.

21 And, so, that means that, in December of 1975,
22 somewhere in the minutes of the meetings of the
23 committee, we should have minutes where that decision
24 was made, correct?

25 A. I suppose. The -- and the qualifier here was

1 "as soon as our customers could qualify and have
2 available replacement fluid." And this is some six
3 months later.

4 Q. Yeah. I'm not -- I'm not trying to find out
5 about anything on the decision. I'm just trying to
6 identify the fact that it should have been a decision or
7 was a decision of the Corporate Administrative Committee
8 in December of 1975.

9 This is not a decision that would be made by
10 anybody other than the Corporate Administrative
11 Committee, is it?

12 A. That's right.

13 Q. And any decision that's made by the Corporate
14 Administrative Committee is going to be memorialized in
15 minutes like we've been looking at.

16 A. I would certainly think so. If you don't have
17 them, I guess you can ask about them; but I --

18 MR. LACEY: Let me do that. Let me
19 ask for the minutes of the Corporate
20 Administrative Committee or its
21 predecessor, whatever the appropriate name
22 may have been in December, 1975, along
23 with whatever presentation was made at
24 that time when the decision was made to
25 cease selling PCBs as dielectrics.

1 MR. FREEMAN: I will ask that a
2 specific search be made for December, '75.
3 We've previously endeavored to give you
4 everything from the CAC, CDC, or the CMC;
5 and if somehow we've overlooked something,
6 we'll make a specific search.

7 MR. LACEY: Well, I've been trying to
8 go through with this man, as you've been
9 able to tell, meeting by meeting what
10 happened; and I have not been able to find
11 that in the documents we've got.

12 BY MR. LACEY:

13 Q. Now, may I take a look at that again just a
14 moment.

15 A. (Tendering)

16 Q. The meeting that takes place on June 14th,
17 1976, is something of an explanation of what has
18 happened in the dielectric business after the effort or
19 after the announcement that Monsanto is not going to
20 continue selling PCBs for dielectrics, correct?

21 A. Uh-huh. Yes.

22 Q. And essentially that these people come in and
23 have to report that Monsanto's replacement fluids that
24 is tendered have not been successful in the market.

25 A. That's right.

1 Q. And some other company or group of companies, I
2 guess, will wind up actually supplying whatever these
3 manufacturers then use in the future.

4 A. Yes.

5 Q. Okay.

6 Now, as a part of the dielectrics business
7 direction presentation that was distributed with the
8 agenda for the Corporate Administrative Committee, there
9 were documents that recounted the history of Monsanto's
10 production and sale of PCBs from 1966 through 1975,
11 correct?

12 A. Well, this is it.

13 Q. That's what I'm saying. That was a part of
14 what each member --

15 A. Yes.

16 Q. -- of the committee got with the agenda.

17 A. Yes.

18 Q. And there were discussions of what happened
19 to -- historically what happened in the decisions that
20 took place. I say "discussions." There were charts
21 or --

22 A. Yes.

23 Q. I guess you'd call them charts -- that
24 identified what historically had taken place with the
25 PCBs product line that Monsanto had.

1 A. Uh-huh. Yeah.

2 Q. And there were recitations of events and
3 sequences of events that took place in terms of the
4 phaseout of PCBs, correct?

5 A. Yes.

6 Q. And specifically, if we look at Page 22418,
7 there are some key events that took place in 1975 and
8 1976 relating to the phaseout of PCBs as dielectrics,
9 correct?

10 A. Yes.

11 Q. The task force that's referred to in November
12 of 1975 to plan the withdrawal, that's talking about
13 planning Monsanto's withdrawal from the PCB business,
14 correct?

15 A. Yes.

16 Q. Was that task force appointed by the Corporate
17 Administrative Committee?

18 A. No. It was appointed by the general manager or
19 the manage -- I guess he was a general manager of that
20 division. The committee would not have appointed him.

21 Q. In the sequence of events that transpired,
22 there was a meeting between Monsanto management and GE
23 in December of 1975 with regard to problems in the
24 dielectric fluid area, correct?

25 A. That's what it says here.

1 Q. What management personnel from Monsanto
2 participated in that meeting?

3 A. I can't tell you. I don't remember.

4 Q. Following that, there were some reference --
5 there are references to Mr. Train.

6 A. Yeah.

7 Q. Who was Mr. Train?

8 A. He was the EPA administrator of that date.

9 Q. It was in March or April of 1976, a couple of
10 months before this June 14th Corporate Administrative
11 Committee meeting, that Monsanto's replacement products
12 were finally rejected by General Electric, correct?

13 A. Well, I -- the way this thing reads suggests to
14 me that in that two-month period, rejection or the --
15 excuse me -- the reactions of many different customers
16 for many different products had been sorted out,
17 analyzed; and over that period of time, the conclusion
18 was reached that, essentially, the rejection has out --
19 outnumbered the number of acceptances to the point where
20 that conclusion had to be reached. That's my
21 interpretation of it.

22 Q. I see.

23 There are, then, following this dielectrics
24 business direction, other summaries of what -- what the
25 characteristics of the replacement products were --

1 A. That's right.

2 Q. -- discussion of what General Electric had
3 concluded, discussions regarding what the rest of the
4 people in the industry had concluded, and then a
5 discussion of what course Monsanto itself would follow.

6 A. Yes.

7 Q. The conclusion that was reached was, basically,
8 because the Monsanto replacement products had been
9 rejected, to turn Monsanto's efforts with the personnel
10 and resources that had been used in dielectrics to some
11 other venture, correct?

12 A. Yes.

13 Q. And to reaffirm again, which is what happened
14 in June of 1986, to get out of the PCB business.

15 A. I think "reaffirm" means to reaffirm to the
16 public.

17 Q. I see.

18 A. The -- the withdrawal.

19 Recall that PCBs were still being made by other
20 people in other parts of the world. And while not many
21 of them were being -- while not many of those products
22 were being imported here, there were some; and remember,
23 this is also prior to the Toxic Substances Act passage
24 and the regulations therein.

25 So, I think here that was simply to remind the

1 public again and again and again that we had withdrawn
2 voluntarily from that business.

