There is no question that these contracts should ordinarily have been signed, and signed in the manner required by the statutes. As an abstract proposition, no one can deny that there were no written contracts calling for an expenditure of public money and in accordance with formulas deemed by Congress essential to the public welfare and protection. These contracts were not so executed, and I think for the best of reasons. When engaged in a great war, when in the midst of a great offensive, when conditions crowd upon each other with terrific rapidity, and when emergency arises requiring the utmost expedition to meet them, the department would have been false to the country and to itself if it had done otherwise than to act as the emergency required, notwithstanding the necessary disregard of statutory requirements. To have done otherwise might have involved the country in disaster; and I do not think it is fair to reflect upon the action of the department in the making of these contracts in view of these conditions.

There are times, Mr. President, when to follow the law may mean disaster; there are times when to disregard it and take the chances is the highest form of patriotism; and I am satisfied that the course pursued by the War Department with regard to the bill, the greatest, the overwhelming majority of these contracts were not only one to take, and without which the country would have needed, the allies, might have suffered very seriously. And because, Mr. President, they shouldered this responsibility, we should applaud them.

On the other hand, the contractors, men and corporations, who took the chances and came to the help of the Government under these circumstances, are entitled to our gratitude. The Senate, Mr. President, are entitled to our thanks; and the least we can do is to save them from the loss with which they are now confronted, and to do it as expeditiously as possible. So that the situation is an unavoidable situation, which is said to know no law.

If anybody is to blame for it, it is the nation or the nations responsible for the war. It is not to be attributed to any lack of conscientiousness upon the part of public officials to any disregard of the law, but to the necessity of the situation, which is said to know no law.

Now, Mr. President, and I impressed with the idea that the War Department, in its transaction of the public business during the last two eventful years, should be subject to no general criticism of dishonesty or laxity in the performance of its public duties. This department has been entrusted with the expenditure of somewhere in the neighborhood of twenty or twenty-five billions of dollars, the largest sum of money ever entrusted to any department in this country or any other. There may have been, and probably are, instances—it would be remarkable if it were not so—where men engaged in the public service have, directly or indirectly, profited their positions. It may be—it would be singular indeed if, under the temptations everywhere surrounding them, in view of the enormous amounts of money at their disposal and opportunities coming their way—some official here and there did not yield to the surrounding temptations and fall by the wayside. I do not know of any individual instance myself, but, I say, I shall be immensely surprised if numbers of them are not developed as these contracts are considered and allowed or rejected.

Mr. President, I want to say as a general fact that in the advent of a great war, when conditions crowd upon each other with terrific rapidity, and when emergency arises requiring the utmost expedition to meet them, the department would have been false to the country and to itself if it had done otherwise than to act as the emergency required, notwithstanding the necessary disregard of statutory requirements. To have done otherwise might have involved the country in disaster; and I do not think it is fair to reflect upon the action of the department in the making of these contracts in view of these conditions.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 13274) to provide relief where formal contracts have not been made in the manner required by law.

Mr. THOMAS. Mr. President, the Hitchcock bill was considered by the Committee on Military Affairs, as has been stated, and reported by a majority of the committee and the unanimous vote of that portion, and therefore took its place upon the calendar. The fact that the committee took such action, and afterwards the inconsistent one of favorably considering a bill largely different in its character and scope needs a word of passing explanation.

The Hitchcock bill was very carefully considered by the sub-committee; indeed, the senior Senator from Nebraska [Mr. Hitchcock] does his full duty upon every committee of which he is a member. The Senator gives his best thought and his best work to every task that is imposed upon him by his senatorial duties; and it is no reflection upon him that the bill now before the Senate was recommended in its place, but the attention of the committee was called to some of the operating features of the proposed measure, which convinced me that the bill which was offered as a substitute for the measure advocated by the Senator from Nebraska, and which the committee subsequently reported as a substitute for the House bill was, as an operating measure, not only a more effective but perhaps the only effective one of the two.

