



FILE: B-183192, B-184556

. DATE: June 24, 1976

MATTER OF: Charles D. Crandall

DIGEST:

Prior decisions denying protests against sale of gold by General Services Administration on behalf of the Department of the Treasury are affirmed since it is clear from legislative history of section 9 of Gold Reserve Act, 31 U.S.C. § 733 (1970), that Secretary of Treasury is authorized to sell gold for reasons other than anticipation of interest on the public debt.

Mr. Charles D. Crandall requests reconsideration of our decisions in B-183192, July 17, 1975, and B-184556, September 2, 1975, denying his protests against the General Services Administration's (GSA) rejection of his bids to purchase 4,800 and 10,000 ounces of gold under invitations for bids (IFB) Nos. MET-219 and MET-220, respectively. In both cases, Mr. Crandall challenged the authority of the GSA, acting on behalf of the Secretary of the Treasury, to sell gold at a price higher than that established by the Par Value Modification Act, as amended, 31 U.S.C. § 449 (Supp. III, 1973).

We denied the protests on the grounds that the Act's only domestic application is with respect to the issuance of gold certificates, which were not the subject matter of the protested sales, and that the sales were proper under section 9 of the Gold Reserve Act, 31 U.S.C. § 733 (1970). That section provides:

"The Secretary of the Treasury may anticipate the payment of interest on the public debt, by a period not exceeding one year, from time to time, either with or without a rebate of interest upon the coupons, as to him may seem expedient; and he may sell gold in any amounts, at home or abroad, in such manner and at such rates and upon such terms and conditions as he may deem most advantageous to the public interest,

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and the proceeds of any gold so sold shall be covered into the general fund of the Treasury* * *"

Mr. Crandall argues that the only purpose for which this section authorizes the Secretary to sell gold is the anticipation of the payment of interest on the public debt and that this was not the stated purpose for each of the subject sales. Mr. Crandall therefore claims that the bid prices accepted by the Government, which were far above the officially established price, were not authorized by this statute and were excessive under prevailing law. We disagree.

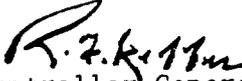
Although it is not clear from the language of the section itself that the Secretary is empowered to sell gold for reasons other than anticipating the payment of interest on the public debt, the history of section 9 does support the broad authority claimed by the Secretary. That section was derived from Joint Res. No. 20, 38th Cong., 1st Sess., approved March 17, 1864, 13 Stat. 404, which provided in part:

"Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be authorized to anticipate the payment of interest on the public debt, by a period not exceeding one year, from time to time, either with or without a rebate of interest upon the coupons, as to him may seem expedient; and he is hereby authorized to dispose of any gold in the treasury of the United States not necessary for the payment of interest of the public debt* * *."

The Resolution specifically empowered the Secretary to "dispose of any gold in the treasury not necessary for the payment of interest on the public debt* * *." Although Mr. Crandall argues that when Congress in section 9 of the Gold Reserve Act deleted the language authorizing the Secretary to dispose of any gold not necessary for interest payments, it intended to limit his authority to sales necessary for the payment of interest, the Congressional reports accompanying the Act suggest the opposite conclusion. We note that both the House and Senate reports accompanying this legislation do not contain a single reference to a relationship between interest payments and the Secretary's

gold sale authority. S. Rep. No. 201, 73d Cong., 2d Sess. (1934); H. R. Rep. No. 292, 73d Cong., 2d Sess. (1934); H. R. Rep. No. 290, 73d Cong., 2d Sess. (1934). What is clear from the committee reports, however, is an intention to clarify existing law and to provide the Secretary with greater flexibility in dealing with the nation's gold. Consequently, in furtherance of the Act's purpose ("To protect the currency system of the United States, to provide for the better use of the monetary gold stock of the United States, and for other purposes"), the Secretary was authorized, inter alia, to regulate the acquisition and use of gold (31 U.S.C. 442), to deal in gold for the purpose of stabilizing the exchange value of the dollar (31 U.S.C. 822a), to sell gold (31 U.S.C. 733), and to buy gold (31 U.S.C. 734).

By rejecting the bids of Mr. Crandall in favor of bids placed at prices higher than the par value, the Secretary of the Treasury was acting within this broad authority. Consequently, our denial of the protests is sustained.


Deputy Comptroller General
of the United States