3 Q. Let me ask you about that.

4 Congressman Ryan had proposed the Toxic
5 Substances Control Act back in the early 1970's, had he
6 not?

7 A. I told you earlier I did know Ryan and I -- I'm
8 not familiar with precisely what it was he did. I knew
9 there was a congressman named Ryan; but he was such an
10 insignificant part of this whole gemisch later on that,
11 I'm sorry, I don't associate with him. That's my fault,
12 but I just don't associate with him the detailed
13 knowledge about it.

14 Q. Okay.

15 A. I never met the man.

16 Q. Okay. Let me ask it another way.

17 The Toxic Substances Control Act had been a
18 proposed piece of legislation for several years before
19 it was passed.

20 A. Yes.

21 Q. And, so, for several years, there was the
22 prospect that Congress would ban the manufacture, sale,
23 and use of PCBs.

24 A. No. They would ban the manufacture and sale of
25 many different kinds of products.

1 Q. But specifically including PCBs.

2 A. PCBs is the only one that was listed in the law
3 itself.

4 Q. So, my question is: For several years before
5 the act passed --

6 A. I'm not familiar with whether or not PCBs was
7 mentioned in early drafts. I just don't know. I
8 honestly don't know.

9 Q. All you know is that the actual statute that
10 passed Congress specifically listed PCBs as a chemical
11 that was to be banned.

12 A. I do not happen to know when it was inserted
13 in -- it may have been at the markup period. I honestly
14 don't know.

15 I worked on a team with some other industry
16 types to help draft some language for the Toxic
17 Substances Act, and I do not recall that PCBs was
18 specifically listed. But I think that -- well, no. I
19 won't say what I think.

20 Q. Well, go ahead. Feel free to say what you
21 think.

22 A. Well, they needed a whipping boy --

23 Q. Uh-huh.

24 A. -- to put there; and here was a good product to
25 put in. And that -- that's the only time they've ever

1 done it.

2 Q. PCBs are the only product that's ever been
3 specifically --

4 A. That's right.

5 Q. -- banned?

6 A. That's right. And they did this in the face of
7 overwhelming misvidence or the misuse of evidence, and
8 it's caused them no ang -- no -- no end of agony. Many
9 of them regret now that it ever got written in there
10 that way, because it was a proscribed -- prescribed set
11 of conditions instead of a performance-oriented law.

12 Q. So, you think it was a mistake?

13 A. I do.

14 Q. Okay.

15 In fact, at the meeting of the Corporate
16 Administrative Committee in June of 1976, you
17 specifically voiced to the committee the fact that you
18 thought that Congress had made a mistake.

19 A. I still feel that way.

20 Q. Never has changed.

21 A. No, because there's never been a replacement
22 for it that -- look, these things were made for high --
23 for -- for safety of electrical systems, transformers,
24 and the like that were to be put in highly inaccessible
25 places, like high-rise buildings. We've never had a

1 confrontation since then. We will have one one day; and
2 then we will ask ourselves, "Well, why did we do this?"
3 And that was my point. That's all.

4 That isn't the first product Monsanto
5 voluntarily got out of, and I think that -- and it's --
6 I wouldn't argue with it. There's enough ecological
7 concern that, so long as it's that persistent, we ought
8 not to have it in the environment. But it's not harmful
9 to man, hasn't been shown that way; and it's a myth.

10 Q. I see.

11 A. So, I hold those views strongly. You can tell
12 that.

13 Q. I can tell that.

14 Was Monsanto's action, in deciding not to
15 continue to produce PCBs for dielectric use, at all
16 motivated by seeing the handwriting of the Toxic
17 Substances Control Act passage on the wall and acting to
18 beat the passage of the act?

19 A. I don't think so, and I probably would have had
20 the most influential opinion of anybody on the committee
21 if -- if that were true. I don't think so.

22 Q. What do you mean by that, you would have had
23 the most influential --

24 A. Well, I was the one that was thinking most
25 about this whole problem; and I -- I don't think so.

1 Q. You feel like you would have been the person
2 most likely, on the entire committee, to think ahead and
3 say it would be to Monsanto's advantage to be able to
4 say it had voluntarily decided to withdraw PCBs from the
5 market before the act passed? Is that what you're
6 saying?

7 A. No, I wouldn't have said that. I would have
8 said we should withdraw it from the market just as soon
9 as it's possible to do so with prudence. I mentioned
10 this earlier.

11 I had no -- I had no concern at the time. As a
12 matter of fact, nobody knew that that act was going to
13 get passed in '76, because it had been so long in the
14 making; and then it was so many -- it was a
15 controversial thing. In fact, it's a very bad law that
16 was drafted by some people. It is. It's very
17 contradictory. And, so, we had no knowledge that that
18 would occur in '76 or '77 or '78.

19 So, no, I can honestly tell you that the -- I
20 think the company was acting in the good faith, that
21 there were some ecological situations where it was not
22 as biodegradable as it should be. There's no question
23 about thin shelled eggs. There was no question about
24 accumulation in the fatty tissues of humans, other
25 animals.

1 And, so, from that point of view, we knew that
2 prudence dictated we had to get out of it. Once that
3 conclusion was reach, in spite of the positive data that
4 people are now trying to lean on, that was what drove
5 it. It drove it ten year -- no -- 20 years earlier with
6 para-aminobyphehol, which we got out of on a -- there,
7 the evidence was unmistakable. Here, the evidence
8 was -- was, at best, circumstantial.

9 Q. What added evidence came to light in 1975 that
10 caused Monsanto to reach the decision in December of
11 1975 to stop making PCBs versus having reached that
12 decision back in 1969, when that was first presented to
13 the committee as an alternative for dealing with the
14 problem?

15 A. Well, I told you when you asked that question
16 before that the perception in the early days didn't have
17 the advantage of retroactive wisdom. And I think, with
18 this period of six or so years that went on, the --
19 the -- the public opinion gradually took its -- took its
20 toll, the media, the activist groups, the various
21 agencies themselves. And I think this -- this gradually
22 worked up there.

23 I don't know that there was a point of
24 discontinuity, where everyone said, "That's it, and
25 we'll decide -- you know, we'll --" we could have said,

1 "Gee, why didn't we think of that in '69?"

