

93d CONGRESS }
2d Session }

SENATE

{ REPORT
No. 93-1193

NATIONAL EMERGENCIES ACT

REPORT

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS

UNITED STATES SENATE

TO ACCOMPANY

S. 3957

TO TERMINATE CERTAIN AUTHORITIES WITH RESPECT
TO NATIONAL EMERGENCIES STILL IN EFFECT, AND TO
PROVIDE FOR ORDERLY IMPLEMENTATION AND TERMI-
NATION OF FUTURE NATIONAL EMERGENCIES



SEPTEMBER 30, 1974.—Ordered to be printed

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NATIONAL EMERGENCIES ACT

SEPTEMBER 30, 1974.—Ordered to be printed

Mr. ERVIN, from the Committee on Government Operations,
submitted the following

REPORT

[To accompany S. 3957]

The Committee on Government Operations, to which was referred the bill (S. 3957) to terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 3957 is to end the four states of national emergency currently in force and to provide for a procedure for meeting future emergencies which will assure the operation of constitutional processes.

In order to carry out this purpose the National Emergencies Act would:

- (1) Terminate the four states of national emergency now in force;
- (2) Provide for automatic termination of future national emergencies after six months unless extended by Congressional action;
- (3) Provide for Congressional oversight of and accountability for actions taken by the Executive in the exercise of delegated emergency powers; and
- (4) Repeal specific obsolete emergency powers statutes.

Four states of national emergency are now in force. The national emergency declared by President Roosevelt on March 6, 1933, to meet the crisis of the depression has not been formally terminated.

(1)

The national emergency declared on December 16, 1950, by President Truman to mobilize the country for the Korean War, is still in effect.

The national emergency declared by President Nixon on March 23, 1970, to cope with the Post Office strike, has not been terminated.

The national emergency declared by President Nixon on August 15, 1971, to implement currency restrictions and to enforce controls on foreign trade remains in effect.

The termination of the existing states of emergency would take effect 9 months after the date of enactment of this bill. This 9-month grace period is provided to enable the Executive branch to make legislative proposals for the small body of "emergency" powers that have become everyday functions of the government, with enough time to obtain enactment through normal legislative processes.

The second section of the bill provides for regular and consistent procedures by which emergencies can be met in the future. The definition of an emergency has been deliberately cast in broad terms that makes it clear that a proclamation of a state of national emergency requires a grave national crisis. In the event of such a crisis, the President, by proclamation, would declare the existence of a national emergency. The proclamation of the President would be immediately made public and published in the *Federal Register*. In his proclamation the President would specify his reasons for declaring the emergency and the statutory powers he intended to invoke. The delegation of authority would take effect immediately upon public notification by the President. Any time within the next 6 months, the Congress could affirm or reject by Concurrent Resolution the President's use of these powers. If the Congress did not act the declared emergency would lapse after 6 months. Proclaimed states of national emergency could be extended for 6-month periods but each extension would require an affirmative act by the Congress and be limited to 6 months.

The third section of the bill would require an accounting of all significant actions taken by the President pursuant to emergency powers invoked during a declared state of national emergency. This section is intended to provide the means for effective Congressional oversight of the executive branch's use of statutory delegated emergency powers.

The final section of the bill is a list of statutes to be repealed. The Standing Committees and the executive branch departments and agencies have agreed that these statutes are obsolete and should be stricken from the books.

HISTORY OF LEGISLATION

The National Emergencies Act was introduced by the Senate Special Committee on National Emergencies and delegated emergency powers on August 22, 1974. The Act was sponsored by Senators Church, Mathias, Hart, Pell, Stevenson, Case, Pearson, Hansen, Ervin, Chiles, Williams, Muskie, Javits, Ribicoff, and Roth.

The National Emergencies Act is the result of almost 2 years of hearings, investigations and studies conducted by the bipartisan special committee under the co-chairmanship of Senator Church and Senator Mathias and whose other members are Senators Hart, Case, Pell, Pearson, Stevenson and Hansen. The special committee had its

origins in the final months of the 92nd Congress, when considerable interest was expressed within the Senate in determining with precision what emergency powers were available to the Executive. With the opening of the 93rd Congress there was established, on January 6, 1973, a Special Committee on the Termination of the National Emergency. The mandate of the special committee, as expressed in its authorizing resolution (S. Res. 9), was "to conduct a study and investigation with respect to the matter of terminating the national emergency proclaimed by the President of the United States on December 16, 1950, as announced in Presidential Proclamation Numbered 2914, dated the same date."

It was soon discovered that more than one proclamation of national emergency was in effect; in fact, there are four such instruments, issued in 1933, 1950, 1970 and 1971, now in force. After examining the U.S. Code and uncodified statutory emergency powers, the special committee identified over 470 provisions of Federal law in effect which delegate extraordinary authority in time of national emergency to the Executive.*

The special committee discovered that there was no consistent procedure for declaring, administering or terminating states of national emergencies. The special committee, therefore, worked on two main tasks. First, to explore how existing states of national emergency could be terminated with the least adverse effects. There were three possible approaches: (a) outright repeal of all emergency statutes, (b) relegating all emergency provisions to a state of dormancy to be used in future emergencies, or (c) maintaining emergency provisions in the United States Code but for use only in states of emergency declared in accordance with regular and consistent procedures which would provide for termination and oversight.

The second task was to explore the possibility of establishing a procedure for declaring states of national emergency. The procedure would require accountability for actions taken by the Executive pursuant to delegated emergency authorities in order to permit the Congress to effectively exercise its oversight responsibilities.

Concurrent with the historical research undertaken by the staff of the special committee, the Library of Congress and distinguished consultants, hearings were held on the history of emergency rule in the United States and constitutional problems created by such rule. The dates of committee hearings were April 11 and 12, July 24 and November 28, 1973.

Professor Robert S. Rankin, Emeritus, of Duke University, Professor Cornelius P. Cotter of the University of Wisconsin, and Professor J. Malcolm Smith of California State University, all renowned scholars of the subject of emergency powers, testified in hearings held by the special committee on April 11, 1973. Since that time they have continued to advise the committee on particular constitutional and legal questions concerned with emergency powers.

*See U.S. Congress, Senate—Special Committee on the Termination of the National Emergency; Emergency Powers Statutes: Provisions of Federal Law Now in Effect Delegating to the Executive Extraordinary Authority in Time of National Emergency, Washington, U.S. Govt. Print. Off., 1973 (93d Congress, 1st session, Senate Report No. 549) 607 pages; see also, Executive Orders in Times of War and National Emergency, Washington, U.S. Govt. Print. Off., 1974 (93d Congress, 2d session, 233 pages).

The Dean of the Georgetown University Law Center, Professor Adrian S. Fisher, testified on the circumstances surrounding the declaration of the 1950 national emergency. His testimony was particularly useful because Professor Fisher was an advisor to Harry Truman at the time the emergency was declared. Dr. Gerhard Casper, Professor of Law and Political Science at the University of Chicago, testified on the constitutional questions involved in Executive use of emergency powers, comparing the experiences of other democratic states, particularly those of the Weimar Republic.

The special committee has had the benefit of the full cooperation and assistance of three successive Attorneys General: Kleindienst, Richardson and Saxbe, respectively, as well as three Secretaries of Defense and the Office of Management and Budget.