Mr. President, the subject matter of this bill is composed of a large number of items; that is to say, of different contracts—contracts executed improperly, contracts written but not executed, and oral contracts. It also embodies a geographical condition, these contracts being spread over a large portion of the United States, and involving a detail of production comprising practically every element essential to the necessary prosecution of the war.
regard to the bona fides of these transactions. I do not see how there can be. If a man has a contract irregularly executed, or not executed at all, but upon which nevertheless there is no ground for adjudication but for recognition and for action upon such recognition; and this brings me, Mr. President, to that feature of the Hitchcock bill which my better-informed judgment forced me to reject; to that section of the bill which creates a commission and refers all these contracts to it for adjustment.

The idea is an excellent one, and if but half a dozen, or even a hundred or a thousand contracts were involved it might be the better one; but I am afraid, Mr. President, that in practical operation it will prove to be not only unsatisfactory but delusive, and that instead of granting a remedy it will virtually interpose an obstacle to the ultimate determination of these very insistant matters.

Now, it was stated here yesterday afternoon by the Senator from New Jersey [Mr. Frelinghuysen] that the Assistant Secretary of War had informed him yesterday morning that there were 6,000 of these contracts, involving $1,706,000,000. The State of Colorado was admitted into the Union on the 1st of August, 1876, or 43 years ago. Its Federal district court has been one of the busiest in the land, and the amount of business it has transacted is enormous; yet I think its general docket numbers scarcely exceed 6,000 up to this time. The Supreme Court of the United States has been in existence since the Constitution was adopted. I think its general docket number is under 20,000, although it has been doing business for a century and a quarter. Six thousand contract cases, Mr. President, present to the mind a number of cases that it would be impossible to comprehend, except upon reflection; and when these, 6,000 contracts represent an average of $234,333 apiece in amount, then the magnitude of the cases assumed on the theory of the commission is obvious, because of the average amounts they involve. Of course, many of them involve far more and many far less than this average; but I undertake to say that it would be difficult to conceive of an aggregation of 6,000 controverted cases, the average of which are nearly $300,000 apiece, except the one or two which we here are considering.

Mr. President, how long would it take a commission doing its duty between the Government on the one side and the contractors on the other to dispose of these 6,000 cases? First, they must investigate the facts concerning the execution of the agreement—the manner, in other words, in which the contract was evolved—and the circumstances surrounding it; second, the amount of money to be allowed as a fair adjustment upon its recognition. How long will each case take? The average case of importance tried in the courts requires more than one day. There are 300 working days in a year; and if this commission were able to dispose of one case per day, or 300 per year, it would have to be in session for 20 years before the 6,000 contracts would be disposed of.

It is true that if the Hitchcock bill provides for the appointment of regional boards of examiners; but these regional boards have not the power of determining upon the facts. They take testimony, and the board or the commission, in order to acquaint itself with the facts, must read that testimony, must digest it, and then pass upon it.

Suppose that the commission tried two cases a day; there is 10 years. Ten cases a day would take 2 years; 20 cases a day would require 12 months after the commission is appointed to dispose of these 6,000 cases, and of course that is an absolute impossibility.

To my mind, therefore, the creation of a tribunal of any sort to handle exigent matters of such tremendous scope, comprehending so many items and so much money, would be a practical denial of justice to the holders of these claims against the Government.

On the other hand, the War Department has its machinery already in operation, and only waiting congressional action to go ahead with this important business and transact it as expeditiously as possible. Up to the time that the question of the validity of these contracts was raised and determined adversely, they were neither pending, and proceeding very expeditiously, to dispose of the matters. The Senator having charge of the bill yesterday inserted, at page 2289 of the Congressional Record and following it with an outline of the status of the commissions or boards, or whatever they may be called, which have already been provided for, and which, upon the enactment of this measure, can in their respective jurisdictions take hold and dispose of these claims.

I am willing to trust the Secretary of War, I am willing to trust the boards, the commissions, and the individuals that have been selected for the purpose of transacting this very important business. I know that with the possible exceptions that may occur, the great body of these men are just as anxious to secure justice for the Government as any of of them.

Mr. President, in a matter of this sort, time is of the utmost importance. As lawyers say, it is of the essence of the situation. Delays are expensive, not only to those having claims against the Government but to the Government itself. Every day that these claims remain undisposed of is an added expense of millions of dollars to the Government of the United States. Claims alone there are involving nearly one-quarter of a billion of dollars—claims which, in my judgment, are not affected by the statutory requirements relating to the execution of contracts in the United States; claims needing adjustment then. As I state here, to save a bankruptcy and compensations who have tried to help the Government, and have taken these chances; claims the settlement of which is necessary to the continued employment of labor in this country; claims the justice of which is beyond doubt in most cases; claims the settlement of which is essential to the welfare of the Government and to those who hold them.

