

RELIEF IN CASES OF CONTRACTS CONNECTED WITH  
THE PROSECUTION OF THE WAR.

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FEBRUARY 26, 1919.—Ordered to be printed.

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Mr. DENT, from the committee of conference, submitted the  
following

CONFERENCE REPORT.

[To accompany H. R. 13274.]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 13274) to provide relief where formal contracts have not been made in the manner required by law, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment as follows:

In lieu of the matter proposed by the Senate amendment insert the following:

*That the Secretary of War be, and he is hereby, authorized to adjust, pay, or discharge any agreement, express or implied, upon a fair and equitable basis that has been entered into, in good faith during the present emergency and prior to November twelfth, nineteen hundred and eighteen, by any officer or agent acting under his authority, direction, or instruction, or that of the President, with any person, firm, or corporation for the acquisition of lands, or the use thereof, or for damages resulting from notice by the Government of its intention to acquire or use said lands, or for the production, manufacture, sale, acquisition or control of equipment, materials or supplies, or for services, or for facilities, or other purposes connected with the prosecution of the war, when such agreement has been performed in whole or in part, or expenditures have been made or obligations incurred upon the faith of the same by any such person, firm, or corporation prior to November twelfth, nineteen hundred and eighteen, and such agreement has not been executed in the manner prescribed by law: Provided, That in no case shall any award either by the Secretary of War, or the Court of Claims in-*

clude prospective or possible profits on any part of the contract beyond the goods and supplies delivered to and accepted by the United States and a reasonable remuneration for expenditures and obligations or liabilities necessarily incurred in performing or preparing to perform said contract or order: Provided further, That this Act shall not authorize payment to be made of any claim not presented before June thirtieth, nineteen hundred and nineteen: And provided further, That the Secretary of War shall report to Congress at the beginning of its next session following June thirtieth, nineteen hundred and nineteen, a detailed statement showing the nature, terms, and conditions of every such agreement and the payment or adjustment thereof: And provided further, That no settlement of any claim arising under any such agreement shall bar the United States Government through any of its duly authorized agencies, or any committee of Congress hereafter duly appointed, from the right of review of such settlement, nor the right of recovery of any money paid by the Government to any party under any settlement entered into, or payment made under the provisions of this Act, if the Government has been defrauded, and the right of recovery in all such cases shall exist against the executors, administrators, heirs, successors, and assigns, of any party or parties: And provided further, That nothing in this Act shall be construed to relieve any officer or agent of the United States from criminal prosecution under the provisions of any statute of the United States for any fraud or criminal conduct: And provided further, That this Act shall in no way relieve or excuse any officer or his agent from such criminal prosecution because of any irregularity or illegality in the manner of the execution of such agreement: And provided further, That in all proceedings hereunder witnesses may be compelled to attend, appear, and testify, and produce books, papers and letters, or other documents; and the claim that any such testimony or evidence may tend to criminate the person giving the same shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person in the trial of any criminal proceeding.

Sec. 2. That the Court of Claims is hereby given jurisdiction on petition of any individual, firm, company or corporation referred to in Section 1 hereof, to find and award fair and just compensation in the cases specified in said Section in the event that such individual, firm, company or corporation shall not be willing to accept the adjustment, payment or compensation offered by the Secretary of War as hereinbefore provided, or in the event that the Secretary of War shall fail or refuse to offer a satisfactory adjustment, payment or compensation as provided for in said Section.

Sec. 3. That the Secretary of War, through such agency as he may designate or establish is empowered, upon such terms as he or it may determine to be in the interest of the United States, to make equitable and fair adjustments and agreements, upon the termination or in settlement or readjustment of agreements or arrangements entered into with any foreign government or governments or nationals thereof, prior to November twelfth, nineteen hundred and eighteen, for the furnishing to the American Expeditionary Forces or otherwise for War purposes of supplies, materials, facilities, services or the use of property, or for the furnishing of any thereof by the

*United States to any foreign government or governments, whether or not such agreements or arrangements have been entered into in accordance with applicable statutory provisions; and the other provisions of this act shall not be applicable to such adjustments.*

*Sec. 4. That whenever, under the provisions of this act, the Secretary of War shall make an award to any prime contractor with respect to any portion of his contract which he shall have sublet to any other person, firm, or corporation who has in good faith made expenditures, incurred obligations, rendered service, or furnished material, equipment, or supplies to such prime contractor, with the knowledge and approval of any agent of the Secretary of War duly authorized thereunto, before payment of said award the Secretary of War shall require such prime contractor to present satisfactory evidence of having paid said subcontractor or of the consent of said subcontractor to look for his compensation to said prime contractor only; and in the case of the failure of said prime contractor to present such evidence or such consent, the Secretary of War shall pay directly to said subcontractor the amount found to be due under said award; and in case of the insolvency of any prime contractor the subcontractor of said prime contractor shall have a lien upon the funds arising from said award prior and superior to the lien of any general creditor of said prime contractor.*