In addition, the special committee called upon former Attorney General of the United States and Associate Justice of the U.S. Supreme Court (retired) Tom C. Clark, former Attorney General Nicholas DeB. Katzenbach, and former Attorney General Ramsey Clark for their perspectives on emergency powers from the viewpoint of the Justice Department and the Supreme Court. Just prior to his death, the late Chief Justice of the Supreme Court Earl Warren informally provided to the committee counsel based upon his long experience and life in the law. As reported by Senator Mathias in a speech to the Senate on August 22, 1974:

Chief Justice Warren said that while the Constitution provides that only Congress can make the law, the legislature has the obligation through enacting statutes to provide firm policy guidelines for the executive branch. The former Chief Justice agreed with Justice Jackson's view that where there are statutory guidelines, a President is obliged to follow the precepts contained in the laws passed by the Congress. Inherent powers problems arise and the other branches act, he said, largely when Congress fails to act definitely, when it fails to make needed laws and when there is a necessity for legislative action and Congress fails to meet the challenge.

We then discussed the outline and the constitutional concept that lay behind the legislative proposal to meet future national emergencies now before the Senate. Chief Justice Warren thought it was, in principle, a sound solution to what he recognized as a serious threat to constitutional government.

Following his resignation as Attorney General of the United States, Elliot Richardson presented his views to the special committee as did former Solicitor General Erwin N. Griswold.

On the basis of these hearings, contained in three volumes issued as committee reports, consultations with every department and agency of the Executive branch, the Federal Register and consultation with many distinguished legal scholars in the Executive branch, in the Library of Congress and in numerous universities and law schools, the special committee drew up legislation making use of many of the suggestions of these persons and the witnesses who had appeared before committee hearings. The special committee took as a basic guideline the opinion of the Supreme Court in the Youngstown Steel Case,

particularly that portion of the concurring opinion given by Justice Jackson:

The appeal, however, that we declare the existence of inherent powers *ex necessitate* to meet an emergency asks us to do what many think would be wise, although it is something the forefathers omitted. They knew what emergencies were, knew the pressures they engendered for authoritative action, knew, too, how they afford a ready pretext for usurpation. We may also suspect that they suspected that emergency powers would tend to kindle emergencies. Aside from suspension of the privilege of the writ of habeas corpus in time of rebellion or invasion, when the public safety may require it, they made no express provision for exercise of extraordinary authority because of a crisis. I do not think we rightfully may so amend their work, and, if we could, I am not convinced it would be wise to do so, although many modern nations have forthrightly recognized that war and economic crises may upset the normal balance between liberty and authority. Their experience with emergency powers may not be irrelevant to the argument here that we should say that the Executive, of his own volition, can invest himself with undefined emergency powers.

Germany, after the First World War, framed the Weimar Constitution, designed to secure her liberties in the Western tradition. However, the President of the Republic, without concurrence of the Reichstag, was empowered temporarily to suspend any or all individual rights if public safety and order were seriously disturbed or endangered. This proved a temptation to every government, whatever its shade of opinion, and in 13 years suspension of rights was invoked on more than 250 occasions. Finally, Hitler persuaded President von Hindenburg to suspend all such rights, and they were never restored.

The French Republic provided for a very different kind of emergency government known as the "state of seige." It differed from the German emergency dictatorship particularly in that emergency powers could not be assumed at will by the Executive but could only be granted as a parliamentary measure. And it did not, as in Germany, result in a suspension or abrogation of law but was a legal institution governed by special legal rules and terminable by parliamentary authority.

Great Britain also has fought both World Wars under a sort of temporary dictatorship created by legislation. As Parliament is not bound by written constitutional limitations, it established a crisis government simply by delegation to its Ministers of a larger measure than usual of its own unlimited power, which is exercised under its supervision by Ministers whom it may dismiss. This has been called the "high-water mark in the voluntary surrender of liberty," but, as Churchill put it, "Parliament stands custodian of these surrendered

liberties, and its most sacred duty will be to restore them in their fullness when victory has crowned our exertions and our perseverance." Thus, parliamentary controls made emergency powers compatible with freedom.

This contemporary foreign experience may be inconclusive as to the wisdom of lodging emergency powers somewhere in a modern government. But it suggests that emergency powers are consistent with free government only when their control is lodged elsewhere than in the Executive who exercises them. That is the safeguard that would be nullified by our adoption of the "inherent powers" formula. Nothing in my experience convinces me that such risks are warranted by any real necessity, although such powers would, of course, be an Executive convenience.

In the practical working of our Government we already have evolved a technique within the framework of the Constitution by which normal Executive powers may be considerably expanded to meet an emergency. Congress may and has granted extraordinary authorities which lie dormant in normal times but may be called into play by the Executive in war or upon proclamation of a national emergency. In 1939, upon congressional request, the Attorney General listed ninety-nine such separate statutory grants by Congress of emergency or wartime Executive powers. They were invoked from time to time as need appeared. Under this procedure we retain Government by law—special, temporary law, perhaps, but law nonetheless. The public may know the extent and limitations of the powers that can be asserted, and persons affected may be informed from the statute of their rights and duties.

In view of the ease, expedition and safety with which Congress can grant and has granted large emergency powers, certainly ample to embrace this crisis, I am quite unimpressed with the argument that we should affirm possession of them without statute. Such power either has no beginning or it has no end. If it exists, it need submit to no legal restraint. I am not alarmed that it would plunge us straightway into dictatorship, but it is at least a step in that wrong direction.

* * * * *

But I have no illusion that any decision by this Court can keep power in the hands of Congress if it is not wise and timely in meeting its problems. A crisis that challenges the President equally, or perhaps primarily, challenges Congress. If not good law, there was worldly wisdom in the maxim attributed to Napoleon that "The tools belong to the man who can use them." We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers.

The essence of our free Government is "leave to live by no man's leave, underneath the law"—to be governed by those impersonal forces which we call law. Our Government is fashioned to fulfill this concept so far as humanly possible.

The Executive, except for recommendation and veto, has no legislative power. The executive action we have here originates in the individual will of the President and represents an exercise of authority without law. No one, perhaps not even the President, knows the limits of the power he may seek to exert in this instance and the parties affected cannot learn the limit of their rights. We do not know today what powers over labor or property would be claimed to flow from Government possession if we should legalize it, what rights to compensation would be claimed or recognized, or on what contingency it would end. With all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberations.

Such institutions may be destined to pass away. But it is the duty of the Court to be last, not first, to give them up.

The research required to bring together the statutes and Executive orders concerned with war and national emergency could not have been achieved without the help of all the executive departments and agencies. The Air Force gave the special committee access to its LITE computer system which included the U.S. Code among its tapes. This made it possible to begin to identify the statutes triggered by a state of national emergency. In addition to the computer search, the special committee made a hand-search of all 87 volumes of the Statutes-at-Large.

The result of the search of the U.S. Code and the Statutes-at-Large and of the collection of proclamations and Executive orders found at the Library of Congress and at the *Federal Register*, were two compilations, the first entitled "Emergency Powers Statutes: Provisions of Federal Law Now in Effect Delegating to the Executive Extraordinary Authority in Time of National Emergency," and the second, "Executive Orders in Times of War and National Emergency." In addition, "A Brief History of Emergency Powers in the United States," prepared by the Library of Congress was just issued as a committee print. A handbook containing the evaluations of all emergency statutes made by Standing Committees of the Senate and by Executive branch departments and agencies is now in the process of being printed.