That being so, let us give jurisdiction to that tribunal whose machinery will enable it to act upon these things at once, and have them all practically determined and disposed of within the next few months. That is benefiting the Government. That, and that alone, Mr. President, is the extension of true and adequate justice to the men and the corporations who need this relief so badly.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Nebraska.

Mr. HITCHCOCK. Mr. President, I shall ask for a roll call vote of the Senate on the Hitchcock bill, that the bill be reapproved by the Senate, and be sent back to the House of Representatives for further consideration.

Mr. CHAMBERLAIN. I think probably the record vote had better come on substituting his name. I should like to ask the chairman whether he has my name. I should like to ask the chairman whether he has any objection to substituting his name for mine on the record. If by consent it can be substituted for the House bill, then we will have only one record vote.

Mr. KIRBY. I should object to that. It would be adopting the Hitchcock substitute.

Mr. FLETCHER. I think the question first comes on substituting the amendment of the Senator from Nebraska.

Mr. HITCHCOCK. No; my amendment is to the House bill, that the House bill be reapproved by the Senate; and after it is perfected the Senator from Oregon will move to substitute his bill for the House bill as perfected.

Mr. CHAMBERLAIN. I think probably the record vote had better come on the pending question.

Mr. HITCHCOCK. Yes; but I was just suggesting that we will avoid that by adopting my amendment as a substitute for the House bill at this time.

Mr. CHAMBERLAIN. I will say to the Senator that I think the record vote had probably better come on substituting his name for the House bill.

The PRESIDING OFFICER. The Chair understands that the question is on the amendment offered by the Senator from Nebraska.

Mr. HITCHCOCK. As a preliminary, then, to a vote, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:


Mr. SHEPPARD. I desire to announce that the Senator from Rhode Island [Mr. GERRY] and the Senator from Virginia [Mr. MARRIN] are detained on official business.

Mr. SIMMONS. I wish to announce the unavoidable absence of my colleague [Mr. OVERMAN] on official business.

The PRESIDING OFFICER (Mr. Jones of New Mexico in the Chair). Fifty-two Senators have answered to their names. There is a quorum present.

Mr. LENTZ. Mr. President, the principal difference now between the substitute of the Senator from Nebraska [Mr. HYDECOCK] and the committee bill is the original jurisdiction of the commission which is provided for in both bills to determine these claims, the Hitchcock amendment giving full and complete jurisdiction to the commission, with certain lim-
The committee bill provides that the Secretary of War shall in the first instance adjust those claims and with the approval of a representative of the Department of Justice may pay the claimant from the contract fund; but in certain cases the Department of Justice, may appeal to the commission.

I think we are all in sympathy with the purpose the Senator from Nebraska desires to accomplish if it were practical, but even the Senator who proposes this amendment recognizes the fact that it is not practical to give original jurisdiction to this commission to investigate fully and determine all the evidence, because it would involve months and months of delay and disaster to many, many industries in the country.

The Senator from Nebraska has sought to avoid that very serious difficulty by the provision in his amendment which provides that the Secretary of War shall file with the commission a statement of the award he believes to be just and the amount which he considers to be entitled to. Then he provides that if the commission does not agree within 10 days after the filing of the commission, the award shall be final and conclusive.

Mr. President, I think this is a subject that has been discussed very fully, and at the present time I would like to call your attention to the fact that under the amendment of the Senator from Nebraska these things must be determined within 10 days, and in cases where an award is excessive the interest of the Government is not protected under his proposition.

So the result would be, in my judgment, under the Senator's amendment, that if there are awards that are excessive by the War Department, the contractor, of course, would immediately file his acceptance of that award, and the commission would have no opportunity within the 10 days to secure or produce evidence if it should be necessary to mandate the War Department to pay that excessive claim.

Now, contrast that with the provision in the committee bill.

I say the phrasing of the amendment is not happily worded, but I do not think there can be any question as to the construction.