2 But there was such a gradual change of these
3 things that it wasn't possible, I believe, to notice a
4 particular point of discontinuousness that says, "Now we
5 have to do it." I think that maybe many societal
6 decisions come around the same way.

7 And, again, I would be the one that would
8 probably be most sensitive on that point of anybody on
9 the committee.

10 Q. So, you can't really explain why the decision
11 was made in December of '75 versus being made in
12 December, '76, or December, '74, or any other particular
13 time, except that just the mounting weight of evidence,
14 the mounting weight of public pressure, the mounting
15 weight of everything else that was going on.

16 A. Yes, sir.

17 Q. It eventually reached the point that you acted.

18 A. Well, you get a choke point, I think.

19 Q. You say, "We've had all this good stuff we can
20 take, and we've got to do something." Is that what
21 you're talking about?

22 A. Well, no, no. You're -- you're making that
23 much too strong.

24 Q. Well, what do you mean by "choke point"? I
25 guess I'm trying to understand what you mean by that.

1 A. Well, you reach a point on many decisions where
2 you say, "It isn't clear and concise and succinct; but
3 the evidence is there, it's building up." You just
4 can't -- you just can't simply go along with it in good
5 conscience. And I don't know when that point comes to a
6 person. There -- there are a number of them that we
7 find in -- in -- most of these societal decisions are
8 not made with that clear-cut evidence. And I think this
9 is just an example of it.

10 It's a plus to the -- to the effect that it
11 only took that length of time for senior management,
12 coming from many different positions of heterogeneity
13 and their backgrounds and their outlooks and their own
14 personal philosophy, to coalesce to the extent that it
15 was clear that this had to be done and -- and done that
16 way, rather than be forced to do it later on.

17 And we could have, I suppose, waited until
18 the -- whatever law would have been passed would have
19 said, "No. That's got to go." We didn't do that, and I
20 think that's a plus. But why it took that long, you
21 know, I've tried to explain it; and it's not very
22 effective.

23 Q. Okay.

24 One other portion in the presentation -- or not
25 the presentation, but the dielectrics business direction

1 document was a section that appears at 22425, on the
2 transformer business direction. Is that correct?

3 A. Yes.

4 Q. One of the points that is noted in the
5 transformer business direction section discusses the
6 efforts by Monsanto to develop a replacement product
7 that would work in the market failure to do that.

8 A. Uh-huh.

9 Q. But one of the things that's noted there is the
10 fact that customers themselves had been moving away from
11 buying PCB transformers, correct?

12 A. That's what this says, yes. That's what this
13 says.

14 Q. Well, and do you believe that information to be
15 accurate?

16 A. I believe the information is accurate; but,
17 remember, the customers are the customers of the GEs and
18 the Westinghouses.

19 Q. I understand.

20 A. They're -- they're also seeing all this stuff
21 in the press on PCBs.

22 Q. I understand.

23 A. Okay.

24 Q. And -- and the point of all that is: If
25 customers of people like GE and Westinghouse don't want

1 to buy PCB transformers anymore, then GE and
2 Westinghouse aren't going to be making them, right?

3 A. That's right.

4 Q. And if GE and Westinghouse aren't making PCB
5 transformers, they're not going to be buying PCBs to put
6 in those transformers from Monsanto, right?

7 A. Yes.

8 Q. Now, my question to you is: Was the decision
9 that Monsanto reached in December of 1975, to stop
10 selling PCBs as dielectrics, motivated by the fact that
11 the market was shrinking and, therefore, it was going to
12 be more difficult, if not impossible, to maintain the
13 product profitably?

14 A. I really can't answer that one. You'd have to
15 ask somebody from the marketing group. That certainly
16 was not my motivation at the time; and I'm not sure it
17 was ever evinced by others, as well.

18 Q. You don't recall any thought process being
19 given at the time the decision was made to stop making
20 PCBs that related to what the future prospect for that
21 business was and whether it might be profitable or
22 unprofitable?

23 A. Not the way you're asking it. These customers
24 that are -- are stated to be moving away -- okay. So
25 they could go to air cooled. That was a change of

1 technology. Okay. Oil cooled, that's flammability; and
2 they traded flammability for environmental or
3 ecological, quote, "safety," unquote. Safety is a
4 question mark there in my -- in this man's mind. That's
5 what they've traded.

6 And, so, sure, that was just -- I suppose those
7 things ran in parallel to some extent. The customers'.
8 customers saw this change of move, and the newspapers
9 and all other media were full of this stuff on PCBs.
10 And the decision to -- to move out as soon as you could
11 make an orderly transition, part of the orderly
12 transition was air cooled -- that's a new technology --
13 and oil cooled. That means they traded safety of one
14 kind for safety of another. And, so, sure, the two are
15 con -- I guess, consistent.

16 Q. Well, air cooled wasn't a new technology, was
17 it?

18 A. Certainly for the big ones.

19 Q. I see.

20 And oil cooled certainly wasn't a new
21 technology, was it?

22 A. No. No. No.

23 Have you ever seen a transformer fire?

24 Q. I haven't personally witnessed one.

25 A. Okay. I hope you don't.

1 Q. I hope not, too.

2 By the way, there can be transformer fires and
3 problems with PCB transformers, can't there?

4 A. It's because the PCB content on some of them is
5 so low that the oil content overcomes the -- the
6 inflammability of the PCBs. They're blends.

7 Q. The answer to my question is that there can be
8 transformer fires with PCB transformers, can't there?

9 A. No, not the way you asked the question.

10 Q. I see.

11 A. Ask the question differently.

12 Q. Well, let me ask you about a specific
13 situation.

14 Have you ever heard of an office building in
15 Binghamton, New York --

16 A. Right.

17 A. -- that stands vacant to this very day?

18 A. That's right. And the PCB content of that
19 fluid was a very minor component of the fluid.

20 Q. That transformer was filled about
21 Monsanto-supplied transformer fluid, was it not?

22 A. That -- that's a detail I don't know. I
23 can't -- I don't know that for a -- for a fact.

24 Q. A fire took place in that transformer, didn't
25 it?

1 A. You didn't hear my response to you.

2 MR. FREEMAN: I'm going to object to
3 this line of questioning. What are we
4 doing here, Mr. Lacey? This man is a
5 corporate director of the company, and
6 you're talking to him about a specific
7 fire incident that happened years ago.
8 That's not the purpose of this Witness
9 here.