SECTION-BY-SECTION ANALYSIS

S. 3957, the National Emergencies Act, contains six sections. They provide for the termination of existing states of national emergencies to take effect nine months after date of enactment. A procedure for meeting future emergencies is set forth including provisions for termination, extension and accountability for actions taken. The final section lists existing but obsolete statutes to be repealed upon enactment.

SECTION 101

Subsection (a) states that all existing national emergencies are to be terminated and all powers and authorities conferred by statutes dependent upon a declared state of national emergency are terminated

two hundred and seventy one days (nine months) after the enactment of the National Emergencies Act.

Subsection (b) defines the term "any national emergency in effect" as any general declaration of emergency made by the President pursuant to a statute authorizing him to declare a national emergency.

SECTION 201

Subsection (a) provides that the President may declare a proclamation of national emergency when it is "essential to the preservation, protection, and defense of the Constitution, and is essential to the common defense, safety, or well-being of the territory and people of the United States." Any such proclamation must be made public and published in the *Federal Register*.

Subsection (b) provides that any statute that becomes effective in time of a declared national emergency, shall only be lawful if the provisions of this Act are complied with. No future act will supercede this Act unless it does so in specific terms, and declares that the purpose of the new law is to supercede either particular parts or the whole of this Act.

SECTION 301

When Congress declares war, any statutes that take effect in times of a declared national emergency are also in effect. These emergency powers remain in effect in conformity with procedures provided by this Act.

SECTION 401

Subsection (a) provides that only declared states of national emergency that comply with this Act shall have legal authority and effect.

Subsection (b) provides that the President must specify the emergency powers statutes he is making use of. The powers specified in the declaration must be published in the *Federal Register*, and the declaration, as well as the specified statutes must be transmitted immediately to Congress.

SECTION 402

Any future national emergency declared by the President shall automatically terminate after six months, unless the emergency is terminated earlier, or the Congress by concurrent resolution specifies a day beyond the six months when the emergency will end.

SECTION 403

Subsection (a) provides that in the case of a war declared by Congress statutory emergency powers specified by the President for use in a proclamation terminate at the end of 180 days unless extended in accordance with the procedures provided by this Act.

Subsection (b) provides that the procedures for exercising emergency powers and authorities contained in Sections 401 and 402 of this Act will apply to any subsequent declarations of national emergency affecting the same war or national emergency.

SECTION 501

Subsection (a) provides for a reporting by the Executive branch whereby each emergency order or rule promulgated under the authority of the national emergency and its use will be recorded and reported to Congress.

Subsection (b) provides that where required, proper confidentiality will be maintained for reports transmitted to the Congress.

SECTION 601

Repeals certain statutes that are obsolete.

ESTIMATED COST OF LEGISLATION

It is not expected that enactment of this legislation would require any significant additional expenditures.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no changes is proposed is shown in roman) :

TITLE 7.—AGRICULTURE, UNITED STATES CODE

* * * * *

[Chapter 42.—AGRICULTURAL COMMODITY SET-ASIDE

[§ 1741. **Maximum and minimum quantities for set-aside; definition.**

[The Commodity Credit Corporation shall, as rapidly as the Secretary of Agriculture shall determine to be practicable, set aside within its inventories not more than the following maximum quantities and not less than the following minimum quantities of agricultural commodities or products thereof heretofore or hereafter acquired by it from 1954 and prior years' crops and production in connection with its price support operations :

Commodity	Maximum quantity	Minimum quantity
Wheat (bushels).....	500,000,000	400,000,000
Upland cotton (bales).....	4,000,000	3,000,000
Cottonseed oil (pounds).....	500,000,000	0
Butter (pounds).....	200,000,000	0
Nonfat dry milk solids (pounds).....	300,000,000	0
Cheese (pounds).....	150,000,000	0

[Such quantities shall be known as the "commodity set-aside".

§ 1742. Determination of commodity value for set-aside.

Quantities of commodities shall not be included in the commodity set-aside which have an aggregate value in excess of \$2,500,000,000. The value of the commodities placed in the commodity set-aside, for the purpose of this section, shall be the Corporation's investment in such commodities as of the date they are included in the commodity set-aside, as determined by the Secretary.

§ 1743. Reduction of set-aside.

(a) Such commodity set-aside shall be reduced by disposals made in accordance with the directions of the President as follows:

(1) Donation, sale, or other disposition for disaster or other relief purposes outside the United States pursuant to and subject to the limitations of subchapter III of chapter 41 of this title;

(2) Sale or barter (including barter for strategic materials) to develop new or expanded markets for American agricultural commodities, including but not limited to disposition pursuant to and subject to the limitations of subchapter II of chapter 41 of this title;

(3) Donation to school-lunch programs;

(4) Transfer to the national stockpile established pursuant to sections 98 to 98h of Title 50, without reimbursement from funds appropriated for the purposes of said sections;

(5) Donation, sale, or other disposition for research, experimental, or educational purposes;

(6) Donation, sale, or other disposition for disaster relief purposes in the United States or to meet any national emergency declared by the President; and

(7) Sale for unrestricted use to meet a need for increased supplies at not less than 105 per centum of the parity price in the case of agricultural commodities and a price reflecting 105 per centum of the parity price of the agricultural commodity in the case of products of agricultural commodities.

The President shall prescribe such terms and conditions for the disposal of commodities in the commodity set-aside as he determines will provide adequate safeguards against interference with normal marketings of the supplies of such commodities outside the commodity set-aside. Strategic materials acquired by the Commodity Credit Corporation under paragraph (2) of this subsection shall be transferred to the national stockpile established pursuant to sections 98 to 98h of Title 50, and the Commodity Credit Corporation shall be reimbursed for the value of the commodities bartered for such strategic materials from funds appropriated pursuant to section 98g of Title 50. For the purpose of such reimbursement, the value of any commodity so bartered shall be the lower of the domestic market price or the Commodity Credit Corporation's investment therein as of the date of such barter, as determined by the Secretary of Agriculture.

(b) The quantity of any commodity in the commodity set-aside shall be reduced to the extent that the Commodity Credit Corporation inventory of such commodity is reduced, by natural or other cause beyond the control of the Corporation, below the quantity then charged to the commodity set-aside.

§ 1744. Sale of commodities in set-aside; exemption from pricing limitations.

[(a) The Corporation shall have authority to sell, without regard to section 1743(a)(7) of this title, any commodity covered by the commodity set-aside for the purpose of rotating stocks or consolidating inventories, any such sale to be offset by purchase of the same commodity in a substantially equivalent quantity or of a substantially equivalent value.

[(b) Dispositions pursuant to this chapter shall not be subject to the pricing limitations of section 1427 of this title.

§ 1745. Computation of carry-over.

[The quantity of any commodity in the commodity set-aside or transferred from the set-aside to the national stockpile established pursuant to sections 98 to 98h of Title 50 shall be excluded from the computation of "carryover" for the purpose of determining the price support level for such commodity under the Agricultural Act of 1949, as amended, and related legislation, but shall be included in the computation of total supplies for purposes of acreage allotments and marketing quotas under the Agricultural Adjustment Act of 1938, as amended, and related legislation. Until such time as the commodity set-aside has been completed, such quantity of the commodity as the Secretary shall determine between the maximum and minimum quantities specified in section 1741 of this title shall be excluded from the computations of "carryover" for the purpose of determining the price support level, but shall be included in the computation of total supplies for purposes of acreage allotments and marketing quotas, for the 1955 crop of the commodity, notwithstanding that the quantity so excluded may not have been acquired by the Corporation and included in the commodity set-aside.