Under the committee bill the provision is as follows:

"That within 30 days of the date when the Secretary of War tenders any contract or compensation as provided in this act, or refuses to tender such contract or compensation, the party to whom such contract or compensation is tendered may file with the Department of Justice a notice of appeal, and if the authorized officer from the Department of Justice, or the authorized officer from the Department of Justice, or the authorized officer from the Department of Justice, or the authorized officer from the Department of Justice, or the authorized officer from the Department of Justice, may file with the Department of Justice a notice of appeal, the same as the committee bill, not to exceed one page of the Department of Justice shall work with the War Department and in the investigation of these claims; that when the Secretary of War shall make an award if counsel for the Government shall be of the opinion that that award is or may be excessive he then has 30 days in which to further investigate that question and make an appeal. Then if he believes that it should be investigated he files his appeal and in certain cases the Department of Justice, may appeal to the commission.

In other words, under the committee proposition counsel for the Government sits in and is familiar, as counsel for a private party would be, with all the proceedings, and then when the award is made he has 30 days within which to file his appeal unless he is satisfied that justice is done to the Government and that the interests of the Government are protected.

If we think the present proposition is happily worded, I do not think that the word "tenders" is a proper word to use in this connection. Certainly, it is not used here, I think, in the ordinary sense of a legal tender. The phraseology later on is absolutely contrary to any idea, because to tender compensation ordinarily would mean that the party to whom compensation is tendered could immediately accept it. When it is said in the same paragraph that if the representatives of the Department of Justice agree with the War Department a settlement may be made at once, it seems to me that that negatives the idea that the word "tenders" is not used in its ordinary meaning.

It seems to me that that should be cleared up, and I think the word "offers" or "proposes" should be used.

Mr. LENROOT. Where is that to be found?

Mr. CHAMBERLAIN. That was the intention of the committee.

Mr. LENROOT. Does not the chairman think that there should be some other word than the word "tenders" to express the proposition?

Mr. CHAMBERLAIN. If the Senator can suggest a word, I will be glad to accept such an amendment, because that was the intention of the committee.

Mr. LENROOT. Will the Senator then agree to strike out the word "tenders" and insert the word "offers"?

Mr. CHAMBERLAIN. I have no objection.

Mr. LENROOT. I think that that would clear it up. I will then offer an amendment on page 7, line 20, to strike out the word "tenders" and insert the word "offers".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. LENROOT. My next amendment is to strike out the word "tenders" and insert the word "offers" after the word "to" in the next line.

The PRESIDING OFFICER. On page 7, line 19, before the word "to," strike out the word "tenders" and insert the word "offers." The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. LENROOT. I think it must be very clear that before payments can be made under the committee bill the court for the Government must agree that the payment is proper and the interest of the Government is protected. If he is not so satisfied, under the committee bill he has 30 days in which to further investigate, and either agree or appeal, while under the amendment of the Senator from Nebraska these things must be determined within 10 days, and in cases where an award is excessive the interests of the Government are not protected under his proposition.

For the reasons, Mr. President, I feel very clear that for the protection of the Government the bill as reported by the committee is preferable to the amendment offered by the Senator from Nebraska.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska [Mr. HITCHCOCK], Mr. HITCHCOCK. Before the question is put, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Rankhead J. Rankhead, C. J.

B. R. Bradbury  B. R. Bradbury


C. H. C. Culbertson  C. H. C. Culbertson

Johnston, Calif.  Johnston, Calif.

Frelinghuysen  Frelinghuysen

Johnson, E. P. Johnson, E. P.

La Follette  La Follette

Page  Page
The VICE PRESIDENT. Forty-eight Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees. The Secretary called the names of the absent Senators, and Mr. LEWIS and Mr. SWANSON answered to their names when called.

Mr. FERNALD entered the Chamber and answered to his name.

The VICE PRESIDENT. Fifty-one Senators have answered to the roll call. There is a quorum present. The question is on agreeing to the amendment of the Senator from Nebraska [Mr. HITCHCOCK].

Mr. HITCHCOCK. On that I ask for the yeas and nays. The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. SAULSBURY (when his name was called). I have a general pair with the senior Senator from Rhode Island [Mr. COLT]. In his absence, I refrain from voting.

Mr. STERLING (when his name was called). I have a general pair with the senior Senator from South Carolina [Mr. SMITH]. In his absence, I withhold my vote.