*Sec. 5. That the Secretary of the Interior be, and he hereby is, authorized to adjust, liquidate, and pay such net losses as have been suffered by any person, firm, or corporation, by reason of producing or preparing to produce, either manganese, chrome, pyrites, or tungsten in compliance with the request or demand of the Department of the Interior, the War Industries Board, the War Trade Board, the Shipping Board, or the Emergency Fleet Corporation to supply the urgent needs of the Nation in the prosecution of the war; said minerals being enumerated in the act of Congress approved October 5, 1918, entitled "An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of those ores, metals, and minerals which have formerly been largely imported, or of which there is or may be an inadequate supply."*

*The said Secretary shall make such adjustments and payments in each case as he shall determine to be just and equitable; that the decision of said Secretary shall be conclusive and final, subject to the limitation hereinafter provided; that all payments and expenses incurred by said Secretary, including personal services, traveling and subsistence expenses, supplies, postage, printing, and all other expenses incident to the proper prosecution of this work, both in the District of Columbia and elsewhere, as the Secretary of the Interior may deem essential and proper, shall be paid from the funds appropriated by the said act of October 5, 1918, and that said funds and appropriations shall continue to be available for said purpose until such time as the said Secretary shall have fully exercised the authority herein granted and performed and completed the duties hereby provided and imposed: Provided, however, That the payments and disbursements made under the provisions of this section for and in connection with the payments and settlements of the claims herein described, and the said expenses of administration shall in no event exceed the sum of \$8,500,000: And provided further, That said Sec-*

retary shall consider, approve, and dispose of only such claims as shall be made hereunder and filed with the Department of the Interior within three months from and after the approval of this act: And provided further, That no claim shall be allowed or paid by said Secretary unless it shall appear to the satisfaction of the said Secretary that the expenditures so made or obligations so incurred by the claimant were made in good faith for or upon property which contained either manganese, chrome, pyrites, or tungsten in sufficient quantities to be of commercial importance: And provided further, That no claims shall be paid unless it shall appear to the satisfaction of said Secretary that moneys were invested or obligations were incurred subsequent to April 6, 1917, and prior to November 12, 1918, in a legitimate attempt to produce either manganese, chrome, pyrites, or tungsten for the needs of the Nation for the prosecution of the war, and that no profits of any kind shall be included in the allowance of any of said claims, and that no investment for merely speculative purposes shall be recognized in any manner by said Secretary: And provided further, That the settlement of any claim arising under the provisions of this section shall not bar the United States Government, through any of its duly authorized agencies, or any committee of Congress hereafter duly appointed, from the right of review of such settlement, nor the right to recover any money paid by the Government to any party under and by virtue of the provisions of this section, if the Government has been defrauded, and the right of recovery in all such cases shall extend to the executors, administrators, heirs, and assigns of any party.

That a report of all operations under this section, including receipts and disbursements, shall be made to Congress on or before the first Monday in December of each year.

That nothing in this section shall be construed to confer jurisdiction upon any court to entertain a suit against the United States: Provided further, That in determining the net losses of any claimant the Secretary of the Interior shall, among other things, take into consideration and charge to the claimant the then market value of any ores or minerals on hand belonging to the claimant, and also the salvage or usable value of any machinery or other appliances which may be claimed was purchased to equip said mine for the purpose of complying with the request or demand of the agencies of the Government above mentioned in the manner aforesaid.

Amend the title so as to read: *An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes.*

And the Senate agree to the same.

S. H. DENT, Jr.,  
W. J. FIELDS,  
JULIUS KAHN,

*Managers on the part of the House of Representatives.*

GEO. E. CHAMBERLAIN,  
C. S. THOMAS,  
DUNCAN U. FLETCHER,  
F. E. WARREN,  
P. C. KNOX.

*Managers on the part of the Senate.*

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE.

The conferees adopted the report upon this bill made February 11, with the exception of section 5 which provided for the settlement of mining contracts by the Secretary of the Interior. As to section 5 the conferees simply followed the latest instructions of the House authorizing the settlement and liquidation of losses suffered in the production of manganese, chrome, pyrites, and tungsten. The conferees respectfully refer to the report and statement filed February 11, 1919, upon this bill.

S. H. DENT, Jr.,  
W. J. FIELDS,  
JULIUS KAHN,  
*Managers on the part of the House.*