§ 1746. Records and accounts.

[The Commodity Credit Corporation shall keep such records and accounts as may be necessary to show, for each commodity set-aside, the initial and current composition, value (in accordance with section 1742 of this title), current investment, quantity disposed of, method of disposition, and amounts received on disposition.

§ 1747. Appropriations; determination of value of transferred commodity.

[In order to make payment to the Commodity Credit Corporation for any commodities transferred to the national stockpile pursuant to section 1743(a)(4) of this title, there are authorized to be appropriated amounts equal to the value of any commodities so transferred. The value of any commodity so transferred, for the purpose of this section, shall be the lower of the domestic market price or the Commodity Credit Corporation's investment therein as of the date of transfer to the stockpile, as determined by the Secretary of Agriculture.]

TITLE 8.—ALIENS AND NATIONALITY, UNITED STATES
CODE

* * * * *

PART III.—LOSS OF NATIONALITY

§1481. Loss of nationality by native-born or naturalized citizen; voluntary action; burden of proof; presumptions.

(a) From and after the effective date of this chapter a person who is a national of the United States whether by birth or naturalization, shall lose his nationality by—

(1) * * *

* * * * *
[(10) departing from or remaining outside of the jurisdiction of the United States in time of war or during a period declared by the President to be a period of national emergency for the purpose of evading or avoiding training and service in the military, air, or naval forces of the United States. For the purposes of this paragraph failure to comply with any provision of any compulsory service laws of the United States shall raise the presumption that the departure from or absence from the United States was for the purpose of evading or avoiding training and service in the military, air, or naval forces of the United States.]

TITLE 10.—ARMED FORCES, UNITED STATES CODE

* * * * *
Chapter 159.—REAL PROPERTY; RELATED PERSONAL PROPERTY; AND LEASE OF NON-EXCESS PROPERTY

* * * * *
§ 2667. Leases: non-excess property.

(a) * * *

* * * * *

(b) A lease under subsection (a)—

(1) * * *

* * * * *
[(4) must be revocable by the Secretary during a national emergency declared by the President; and]

* * * * *

Chapter 873.—CIVILIAN EMPLOYEES

* * * * *
[§ 4025. Production of supplies and munitions: hours and pay of laborers and mechanics.

[During a national emergency declared by the President, the regular working hours of laborers and mechanics of the Department of the Army producing military supplies or munitions are 8 hours a day or 40 hours a week. However under regulations prescribed by the Secretary of the Army these hours may be exceeded. Each laborer or mechanic who works more than 40 hours in a workweek shall be paid at a rate not less than one and one-half times the regular hourly rate for each hour in excess of 40.]

* * * * *

Chapter 873.—CIVILIAN EMPLOYEES

* * * * *
[§ 9025. Production of supplies and munitions: hours and pay of laborers and mechanics.

[During a national emergency declared by the President, the regular working hours of laborers and mechanics of the Department of the Air Force producing military supplies or munitions are 8 hours a day or 40 hours a week. However, under regulations prescribed by the Secretary of the Air Force these hours may be exceeded. Each laborer or mechanic who works more than 40 hours in a workweek shall be paid at a rate not less than one and one-half times the regular hourly rate for each hour in excess of 40.]

TITLE 12.—BANKS AND BANKING, UNITED STATES
CODE

* * * * *
Chapter 2.—NATIONAL BANKS

ORGANIZATION AND GENERAL PROVISIONS

* * * * *
[§ 95. Emergency limitations and restrictions on business of members of Federal reserve system.

[In order to provide for the safer and more effective operation of the national banking system and the Federal reserve system, to preserve for the people the full benefits of the currency provided for by the Congress through the national banking system and the Federal reserve system, and to relieve interstate commerce of the burdens and obstructions resulting from the receipt on an unsound or unsafe basis of deposits subject to withdrawal by check, during such emergency period as the President of the United States by proclamation may prescribe, no member bank of the Federal reserve system shall transact any banking business except to such extent and subject to such regulations, limitations, and restrictions as may be prescribed by the Secretary of the Treasury, with the approval of the President. Any individual, partnership, corporation, or association, or any director, officer, or employee thereof, violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000 or, if a natural person, may, in addition to such fine, be imprisoned for a term not exceeding ten years. Each day that any such violation continues shall be deemed a separate offense.

[§ 95a. Regulation of transactions in foreign exchange of gold and silver; property transfers; vested interests, enforcement and penalties.

[(1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

[(A) investigate, regulate, or prohibit any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

[(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this section either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this section, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this section.

[(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this section or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this section, or any rule, regulation, instruction, or direction issued hereunder.

[(3) As used in this section the term "United States" means the United States and any place subject to the jurisdiction thereof: *Provided, however,* That the foregoing shall not be construed as a limitation upon the power of the President, which is conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this section, for any or all of the terms used in this section. Whoever

willfully violates any of the provisions of this section or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this section the term "person" means an individual, partnership, association, or corporation.】

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Chapter 3.—FEDERAL RESERVE SYSTEM

DEFINITIONS, ORGANIZATION, AND GENERAL PROVISIONS AFFECTING SYSTEM

* * * * *

【§ 249. Regulation of consumer credit.

【After November 1, 1947, the Board of Governors of the Federal Reserve System shall not exercise consumer credit controls pursuant to Executive Order Numbered 8843, and no such consumer credit controls shall be exercised after such date except during the time of war beginning after August 8, 1947, or any national emergency declared by the President after August 8, 1947.】

* * * * *

Chapter 13.—NATIONAL HOUSING

【§ 1703. Insurance of financial institutions.

【(a) The Secretary is authorized and empowered upon such terms and conditions as he may prescribe, to insure banks, trust companies, personal finance companies, mortgage companies, building and loan associations, installment lending companies and other such financial institutions, which the Secretary finds to be qualified by experience or facilities and approves as eligible for credit insurance, against losses which they may sustain as a result of loans and advances of credit, and purchases of obligations representing loans and advances of credit, made by them on and after July 1, 1939, and prior to June 30, 1973, for the purpose of (i) financing alterations, repairs, and improvements upon or in connection with existing structures, and the building of new structures, upon urban, suburban, or rural real property (including the restoration, rehabilitation, rebuilding, and replacement of such improvements which have been damaged or destroyed by earthquake, conflagration, tornado, hurricane, cyclone, flood, or other catastrophe), by the owners thereof or by lessees of such real property under a lease expiring not less than six months after the maturity of the loan or advance of credit; and for the purpose of (ii) financing the purchase of a mobile home to be used by the owner as his principal residence. In no case shall the insurance granted by the Secretary under this section to any such financial institution on loans, advances of credit, and purchases made by such financial institution for such purposes on and after July 1, 1939, exceed 10 per centum of the total amount of such loans, advances of credit, and purchases:

Provided, That with respect to any loan, advance of credit, or purchase made after the effective date of the Housing Act of 1954, the amount of any claim for loss on any such individual loan, advance of credit or purchase paid by the Secretary under the provisions of this section to a lending institution shall not exceed 90 per centum of such loss.】

* * * * *

【§ 1705. Allocation of funds.