10 Q. That fire incident was something that was
11 discussed at the highest levels in the company, wasn't
12 it?

13 A. We -- we discussed it.

14 Q. Sure.

15 A. The PCB content was so low that it could not
16 have a -- a fire-retardant effect, and you're not
17 understanding that point.

18 Hello?

19 Q. I'm here. I'm listening.

20 A. You're not understanding it.

21 Q. Well, my question to you was --

22 A. It's not a PCB transformer unless it has all
23 PCBs in it. This was a blend.

24 Q. Well, Monsanto sold blended fluids, didn't
25 they?

1 A. Not with mineral oil.

2 Q. That was a mineral oil plus PCBs transformer?

3 A. Well, you're getting into a detail that I
4 honestly can't tell you about now.

5 (RECESS)

6 BY MR. LACEY:

7 Q. Just so I'm clear on what Monsanto's
8 understanding of the situation in Binghamton was, was it
9 the understanding that there was a misuse of PCBs as a
10 part of a transformer fluid?

11 A. There was never -- in my presence, there was
12 never a discussion on that particular point.

13 Q. Okay.

14 And you don't mean to suggest here today that
15 that fire occurred because somehow PCBs had been misused
16 or mismixed in a transformer fluid?

17 A. I didn't suggest that at all.

18 MR. FREEMAN: Do you have any
19 personal knowledge about what happened in
20 the Binghamton incident, Mr. Throdahl?

21 THE WITNESS: Do I have personal
22 knowledge?

23 MR. FREEMAN: Yes.

24 THE WITNESS: No.

25 Q. You didn't witness that, either, did you?

1 A. No, I didn't.

2 Q. And that really comes back to the very point
3 about transformer fires.

4 They can occur in transformers that do not have
5 any PCBs in them.

6 A. Uh-huh.

7 Q. They can also occur in transformers that have
8 PCBs in them, correct?

9 MR. FREEMAN: Some amount of PCBs?

10 MR. LACEY: Correct.

11 A. Yes.

12 Q. Okay.

13 A. What you're going to do with that will be
14 interesting.

15 MR. LACEY: I'm going to object to
16 the last part of that comment.

17 THE WITNESS: Please do.

18 MR. LACEY: It's nonresponsive.

19 Q. Now, the summary of the dielectrics business
20 direction section, at Page 22427, concluded that the
21 company was getting out of the production of an
22 environmental pollutant, correct?

23 A. Uh-huh.

24 MR. FREEMAN: You have to answer
25 verbally, Mr. Throdahl.

1 A. Yes. Yes. Excuse me.

2 Q. It also concluded that the company was exiting
3 the business profitably while covering all of the
4 phaseout costs, correct?

5 A. That's what it says.

6 Q. And that the company was preventing what would
7 have been a serious capital mistake.

8 A. That's what it says.

9 Q. Now, the reference to preventing a serious
10 capital mistake is a reference to not going forward with
11 these alternative products; is that correct?

12 A. I don't know. I've only skimmed this and --
13 and I -- I'll have to say I don't know at this point.

14 Q. Okay.

15 A. But I believe that what's here must be
16 accurate.

17 Q. Okay.

18 Beginning at Document No. 22428 and going
19 through 22446, there is more of the detail for a
20 presentation that was to be made to the Corporate
21 Administrative Committee, correct?

22 A. That's what it says, yes.

23 Q. And, again, it has the June 7th date; but
24 either the June 7th date on that document or the
25 June 14th date on the minutes of the committee is -- one

1 is erroneous, correct?

2 A. Yes. It seems that way to me.

3 Q. And, so, beginning at Page 22428, we have part
4 of the presentation that was actually made to the
5 committee, correct?

6 A. That's what it says, yes.

7 Q. Let's see if I can find a section here that
8 helps explain that summary piece.

9 At page -- or Document No. 22436, there is the
10 text of the summary section of the presentation. It
11 begins at that point, correct?

12 A. This says "Summary," yes.

13 Q. Would you just review that and on -- I think it
14 goes on for another page or two there that may be
15 helpful.

16 A. (Complying)

17 Is it at the 437 is where this stops?

18 Q. I believe that's where the summary section
19 stops, and then it invites questions that might follow.

20 Reviewing that, there is more detail about
21 those three points that we looked at in terms of
22 dielectric business plan.

23 A. Uh-huh. Yes.

24 Q. And under Point No. 3, it makes it clear that
25 the serious capital mistake would have been trying to go

1 forward with production of this developmental fluid,
2 MCS 1238.

3 A. That's what it says, yes.

4 Q. Okay.

5 On the point where regard to exiting the
6 business profitably, that's talking about getting out of
7 the dielectric business, including the PCB business, is
8 it not?

9 A. Yes.

10 Q. And what that indicates is that the company was
11 able to do that, including covering its phaseout costs,
12 and remain profitable while doing so, correct?

13 A. That's what it says, yes.

14 Q. That would not be something the company could
15 have done had it followed the approach in 1969 of
16 ceasing the sale of PCBs for all purposes at that point;
17 isn't that correct?

18 A. Yes.

19 Q. So, one of the effects of going forward with
20 the continued sale of PCBs as dielectric fluids from
21 1969 through 1976 or '77 was to allow the company to get
22 out of that business without incurring a loss, correct?

23 A. Repeat that question once more.

24 Q. Yes.

25 One of the advantages to the company in

1 continuing to produce PCBs as dielectrics and sell them
2 through 1976 or '77 was that it allowed the company to
3 get out of the PCB business without suffering a loss.

4 A. That was a resultant. It was a resultant which
5 was fortuitous. It had the -- had the company got out
6 of the business in 1975 -- no -- 1969 and not made an
7 effort to find substitute products, they would never
8 have known whether they would have been successful or
9 not. The fact that they tried and gave it every effort
10 and still failed and then had the benefit of moving out
11 without a write-off loss, I guess that's a plus. No
12 question about that.

13 Q. Well, isn't that one of the things that was
14 referred to as being in the company's own interest in
15 selecting that alternative initially?