Mr. THOMAS (when his name was called). I transfer my general pair with the senior Senator from North Dakota [Mr. MCUMBER] to the senior Senator from New Hampshire [Mr. HOLLIS] and vote "nay."

Mr. CHAMBERLAIN (when Mr. WILLIAM'S name was called). The senior Senator from Mississippi [Mr. WILLIAM'S] is on his way here, but he has been unavoidably detained. He stated to me that he would vote "nay" on this question.

Mr. WOOLSEY (when his name was called). I transfer my general pair with the Senator from Indiana [Mr. WATSON] to the Senator from California [Mr. PFEKAN] and vote "nay."

Mr. WOOLSEY (when his name was called). I transfer my general pair with the senior Senator from Mississippi [Mr. WILLIAM'S]. I know that that Senator has not voted, but in view of the statement of his attitude made by the chairman of the committee, I will permit my vote to stand.

Mr. MYERS. Has the Senator from Connecticut [Mr. MCLEAN] voted?

Mr. MYERS. I have a pair with the Senator from Connecticut [Mr. MCLEAN], which I transfer to the Senator from Arizona [Mr. ASHURST] and vote "nay."

Mr. LODGE. I desire to announce that the Senator from Kansas [Mr. CURTIS] is detained on official business.

Mr. SHEPPARD. I wish to announce that the Senator from Kansas [Mr. THOMPSON] is necessarily absent on official business. If present, he would vote "nay" on the passage of the bill.

Mr. POLLOCK. I desire to announce that my colleague, the senior Senator from South Carolina [Mr. SMITH], is detained on account of illness.

Mr. LODGE. I have been requested to announce the following pairs:

The Senator from New York [Mr. CALDER] with the Senator from Rhode Island [Mr. GESEY];

The Senator from Vermont [Mr. DILLINGHAM] with the Senator from Maryland [Mr. SMITH];

The Senator from New Mexico [Mr. FALL] with the Senator from Wyoming [Mr. KENDRICK]; and

The Senator from West Virginia [Mr. GOWY] with the Senator from Oklahoma [Mr. OWEN].

The result was announced—yeas 8, nays 55, as follows:

**YEAS—8.**

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**NAYS—55.**

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The VICE PRESIDENT. The vote is on the committee amendment as amended. The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed. The title was amended so as to read, "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes."

POST-OFFICE APPROPRIATIONS.

Mr. BANKHEAD. I move that the Senate proceed to the consideration of House bill 13308, known as the Post Office appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 13308) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1920, and for other purposes, which had been reported from the Committee on Post Offices and Post Roads with amendments.

Mr. BANKHEAD. I ask unanimous consent that the formal reading of the bill be dispensed with, that the bill be read for amendment, the committee amendments to be first acted on.

The VICE PRESIDENT. Is there objection to the request of the Senator from Alabama? The Chair hears none, and it is so ordered.

Mr. SMITH of Georgia. I ask the Senator from Alabama to consent to have his bill laid aside temporarily in order that I may secure the disposition of a conference report.

Mr. BANKHEAD. How long does the Senator think it will take?

Mr. SMITH of Georgia. About five minutes.

Mr. BANKHEAD. Very well. I ask unanimous consent that the Post Office appropriation bill may be temporarily laid aside for that purpose.

The VICE PRESIDENT. Without objection, the Post Office appropriation bill will be temporarily laid aside for the purpose indicated by the Senator from Georgia.

SALARIES OF JUDGES—CONFERENCE REPORT.

Mr. SMITH of Georgia. Mr. President, I ask unanimous consent that the conference report on House bill 13201 be laid before the Senate.

The VICE PRESIDENT. The Chair lays before the Senate the conference report referred to by the Senator from Georgia, which will be read.

The Secretary read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12001) to amend an act entitled "An act to codify, revise, amend the laws relating to the Judiciary," approved March 3, 1911, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 7. That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

**SXC. 3. That the judges of the Supreme Court of the District of Columbia shall receive salaries the same as salaries provided by this act to be paid to judges of district courts of the United States, and such salaries shall be paid as now provided by law.**

"The judges of the Court of Appeals of the District of Columbia shall receive salaries the same as the salaries provided by this act to be paid to judges of the Circuit Court of Appeals of..."