【For the purposes of carrying out the provisions of this subchapter and subchapters II and III of this chapter the President, in his discretion, is authorized to provide such funds or any portion thereof by allotment to the Secretary from any funds that are available, or may hereafter be made available, to the President for emergency purposes.】

* * * * *

【§ 1748b. Insurance of mortgages.

【(a) Aggregate amount of insurance; termination date.

【In order to assist in relieving the acute shortage and urgent need for family housing which now exists at or in areas adjacent to military installations because of uncertainty as to the permanency of such installations and to increase the supply of necessary family housing accommodations for personnel at such installations, the Secretary is authorized, upon application of the mortgagee, to insure mortgages (including advances on such mortgages during construction) which are eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for so insuring such mortgages prior to the date of their execution or disbursement thereon: *Provided*, That the aggregate amount of principal obligations of all mortgages insured under this subchapter (except mortgages insured pursuant to the provisions of this subchapter in effect prior to August 11, 1955) shall not exceed \$2,300,000,000: *And provided further*, That the limitation in section 1715h of this title shall not apply to this subchapter: *And provided further*, That no more mortgages shall be insured under this section after October 1, 1962, except pursuant to a commitment to insure before such date, and not more than twenty-eight thousand family housing units shall be contracted for after June 30, 1959, pursuant to any mortgage insured under this section after such date.】

TITLE 16.—CONSERVATION, UNITED STATES CODE

* * * * *

Chapter 12A.—TENNESSEE VALLEY AUTHORITY

* * * * *

§ 831d. Directors; maintenance and operation of plant for production, sale, and distribution of fertilizer and power.

The board is authorized—

(a) * * *

* * * * *

[(m) No products of the Corporation except ferrophosphorus shall be sold for use outside of the United States, its Territories and possessions, except to the United States Government for the use of its Army and Navy, or to its allies in case of war or, until six months after the termination of the national emergency proclaimed by the President on December 16, 1950, or until such earlier date or dates as the Congress by concurrent resolution or the President may provide but in no event after April 1, 1953, to nations associated with the United States in defense activities.]

TITLE 18.—CRIMES AND CRIMINAL PROCEDURE,
UNITED STATES CODES

* * * * *

Chapter 67.—MILITARY AND NAVY

§ 1383. Restrictions in military areas and zones.

[Whoever, contrary to the restrictions applicable thereto, enters, remains in, leaves, or commits any act in any military area or military zone prescribed under the authority of an Executive order of the President, by the Secretary of the Army, or by any military commander designated by the Secretary of the Army, shall, if it appears that he knew or should have known of the existence and extent of the restrictions or order and that his act was in violation thereof, be fined not more than \$5,000 or imprisoned not more than one year, or both.]

TITLE 26.—INTERNAL REVENUE CODE, UNITED STATES
CODE

* * * * *

Chapter 1.—NORMAL TAXES AND SURTAXES

PART VI.—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

* * * * *

§ 168. Amortization of emergency facilities.

(a) General rule.

[Every person, at his election, shall be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of any emergency facility (as defined in subsection (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the adjusted basis of the facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction above provided with respect to any month shall, except to the extent provided in subsection (f), be in lieu of the depreciation deduc-

tion with respect to such facility for such month provided by section 167. The 60-month period shall begin as to any emergency facility, at the election of the taxpayer, with the month following the month in which the facility was completed or acquired, or with the succeeding taxable year.

[(b) Election of amortization.

【The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility was completed or acquired, or with the taxable year succeeding the taxable year in which such facility was completed or acquired, shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time, as the Secretary or his delegate may by regulations prescribe, a statement of such election.

[(c) Termination of amortization deduction.

【A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary or his delegate before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply and the taxpayer shall not be entitled to any further amortization deduction with respect to such emergency facility.

[(d) Definitions.

[(1) Emergency facility.

For purposes of this section, the term "emergency facility" means any facility, land, building, machinery, or equipment, or any part thereof, the construction, reconstruction, erection, installation, or acquisition of which was completed after December 31, 1949, and with respect to which a certificate under subsection (e) has been made. In no event shall an amortization deduction be allowed in respect of any emergency facility for any taxable year unless a certificate in respect thereof under this paragraph shall have been made before the filing of the taxpayer's return for such taxable year.

[(2) Emergency period.

【For purposes of this section, the term "emergency period" means the period beginning January 1, 1950, and ending on the date on which the President proclaims that the utilization of a substantial portion of the emergency facilities with respect to which certifications under subsection (e) have been made is no longer required in the interest of national defense.

[(e) Determination of adjusted basis of emergency facility.

【In determining, for purposes of subsection (a) or (g), the adjusted basis of an emergency facility—

[(1) Certification on or before August 22, 1957.

【In the case of a certificate made on or before August 22, 1957, there shall be included only so much of the amount of the adjusted basis of

such facility (computed without regard to this section) as is properly attributable to such construction, reconstruction, erection, installation, or acquisition after December 31, 1949, as the certifying authority, designated by the President by Executive Order, has certified as necessary in the interest of national defense during the emergency period, and only such portion of such amount as such authority has certified as attributable to defense purposes. Such certification shall be under such regulations as may be prescribed from time to time by such certifying authority with the approval of the President. An application for a certificate must be filed at such time and in such manner as may be prescribed by such certifying authority under such regulations, but in no event shall such certificate have any effect unless an application therefor is filed before March 24, 1951, or before the expiration of 6 months after the beginning of such construction, reconstruction, erection, or installation or the date of such acquisition, whichever is later.

[(2) Certifications after August 22, 1957.

[In the case of a certificate made after August 22, 1957, there shall be included only so much of the amount of the adjusted basis of such facility (computed without regard to this section) as is properly attributable to such construction, reconstruction, erection, installation, or acquisition after December 31, 1949, as the certifying authority designated by the President by Executive order, has certified is to be used—

[(A) to produce new or specialized defense items or components of new or specialized defense items (as defined in paragraph (4)) during the emergency period,

[(B) to provide research, developmental, or experimental services during the emergency period for the Department of Defense (or one of the component departments of such Department), or for the Atomic Energy Commission, as a part of the national defense program, or

[(C) to provide primary processing for uranium ore or uranium concentrate under a program of the Atomic Energy Commission for the development of new sources of uranium ore or uranium concentrate,

and only such portion of such amount as such authority has certified is attributable to the national defense program. Such certification shall be under such regulations as may be prescribed from time to time by such certifying authority with the approval of the President. An application for a certificate must be filed at such time and in such manner as may be prescribed by such certifying authority under such regulations but in no event shall such certificate have any effect unless an application therefor is filed before the expiration of 6 months after the beginning of such construction, reconstruction, erection, or installation or the date of such acquisition. For purposes of the preceding sentence, an application which was timely filed under this subsection on or before August 22, 1957, and which was pending on such date, shall be considered to be an application timely filed under this paragraph.

[(3) Separate facilities; special rule.

[After the completion or acquisition of any emergency facility with respect to which a certificate under paragraph (1) or (2) has been made, any expenditure (attributable to such facility and to the period

after such completion or acquisition) which does not represent construction, reconstruction, erection, installation, or acquisition included in such certificate, but with respect to which a separate certificate is made under paragraph (1) or (2), shall not be applied in adjustment of the basis of such facility, but a separate basis shall be computed therefor pursuant to paragraph (1) or (2), as the case may be, as if it were a new and separate emergency facility.

[(4) Definitions.