16 A. I don't think so. I think that the -- the own
17 interest was to stay in the -- in the business of
18 supplying customers with firesafe, appropriate hydraulic
19 and dielectric fluids; and I don't believe that in 19 --
20 I think in 1969, had the prognosis for failure been
21 paramount, I suspect that decision would have been made
22 then to get out and take the write-off, because you
23 would have used that expense money to do something else
24 with it.

25 Q. If I understand what you're saying is: Had the

1 company been able to see in 1969 that it would not be
2 successful in developing alternative fluids to the
3 dielectrics that it was able to sell, it probably would
4 have gone out of the PCBs business right then.

5 A. That would be my judgment.

6 Q. In the minutes of the Corporate Administrative
7 Committee meeting of June 14th, 1976, Document
8 22405-406, where the discussion of the withdrawal from
9 the PCB market is discussed, there's a reference to the
10 fact, "Should withdrawal render the remainder of the
11 business uneconomical, a committee termination of the
12 polyphenyl tree products..."

13 Now, what are polyphenyl tree products?

14 A. These are products that are based on the
15 chemical call biphenyl. Monophenyl is benzene.

16 Q. Okay.

17 A. Biphenyl are two benzene rings put together.

18 Q. Okay.

19 A. There are a whole family of chemicals made
20 around biphenyl for other purposes, and that's what that
21 meant.

22 Q. Do you know whether or not the company ever
23 did, in fact, go out of the entire biphenyl business?

24 I guess what I'm asking there is: There's a
25 reference to the fact that, conceivably, the company

1 might go out of the biphenyl business. And I just
2 wonder if you know whether they did or not.

3 A. No. But it -- it never has reached a -- I'm --
4 I'm fuzzy on the details at this point, but we made a
5 number of -- of high temperature air -- lubricants made
6 around biphenyl and terphenyl.

7 Now, terphenyl are three phenyl rings. Okay.

8 Q. You can, I guess, out -- go even further.

9 A. Well, you get to five and then you've got
10 solids and they're tough to deal with.

11 But these are -- these are very high
12 temperature fluid -- lubricants for supersonic jet
13 engine aircraft. They were very -- they're very
14 minuscule kinds of businesses, but this was a --
15 Monsanto had built a lot of business around family trees
16 based on aniline, based on phenyl, and things of this
17 kind; and that's where the biphenyl family tree came --
18 idea came from.

19 Does that answer your question?

20 Q. I think so.

21 A. Okay.

22 Q. And if I understand the answer correctly, there
23 are some biphenyl portions of the tree, other than PCBs,
24 that Monsanto's still involved in?

25 A. But they're minor.

1 Q. Okay.

2 Now, let's get down to your quotations here,
3 where you get to appear by name in this document.

4 One of the things that you brought up at the
5 meeting, and Mr. -- now Mr. Lawler is the --

6 A. Yes, he's the secretary.

7 Q. Mr. Lawler reports that you, quote, "brought
8 out that the industry has, in effect, forsaken fire
9 safety to some degree in adopting DOP for capacitors and
10 alternate fluids, such as oil, for transformers where
11 Askarel, Monsanto's PCB, is presently used much," close
12 quote.

13 Now, what is DOP?

14 A. That's -- it's an organic plasticizer called
15 dioctyl phthalate.

16 Q. And is that the chemical that replaced PCBs in
17 capacitors?

18 A. Yes, I think basically it did -- it did. There
19 may be some others. There are a whole -- there are
20 whole families of these esters of phthalic anhydride.
21 And that's made from 2-ethyl-hexanol, which is eight --
22 eight carbons.

23 So, it's -- yeah. And it's -- it burns, burns
24 like mad. But it works very well as a dielectric. But
25 it is -- it's not fire -- fire-resistant.

1 And what was the other one you mentioned, DOP
2 and what else?

3 Q. It said "oil."

4 A. Oil. Okay.

5 Q. Just "oil."

6 A. The -- as a matter of fact, many hydraulic
7 fluid systems -- all the military aircraft don't use
8 firesafe hydraulic fluids. They just say, "Well, we
9 lose a pilot here and a pilot there, a plane here.
10 That's all right"

11 That was a trade-off, as I saw it, that fire
12 safety was -- was traded off for an environmental
13 pollutant.

14 Now, DOP is -- is widely, widely used as a
15 polyvinyl chloride plasticizer. In fact, it's probably
16 the biggest -- biggest plasticizer made; and it's just
17 coincidental that it has these other characteristics.

18 These esters are very good lubricants
19 generally; and they act -- they transmit fluid energy
20 very well, almost like water does.

21 Q. I take it that you, in your own mind, would not
22 have made the trade-off that others did; that is, you
23 would have preferred to have the environmental risk that
24 was attendant with PCBs and save what you thought was
25 the more important fire safety issue.

1 A. Yes and no. I would have continued to squeeze
2 the operating practices so that there wasn't weepage in
3 joints, in pumps, in packings; and I would have reduced
4 the spillage tolerable to infinitesimal amounts by
5 just -- and when I say "squeeze," that's what I would do
6 with all the processes, not only the makers that the
7 chemical had, but the users, as well; and I would have
8 really -- I would have really made that a very, very
9 stringent requirement for operations. Then we could
10 have reduced even that incidence of exposure, too.

11 I would have also done work using, say,
12 anerobic bacteria to decompose the bio -- the
13 nonbiodegradable phases of the PCBs that existed in --
14 in the -- in the environment so that, over a period of
15 time, this would have been gradually reduced and
16 eliminated.

17 And, so, that's what I -- that's what I would
18 have done.

19 Q. What the industry, electrical industrial --

20 A. Yeah, this is what I would have tried to
21 persuade the electrical industry to do.

22 Q. Right.

23 A. Maybe I would have lost it, but they would have
24 been better off to have saved the fire safety aspects
25 and treated these things not as -- as carelessly as you

1 treat spillage of so many other things.

2 That's the problem with pesticides today, that
3 people are using them so prolifically and so carelessly.
4 It isn't that the pesticide is naturally bad. You can
5 protect yourself from that.