[(For purposes of paragraph (2)—

[(A) New or specialized defense item.

[(The term “new or specialized defense item” means only an item (excluding services)—

[(i) which is produced, or will be produced, for sale to the Department of Defense (or one of the component departments of such Department), or to the Atomic Energy Commission, for use in the national defense program, and

[(ii) for the production of which existing productive facilities are unsuitable because of its newness or of its specialized defense features.

[(B) Component of new or specialized defense item.

[(The term component of a new or specialized defense item means only an item—

[(i) which is, or will become a physical part of a new or specialized defense item, and

[(ii) for the production of which existing productive facilities are unsuitable because of its newness or of its specialized defense features.

[(5) Limitation with respect to uranium ore or uranium concentrate processing facilities.

[(No certificate shall be made under paragraph (2) (C) with respect to any facility unless existing facilities for processing the uranium ore or uranium concentrate which will be processed by such facility are unsuitable because of their location.

[(f) Depreciation deduction.

[(If the adjusted basis of the emergency facility (computed without regard to this section) is in excess of the adjusted basis computed under subsection (e), the depreciation deduction provided by section 167 shall, despite the provisions of subsection (a) of this section, be allowed with respect to such emergency facility as if its adjusted basis for the purpose of such deduction were an amount equal to the amount of such excess.

[(g) Payment by United States of unamortized cost of facility.

[(If an amount is properly includible in the gross income of the taxpayer on account of a payment with respect to an emergency facility and such payment is certified as provided in paragraph (1), then, at the election of the taxpayer in its return for the taxable year in which such amount is so includible—

[(1) The amortization deduction for the month in which such amount is so includible shall (in lieu of the amount of the deduction for such month computed under subsection (a)) be equal to

the amount so includible but not in excess of the adjusted basis of the emergency facility as of the end of such month (computed without regard to any amortization deduction for such month). Payments referred to in this subsection shall be payments the amounts of which are certified, under such regulations as the President may prescribe, by the certifying authority designated by the President as compensation to the taxpayer for the unamortized cost of the emergency facility made because—

[(A) a contract with the United States involving the use of the facility has been terminated by its terms or by cancellation, or

[(B) the taxpayer had reasonable ground (either from provisions of a contract with the United States involving the use of the facility, or from written or oral representations made under authority of the United States) for anticipating future contracts involving the use of the facility, which future contracts have not been made.

[(2) In case the taxpayer is not entitled to any amortization deduction with respect to the emergency facility, the depreciation deduction allowable under section 167 on account of the month in which such amount is so includible shall be increased by such amount, but such deduction on account of such month shall not be in excess of the adjusted basis of the emergency facility as of the end of such month (computed without regard to any amount allowable, on account of such month, under section 167 or this paragraph).

[(h) Life tenant and remainderman.

[In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

[(i) Termination.

[No certificate under subsection (e) shall be made with respect to any emergency facility after December 31, 1959.]

TITLE 41.—PUBLIC CONTRACTS, UNITED STATES CODE

* * * * *

[Chapter 2.—TERMINATION OF WAR CONTRACTS

[(§ 101. Declaration of policy.

[The Congress declares that the objectives of this chapter are—

[(a) to facilitate maximum war production during the war, and to expedite reconversion from war production to civilian production as war conditions permit;

[(b) to assure to prime contractors and subcontractors, small and large, speedy and equitable final settlement of claims under terminated war contracts, and adequate interim financing until such final settlement;

[(c) to assure uniformity among Government agencies in basic policies and administration with respect to such termination settlements and interim financing;

[(d) to facilitate the efficient use of materials, manpower, and facilities for war and civilian purposes by providing prime contractors and subcontractors with notice of termination of their war contracts as far in advance of the cessation of work thereunder as is feasible and consistent with the national security;

[(e) to assure the expeditious removal from the plants of prime contractors and subcontractors of termination inventory not to be retained or sold by the contractor;

[(f) to use all practicable methods compatible with the foregoing objectives to prevent improper payments and to detect and prosecute fraud.

[§ 102. Surveillance by Congress.

[(a) To assist the Congress in appraising the administration of this chapter and in developing such amendments or related legislation as may further be necessary to accomplish the objectives of this chapter, the appropriate committees of the Senate and the House of Representatives shall study each report submitted to the Congress under this chapter and shall otherwise maintain continuous surveillance of the operations of the Government agencies under this chapter.

[(b) Repealed. Oct. 31, 1951, ch. 654, § 1 (110), 65 Stat. 705.

[§ 103. Definitions.

[As used in this chapter—

[(a) The term “prime contract” means any contract, agreement, or purchase order heretofore or hereafter entered into by a contracting agency and connected with or related to the prosecution of the war; and the term “prime contractor” means any holder of one or more prime contracts.

[(b) The term “subcontract” means any contract, agreement, or purchase order heretofore or hereafter entered into to perform any work, or to make or furnish any material to the extent that such work or material is required for the performance of any one or more prime contracts or of any one or more other subcontracts; and the term “subcontractor” means any holder of one or more subcontracts.

[(c) The term “war contract” means a prime contract or a subcontract; and the term “war contractor” means any holder of one or more war contracts.

[(d) The terms “termination”, “terminate”, and “terminated” refer to the termination or cancellation, in whole or in part, of work under a prime contract for the convenience or at the option of the Government (except for default of the prime contractor) or of work under a subcontract for any reason except the default of the subcontractor.

[(e) The term “material” includes any article, commodity, machinery, equipment, accessory, part, component, assembly, work in process, maintenance, repair, and operating supplies, and any product of any kind.

[(f) The term “Government agency” means any executive department of the Government, or any administrative unit or subdivision thereof, any independent agency or any corporation owned or con-

trolled by the United States in the executive branch of the Government, and includes any contracting agency.

[(g) The term "contracting agency" means any Government agency which has been or hereafter may be authorized to make contracts pursuant to section 611 of Appendix to Title 50, and includes the Reconstruction Finance Corporation and any corporation organized pursuant to the Reconstruction Finance Corporation Act, and the Secretary of Commerce.

[(h) The term "termination claim" means any claim or demand by a war contractor for fair compensation for the termination of any war contract and any other claim under a terminated war contract, which regulations prescribed under this chapter authorize to be asserted and settled in connection with any termination settlement.

[(i) The term "interim financing" includes advance payments, partial payments, loans, discounts, advances, and commitments in connection therewith, and guaranties of loans, discounts, advances and commitments in connection therewith and any other type of financing made in contemplation of or related to termination of war contracts.

[(j) The term "Administrator" means the Administrator of General Services.

[(k) The term "person" means any individual, corporation, partnership, firm, association, trust, estate, or other entity.

[(l) The term "termination inventory" means any materials (including a proper part of any common materials), properly allocable to the terminated portion of a war contract, except any machinery or equipment subject to a separate contract specifically governing the use or disposition thereof.

[(m) The term "final and conclusive", as applied to any settlement, finding, or decision, means that such settlement, finding, or decision shall not be reopened, annulled, modified, set aside, or disregarded by any officer, employee, or agent of the United States or in any suit, action, or proceeding except as provided in this chapter.

[§ 104. Administration of chapter; rules and regulations; personnel.

[(a) Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 652.

[(b) In order to insure uniform and efficient administration of the provisions of this chapter, the Administrator of General Services, subject to such provisions, by general orders or general regulations—

[(1) shall prescribe policies, principles, methods, procedures, and standards to govern the exercise of the authority and discretion and the performance of the duties and functions of all Government agencies under this chapter; and

[(2) may require or restrict the exercise of any such authority and discretion, or the performance of any such duty or function, to such extent as he deems necessary to carry out the provisions of this chapter.

[(c) The exercise of any authority or discretion and the performance of any duty or function, conferred or imposed on any Government agency by this chapter, shall be subject to such orders and regulations prescribed by the Administrator of General Services pursuant to subsection (b) of this section. Each Government agency shall carry

out such orders and regulations of the Administrator of General Services expeditiously, and shall issue such regulations with respect to its operations and procedures as may be necessary to carry out the policies, principles, methods, procedures, and standards prescribed by the Administrator of General Services. Any Government agency may issue such further regulations not inconsistent with the general orders or regulations of the Administrator of General Services as it deems necessary or desirable to carry out the provisions of this chapter.

[(d) The Administrator of General Services may, within the limits of funds which may be made available, employ and fix the compensation of necessary personnel in accordance with the provisions of the civil-service laws and chapter 51 and subchapter III of chapter 53 of Title 5, and make expenditures for supplies, facilities, and services necessary for the performance of his functions under this chapter. Without regard to the provisions of the civil-service laws, he may employ certified public accountants, qualified cost accountants, industrial engineers, appraisers, and other experts, and contract with certified public accounting firms and qualified firms of engineers in the discharge of the duties imposed upon him and in furtherance of the objectives and policies of this chapter. The Administrator of General Services shall perform the duties imposed upon him through the personnel and facilities of the contracting agencies and other established Government agencies, to the extent that this does not interfere with the function of the Administrator of General Services to insure uniform and efficient administration of the provisions of this chapter.

[(c) All orders and regulations prescribed by the Administrator of General Services or any Government agency under this chapter shall be published in the Federal Register.

[§ 105. Contract Settlement Advisory Board; composition; duties.

[There is created a Contract Settlement Advisory Board, with which the Administrator of General Services shall advise and consult. The Board shall be composed of the Administrator of General Services who shall act as its Chairman, and of the Secretary of the Army, the Secretary of the Navy, the Chairman of the Maritime Commission, the Secretary of State, the chairman of the board of directors of the Reconstruction Finance Corporation, Secretary of Commerce, and the Attorney General or any alternate or representative designated by any of them. The Administrator of General Services shall request other Government agencies to participate in the deliberations of the Board whenever matters specially affecting them are under consideration.

[§ 106. Basis for settlement of termination claims.

[(a) Priority to private contractors.

[It is the policy of the Government, and it shall be the responsibility of the contracting agencies and the Administrator of General Services to provide war contractors with speedy and fair compensation for the termination of any war contract, in accordance with and subject to the provisions of this chapter, giving priority to contractors whose facilities are privately owned or privately operated. Such fair compensation for the termination of subcontracts shall be based on the same principles as compensation for the termination of prime contracts.

[(b) Establishment of methods and standards.

Each contracting agency shall establish methods and standards, suitable to the conditions of various war contractors, for determining fair compensation for the termination of war contracts on the basis of actual, standard, average, or estimated costs, or of a percentage of the contract price based on the estimated percentage of completion of work under the terminated contract, or on any other equitable basis, as it deems appropriate. To the extent that such methods and standards require accounting, they shall be adapted, so far as practicable, to the accounting systems used by war contractors, if consistent with recognized commercial accounting practice.

[(c) Conclusiveness of settlement.

Any contracting agency may settle all or any part of any termination claim under any war contract by agreement with the war contractor, or by determination of the amount due on the claim or part thereof without such agreement, or by any combination of these methods. Where any such settlement is made by agreement, the settlement shall be final and conclusive, except (1) to the extent otherwise agreed in the settlement; (2) for fraud; (3) upon renegotiation to eliminate excessive profits under section 1191 of Appendix to Title 50, unless exempt or exempted under such section; or (4) by mutual agreement before or after payment. Where any such settlement is made by determination without agreement, it shall likewise be final and conclusive, subject to the same exceptions as if made by agreement, unless the war contractor appeals or brings suit in accordance with section 113 of this title: *Provided*, That no settlement agreement hereunder involving payment to a war contractor of an amount in excess of \$50,000 (or such lesser amount as the Administrator of General Services may from time to time determine) shall become binding upon the Government until the agreement has been reviewed and approved by a settlement review board of three or more members established by the contracting agency in the bureau, division, regional or district office, or other unit of the contracting agency authorized to make such settlement, or in the event of disapproval by the settlement review board, unless approved by the head of such bureau, division, regional or district office, or other unit. Failure of the settlement review board to act upon any settlement within thirty days after its submission to the board shall operate as approval by the board. The sole function of settlement review boards shall be to determine the over-all reasonableness of proposed settlement agreements from the point of view of protecting the interests of the Government. In determining, for purposes of this subsection, whether review of any settlement agreement is required because of the amounts involved, no deduction shall be made on account of credits for property chargeable to the Government or for advance or partial payments, but amounts payable under such settlement agreement for completed articles or work at the contract price and for the discharge of the termination claims of subcontractors shall be deducted.

[(d) Allowable costs.

Except as hereinafter provided, the methods and standards established under subsection (b) of this section for determining fair compensation for termination claims which are not settled by agreement

shall be designed to compensate the war contractor fairly for the termination of the war contract, taking into account—

[(1) the direct and indirect manufacturing, selling and distribution, administrative and other costs and expenses incurred by the war contractor which are reasonably necessary for the performance of the war contract and properly allocable to the terminated portion thereof under recognized commercial accounting practices; and

[(2) reasonable costs and expenses of settling termination claims of subcontractors related to the terminated portion of the war contract; and

[(3) reasonable accounting, legal, clerical, and other costs and expenses incident to termination and settlement of the terminated war contract; and

[(4) reasonable costs and expenses of removing, preserving, storing and disposing of termination inventories; and

[(5) such allowance for profit on the preparations made and work done for the terminated portion of the war contract as is reasonable under the circumstances; and

[(6) interest on the termination claims in accordance with subsection (f) of this section; and

[(7) the contract price and all amounts otherwise paid or payable under the contract.

[(The following shall not be included as elements of cost :

[(i) Losses on other contracts, or from sales or exchanges of capital assets, fees and other expenses in connection with reorganization or recapitalization, antitrust or Federal income-tax litigation, or prosecution of Federal income-tax claims or other claims against the Government (except as provided in paragraph (3) of this subsection) ; losses on investments; provisions for contingencies; and premiums on life insurance where the contractor is the beneficiary.

[(ii) The expense of conversion of the contractor's facilities to uses other than the performance of the contract.

[(iii) Expenses due to the negligence or willful failure of the contractor to discontinue with reasonable promptness the incurring of expenses after the effective date of the termination notice.

[(iv) Costs incurred in respect to facilities, materials, or services purchased or work done in excess of the reasonable quantitative requirements of the entire contract.

[(The failure specifically to mention in this subsection any item of cost is not intended to imply that it should be allowed or disallowed. The Administrator of General Services may interpret the provisions of this subsection and may provide for the inclusion or exclusion of other costs in accordance with recognized commercial accounting practices.