6 That's really what I was trying to say to these
7 fellows.

8 Q. Well, did you make an effort to persuade the
9 electrical industry to do what you wanted to do?

10 A. Boy, listen, I've gotten hoarse trying to talk
11 about these things.

12 It's hard to convince people in the face of all
13 of this -- this stuff that keeps churning up. You see,
14 PCBs now almost carry cancer-causing chemicals with
15 them. They don't, but they always carry that label.
16 It's become a fact. And you repeat something often
17 enough, and it is a fact.

18 And that -- I've spent three years since
19 retirement trying to persuade people that this is the
20 kind of thing we ought to be doing as an industry, and
21 it's -- maybe it's just one voice in the wilderness.

22 Q. Whatever the situation was, despite your
23 suggesting that to the point that you, as you say, got
24 hoarse, the other people in the industry, in particular
25 the electrical industry, did not accept your position.

1 A. That's right.

2 Q. They thought the better course of wisdom was to
3 change to another product.

4 A. That's right.

5 Q. The alternate fluid that Monsanto had developed
6 was not much better than the DOP in terms of its various
7 characteristics; is that accurate?

8 A. That's right. That's right.

9 Q. And it costs about three times as much as DOP.

10 A. That's right.

11 Q. As for the choise between DOP and your
12 alternate fluids, that was a relatively easy choise for
13 people to make.

14 A. Easy. Easy for Monsanto to make, too.

15 Q. Wasn't much point in talking till you got
16 hoarse on that one.

17 A. No. That's what the third point about the
18 inappropriate investment would have been.

19 Q. Very obvious that you weren't going to win that
20 battle.

21 A. No way. No way.

22 Q. The next thing that is quoted from you in this
23 is a statement, quote, "Mr. Throdahl urged that the EPA
24 may have made a bad decision. They might be asking
25 industry to adopt a more fire-resistant product later

1 and that we should leave the door open for such a
2 product," close quote.

3 What did you mean by leaving the door open for
4 a more fire-resistant product?

5 A. That we should continue to search on an
6 exploratory basis for new chemical moieties that would
7 have fire-retardancy characteristics and the other
8 properties and, if we found one, see if we couldn't
9 bring it back.

10 Q. Did the Administrative Committee adopt your
11 viewpoint on that?

12 A. No, but there was no -- you know, this is -- I
13 don't know -- I wouldn't have expected the committee to
14 have said that, said, "Well, yeah, Throdahl has got a
15 great thought here. Keep it open."

16 There will be people who are looking for -- for
17 something else and will stumble into one of these
18 fire-retardant things, and somebody else will try it
19 again. And I'll be gray haired by that time, but it --
20 it will come around again.

21 There's no question that -- that -- that
22 high-rise buildings are going to continue to be built.
23 And I -- I don't want to predict it but there will be a
24 catastrophic fire and you will see a return, saying,
25 "Well, why can't we have something like this." And

1 maybe that will -- that will cause searching to go -- to
2 do back again for it.

3 Q. Well, there, in fact, is a way to design
4 buildings in order to minimize the hazard of those
5 catastrophic fires, is there not?

6 A. I don't know. I -- I really don't know. I --
7 I expect you've got to have the -- some of those
8 transformer facilities fairly -- fairly reasonably close
9 to where the power consumption is located. And
10 sometimes these things are at 1600 feet or more that are
11 going to be -- be built; and, so, that may be -- there
12 may be an economic trade-off. I don't -- but I don't
13 know that for a fact.

14 Q. You're not familiar with transformer vaults and
15 what they are and how they work?

16 A. Certainly not to a point to make any judgment
17 on that point.

18 Q. It's been some 11 years -- almost 11 years; we
19 lack a month from 11 years -- from the date of this
20 meeting.

21 In that -- in that period of time, has the EPA
22 come back and asked the industry to adopt a more
23 fire-resistant fluid than the replacements they chose to
24 adopt?

25 A. No.

1 Q. There's a reference here to comments by
2 Mr. Bible. Let me let you take a look at that, and I'm
3 not sure I understand what he was talking about there
4 (tendering). It's right after your comments about --

5 A. Oh. Yes. Okay.

6 Q. You find those comments by Mr. Bible?

7 A. Yes, uh-huh.

8 Q. What was he referring to, asking somebody to go
9 on the record about something?

10 A. I'm only assuming here that he thought Monsanto
11 ought to let the EPA management know how much effort
12 they put into trying to find a replacement, a safe
13 replacement -- sorry -- an environmentally safe
14 replacement who was -- that was also firesafe and record
15 that with EPA, as well as some of our major customers.

16 Again, I think that was something that was a
17 gratuitous comment popped out that said we ought to tell
18 them how hard we had to work; and they could care less.

19 Q. Did anybody -- strike that.

20 Monsanto's replacement product was thought to
21 be somewhat technically superior to DOP?

22 A. Minor.

23 Q. Was any thought given to trying to see if,
24 through regulation or law or code or anything like that,
25 specifications might be made that would make Monsanto's

1 product an acceptable replacement product but exclude
2 DOP from the replacement market?

3 A. No, that was never -- in the first place, it
4 wasn't that much better; and it was going to be several
5 times the cost. And you -- you really don't have a --
6 an ethical leg to stand on for something like that.

7 No, we never gave that a thought.

8 Q. The last comment was by a Dr. Nolan.

9 A. Yeah.

10 Q. Who is Dr. Nolan?

11 A. He was the vice-president for public affairs.

12 Q. I see.

13 His observation is that Monsanto had been very
14 fortunate, thus far, not to link Monsanto with PCBs.

15 What was the point of that comment?

16 MR. FREEMAN: I object to that
17 question. It calls for a conclusion on
18 the mental process of somebody else. It
19 was not what this Witness knows or has any
20 opinion of.

21 Q. Mr. Throdahl, you were there when Dr. Nolan
22 made his comments, were you not?

23 A. Yeah.

24 Q. What did you understand Dr. Nolan to be talking
25 about?

1 A. Well...

2 Well, he was -- he was always concerned about
3 the -- the public image of the company. That's what he
4 meant by that.

5 Q. I see.

6 His responsibility was basically to maintain
7 the company's public image.

8 A. Yes.

9 Q. You mentioned that -- when we talked earlier
10 about the English plant where PCBs were produced and its
11 freedom to compete with the American plants in selling
12 PCBs to customers, at least in some point in time -- do
13 you recall that testimony?

14 A. Yeah. Yes.

15 Q. Were the American plants free to compete with
16 English plants in selling PCBs --

17 A. Sure.

18 Q. -- to customers?

19 A. Sure.

20 Q. In terms of the profitability of selling PCBs,
21 were they more profitable when sold in the U.S. versus
22 when they were sold overseas?

23 A. I honestly don't know.

24 Q. Okay.

25 Let me show you a -- a document and I'm trying

1 to understand it and you may not know the answer. But
2 it's Document 8782, and it shows some information on a
3 gross profit broken down between domestic and U.S.
4 export. And it shows net income AT.

5 Is that after tax?

6 A. Yes.

7 Q. Broken down between domestic and U.S. export.

8 As I understand that, it indicates that it was
9 more profitable for Monsanto to sell the PCBs it
10 produced in the U.S. in the U.S. than to sell them
11 overseas.

12 A. It shows five times as profitable on a net
13 basis.

14 Oh, wait a minute. Wait a minute. Here's
15 the -- wait a minute. Here's the income. Oh, excuse
16 me. I'm sorry. This is the -- this is the total.

17 Yeah, it was about -- it was about a percent --
18 1.1 percent less.

19 Q. Return overseas than in the U.S.?

20 A. From an export business.

21 Now, export and making it abroad are two
22 different things.

23 Q. Okay.

24 You're saying the cost of production in the
25 U.S. may be different than the cost of production

1 abroad?

2 A. No. You see, U.S. export means U.S.
3 manufacture but exported from the U.S.

4 The U.K. numbers, I don't think, are in this.

5 Q. Okay. Okay. Okay. Let me --

6 A. We made -- we made a 42.2 percent margin, gross
7 profit margin, on domestic sales.

8 Q. That was --

9 A. Huh?

10 Q. That was produced in the United States and --

11 A. That's right.

12 Q. -- sold in the United States?

13 A. That's right.

14 When you exported that same product abroad, you
15 got probably less pricing for it or more shipping costs
16 or whatever; and that was some almost five points less.

17 Q. Okay.

18 A. But that refers only to --

19 MR. FREEMAN: A gross measurement?

20 A. -- a gross measurement.

21 Q. Was that difference also true on a net basis,
22 too, that it was more profitable to sell it in the --

23 A. Yeah.

24 Q. -- United States?

25 A. Yeah. The income after tax was 9.3 versus 8.2.

1 Q. Okay.

2 A. Yeah.

3 Q. And --

4 MR. LACEY: We've got about another
5 five minutes or so, don't we, before you
6 can make your meeting?

7 THE WITNESS: I hope.

8 You got something you want to beat on
9 me about?

10 MR. FREEMAN: Not unless Mr. Lacey
11 finishes.

12 BY MR. LACEY:

13 Q. The overall U.S. numbers would be based on
14 the -- for the entire product line, would be based on
15 combining both the domestic sales out of the U.S. plants
16 and the export sales out of the U.S. plants?

17 A. Yes. That would be for Monsanto Company --
18 Monsanto Chemical Company; and there ought to be, then,
19 a comparable list of numbers for something, say, out of
20 the U.K..

21 Q. Okay.

22 A. And then you'd have to add those two together.

23 Q. To get the overall --

24 A. That's right.

25 Q. -- numbers?

1 And even, I guess, add half the Japanese in?

2 A. I don't -- no. The Jap -- the 50/50 companies
3 were never in the accounting system. What do they --
4 what did they -- what's that terminology they use?

5 Q. Consolidated?

6 A. Consolidated.

7 Only the income was pulled in as a line item
8 from -- from the Japanese company. Anything that was
9 50/50 or less, we only reported as income from it. The
10 consolidation came when it was 51 percent or more; and,
11 so, we had 66 and two-thirds at that time of the
12 Monsanto Chemicals, Limited. So, we would have taken
13 two-thirds of any of those numbers and -- and
14 consolidated them in an overall picture.

15 Q. Did you know Mr. Bergen?

16 A. Bergen, yes.

17 Q. Bergen.

18 He was responsible for the area of functional
19 fluids that dealt with PC -- or had PCBs as a part of
20 it, was he not?

21 A. He was for a time, yes.

22 Q. The possibility of DOP as a substitute for PCBs
23 in dielectric uses was known for a number of years
24 before Monsanto decided to get out of the PCB business,
25 was it not?

1 A. I don't know the answer to that question. I'm
2 sure somebody must have known that, functionally, you
3 could -- you could do that; but, again, the fire safety
4 aspect -- well, it was not in your question. But -- and
5 I'm sure somebody knew it. But I'm not sure that any
6 significance was attached to it.

7 Q. Well, let me show you a memo dated
8 January 28th, 1971, written by Mr. Bergen, Document
9 8800; and I direct your attention to the last paragraph
10 (tendering).

11 A. Well, it looks like Howard did.

12 Q. My question was: Did anybody ever bring, to
13 your recollection -- bring to the Corporate
14 Administrative Committee, or whatever it was called in
15 1971, information about the fact that DOP could be used
16 as a substitute dielectric fluid and that information
17 was known to Monsanto in 1971?

18 A. There wasn't -- it wasn't brought, to -- to my
19 recollection, that was never brought to the committee,
20 because, remember, fire safety was always the issue
21 here. And, so, while this may -- obviously was known --
22 and Benignus was a specialist in PCBs, as was Munch --
23 and Savage I don't remember -- and Bill Richard and Bill
24 Pappageorge. They obviously knew this, but there are
25 many -- there are many chemicals that have functional

1 properties that -- that are comparable in one or more of
2 those properties; but when you're looking for the
3 balance, they -- they fall out.

4 And I -- this was -- I think this was the
5 overall thought picture of most of us at that time.
6 They just simply don't compete when it comes to the
7 product -- or the fire safety characteristics.

8 Now, Bergen's insight, as he suggests there,
9 may have been -- looks like he should have pursued that
10 more; but...

11 Q. From your personal standpoint, had Mr. Bergen
12 brought the availability of DOP as a substitute to your
13 personal attention, would you have sought to have
14 Monsanto get out of the PCB business earlier?

15 A. No.

16 Q. Mr. Throdahl, have you ever testified before,
17 either by deposition or live at trial?

18 A. Yes.

19 Q. Can you tell me on how many occasions.

20 A. Twice on -- on deposition and once in a trial

21 Q. What did the depositions relate to?

22 A. Agent Orange.

23 Q. Both of them?

24 A. One -- one specifically on Agent Orange on
25 deposition, and Agent Orange became a part of the

1 deposition and -- and trial testimony in a case on -- a
2 Nitro case. It had -- it had other ramifications, but
3 the -- the dioxin situation was -- was featured in both
4 of them.

5 Q. So, you testified live at trial in the case in
6 Nitro, West Virginia?

7 A. Yeah.

8 Q. And you gave a deposition in the case in Nitro,
9 West Virginia?

10 A. Yes.

11 Q. And you also testified in the veterans' lawsuit
12 on Agent Orange?

13 A. Yes.

14 Q. And those are the only times you've testified?

15 A. Yes.

16 Q. Have you ever, in your own mind, associated
17 dioxin in any way with PCBs?

18 A. Theoretically.

19 Q. What do you mean by that?

20 A. You can get a little bit of anything and
21 everything if you go to fine enough limits. And any
22 time you have an aromatic hydrocarbon, air, and halogen,
23 theoretically you can form a molecule of anything. And
24 so a dioxin will be part of it.

25 Q. Okay. So, you --

1 A. But de minimis is my watchword.

2 Q. Okay.

3 So, you can conceive, from the standpoint of a
4 chemical engineer, where PCBs are present with oxygen,
5 the possibility --

6 A. Well, that's awful hard to do. It's very
7 difficult to do. I mean, from a practical point of
8 view, it -- I would say de minimis has to prevail there;
9 but paper chemistry will let you do that.

10 Q. Okay. You can -- you can, as a chemist,
11 contemplate that possibility in de minimis presence,
12 correct?

13 A. De minimis is present.

14 Q. And what level, in terms of parts per million,
15 parts per billion, would you think might be a de minimis
16 level that you would contemplate, if you know?

17 A. Well, based on toxicological data, it's -- it's
18 pretty high.

19 Q. I'm not sure I know what you mean by that.

20 A. Well, if you had -- if you even had -- you
21 can't get chloracne unless you've got a very high
22 concentration of dioxin in -- in the Agent Orange to --
23 just to start with.

24 Q. Well, what -- what do you mean by "high
25 concentration"? I guess that's what I'm looking --

1 MR. FREEMAN: Mr. Throdahl, let me
2 caution you that you have not been called
3 as an expert witness in toxicology,
4 epidemiology, analytical chemistry, or
5 theoretical chemistry. If you have some
6 facts you can testify to about here today,
7 please do so in response to Mr. Lacey's
8 question.

9 THE WITNESS: Well, I don't have any
10 facts.

11 MR. FREEMAN: We're not here to play
12 a guessing game or to expound the limits
13 of theoretical chemistry.

14 THE WITNESS: Okay.

15 A. I don't have any facts on that, but --

16 Q. Well, what --

17 A. It's in the literature. You can find it
18 easily.

19 Q. At what literature?

20 A. You look at --

21 THE WITNESS: Who was the
22 epidemiologist from the University of
23 Cincinnati that did so much of that work?

24 A. Raymond Suskind. You look at Suskind; and you
25 look at, also, Robert Neal of Van -- formerly of

1 Vanderbilt University Medical School and now the
2 Chemical Industry Institute of Technology, who's an
3 expert on dioxin. And you can find it there. I
4 recommend you look at both of them.

5 Q. Okay.

6 And those numbers are the numbers that you
7 believe would be appropriate for identifying whether
8 there would be any potential problem from dioxin?

9 A. Right.

10 MR. LACEY: If you have got a
11 ten-minute trip to be there at 2:00
12 o'clock, I think we've just made it.

13 MR. FREEMAN: Have you completed your
14 examination, Mr. Lacey?

15 MR. LACEY: I'm passing the Witness.

16 MR. FREEMAN: I've got an opportunity
17 to ask a couple of question, Mr. Throdahl.
18 Let me take two seconds to see if I do
19 want to exercise that opportunity.

20 MR. LACEY: If you do, I may have
21 some follow-up.

22 THE WITNESS: Do I need this anymore?

23 MR. LACEY: Feel free to do with it
24 whatever you want. It's yours. It's not
25 mine.

1 Why don't we give it to your lawyer
2 there.

3 MR. FREEMAN: I don't have any
4 questions. Thank you, Mr. Throdahl.

5 THE WITNESS: No questions.

6 (DEPOSITION CONCLUDED AT 1:51 P.M.) 1
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SIGNATURE OF WITNESS

I, MONTE C. THRODAHL, solemnly swear or affirm, under the pains and penalties of perjury, that the foregoing 200 pages contain a true and correct transcript of the testimony given by me at the time and place stated, with the corrections, if any, and the reasons therefor noted on a separate sheet of paper and attached hereto, and that I am signing this before a Notary Public.

MONTE C. THRODAHL

THE STATE OF TEXAS]

Subscribed and sworn to before me, the undersigned authority, by the said MONTE C. THRODAHL on this the ____ day of _____, 1987.

Notary Public in and for
the State of Texas

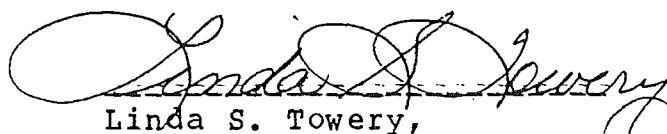
1 THE STATE OF TEXAS]

2
3 CERTIFICATE

4
5 I, Linda S. Towery, Certified Shorthand
6 Reporter No. 2413 and Notary Public in and for the State
7 of Texas, do hereby certify that I am not related to or
8 employed by any of the parties hereto, or their counsel,
9 and that I am not in any way interested in the outcome
10 of this matter.

11 I further certify that the above and
12 foregoing contains a true and correct transcript of the
13 testimony.

14 Certified on May 22, 1987.

15 

16 Linda S. Towery,
17 CSR No. 2413
18 2900 Smith, Suite 104
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19 My Certificate Expires January 1, 1989.
20 My Notary Commission Expires April 28, 1991.

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