[(Where the small size of claims or the nature of production or performance or other factors make it impracticable to apply the principles stated in this subsection to any class of settlements which are subject to this subsection, the contracting agencies may establish alternative methods and standards for determining fair compensation for that class of termination claims. The aggregate amount of compensation

allowed in accordance with this subsection (excluding amounts allowed under paragraphs (3) and (4) of this subsection) shall not exceed the total contract price reduced by the amount of payments otherwise made or to be made under the contract.

[(e) Settlement by agreement.

[In order to carry out the objectives of this chapter, termination claims shall be settled by agreement to the maximum extent feasible and the methods and standards established under subsection (b) of this section shall be designed to facilitate such settlements. To the extent that he deems it practicable to do so without impeding expeditious settlements, the Administrator of General Services shall require the contracting agencies to take into account the factors enumerated in subsection (d) of this section in establishing methods and standards for determining fair compensation in the settlement of termination claims by agreement.

[(f) Interest.

[Each contracting agency shall allow and pay interest on the amount due and unpaid from time to time on any termination claim under a prime contract at the rate of 2½ per centum per annum for the period beginning thirty days after the date fixed for termination and ending with the date of final payment, except that (1) if the prime contractor unreasonably delays the settlement of his claim, interest shall not accrue for the period of such delay, (2) if interest for the period after termination on any advance payment or loan, made or guaranteed by the Government, has been waived for the benefit of the contractor, the amount of the interest so waived allocable to the terminated contract or the terminated part of the contract shall be deducted from the interest otherwise payable hereunder, and (3) if after delivery of findings by a contracting agency, the contractor appeals or sues as provided in section 113 of this title, interest shall not accrue after the thirtieth day following the delivery of the findings on any amount allowed by such findings, unless such amount is increased upon such appeal or suit. In approving, ratifying, authorizing, or making termination settlements with subcontractors, each contracting agency shall allow interest on the termination claim of the subcontractor on the same basis and subject to the same conditions as are applicable to a prime contractor.

[(g) Amendment of contracts.

[Where any war contract does not provide for or provides against such fair compensation for its termination, the contracting agency, either before or after its termination, shall amend such war contract by agreement with the war contractor, or shall authorize, approve, or ratify an amendment of such war contract by the parties thereto, to provide for such fair compensation.

[§ 107. Settlement of subcontractors' claims.

[(a) Conclusiveness of settlement.

[Where, in connection with the settlement of any termination claim by a contracting agency, any war contractor makes settlements of the termination claims of his subcontractors, the contracting agency shall

limit or omit its review of such settlements with subcontractors to the maximum extent compatible with the public interest. Any contracting agency (1) may approve, ratify, or authorize such settlements with subcontractors upon such evidence, terms, and conditions as it deems proper; (2) shall vary the scope and intensity of its review of such settlements according to the reliability of the war contractor, the size, number, and complexity of such claims, and other relevant factors; and (3) shall authorize war contractors to make such settlements with subcontractors without review by the contracting agency, whenever the reliability of the war contractor, the amount or nature of the claims, or other reasons appear to the contracting agency to justify such action. Any such settlement of a subcontract approved, ratified, or authorized by a contracting agency shall be final and conclusive as to the amount due to the same extent as a settlement under subsection (c) of section 106 of this title, and no war contractor shall be liable to the United States on account of any amounts paid thereon except for his own fraud.

[(b) Supervision of payments to war contractors.

Whenever any contracting agency is satisfied of the inability of a war contractor to meet his obligations it shall exercise supervision or control over payments to the war contractor on account of termination claims of subcontractors of such war contractor to such extent and in such manner as it deems necessary or desirable for the purpose of assuring the receipt of the benefit of such payments by the subcontractors.

[(c) Group settlements.

The Administrator of General Services shall prescribe policies and methods for the settlement as a group, or otherwise, by any contracting agency of some or all of the termination claims of a war contractor under war contracts with one or more (1) bureaus or divisions within a contracting agency, (2) contracting agencies, or (3) prime contractors and subcontractors, to the extent he deems such action necessary or desirable for expeditious and equitable settlement of such claims. After consulting with the contracting agencies concerned, the Administrator of General Services may provide for assigning any war contractor to a contracting agency for such settlement, and such agency shall have authority to settle, on behalf of any other contracting agency, some or all of the termination claims of such war contractor.

[(d) Direct settlement by contracting agency.

Any contracting agency may settle directly termination claims of subcontractors to the extent that it deems such action necessary or desirable for the expeditious and equitable settlement of such claims. In making such termination settlements any contracting agency may discharge the claim of the subcontractor by payment or may purchase such claim, and may agree to assume, or indemnify the subcontractor against, any claims by any person in connection with such claim or the termination settlement. Any contracting agency undertaking to settle the termination claim of any subcontractor shall deliver to the subcontractor and the war contractor liable to him written notice stating its acceptance of responsibility for settling his claim and the conditions

applicable thereto, which may include the release, or assignment to the contracting agency, of his claim against the war contractor liable to him; upon consent thereto by the subcontractor, the Government shall become liable for the settlement of his claims upon the conditions specified in the notice.

[(e) Amount of settlement.

Any contracting agency may make settlements with subcontractors in accordance with any of the provisions of this chapter without regard to any limitation on the amount payable by the Government to the prime contractor.

[(f) Equitable payments.

If any contracting agency determines that in the circumstances of a particular case equity and good conscience require fair compensation for the termination of a war contract to be paid to a subcontractor who has been deprived of and cannot otherwise reasonably secure such fair compensation, the contracting agency concerned may pay such compensation to him although such compensation already has been included and paid as part of a settlement with another war contractor.

[§ 108. Interim financing.

[(a) Prime contractors.

It is the policy of the Government, and it shall be the responsibility of the contracting agencies and the Administrator of General Services, in accordance with and subject to the provisions of this chapter, to provide war contractors having any termination claim or claims, pending their settlement, with adequate interim financing, within thirty days after proper application therefor.

[(b) Method of financing; amounts payable.

Each contracting agency shall, to the greatest extent it deems practicable, make available interim financing through loans and discounts, and commitments and guaranties in connection therewith, in contemplation of or related to termination of war contracts. Where interim financing is made by advance payments or partial payments, it shall, insofar as practicable, consist of the following:

[(1) An amount equal to 100 per centum of the amount payable, at the contract price, on account of acceptable items completed prior to the termination date under the terms of the contract, or completed thereafter with the approval of the contracting agency; plus

[(2) An amount equal to 90 per centum of the cost of raw materials purchased parts, supplies, direct labor, and manufacturing overhead allocable to the terminated portion of the war contract; plus

[(3) A reasonable percentage of other allowable costs, including administrative overhead, allocable to the terminated portion of the war contract not included in the foregoing; plus

[(4) Such additional amounts, if any, as the contracting agency deems necessary to provide the war contractor with adequate interim financing.

[(5) In lieu of the costs referred to in clauses (2) and (3) of this subsection, where a detailed ascertainment of such costs is not suitable to the conditions of any war contractor and is apt to

cause delay in the obtaining of interim financing by him, that portion of such interim financing shall be equal to an amount not greater than 90 per centum of the estimated costs which are allocable to the terminated part or parts of the war contract or group of war contracts, and are ascertained in accordance with such methods and standards as the Administrator of General Services shall prescribe.

[(6) There shall be deducted from the amount of such interim financing any unliquidated balances of advance and partial payments theretofore made to such war contractor, which are allocable to the terminated war contract or the terminated part of the war contract.

[(c) Evidence to support financing.

[The Administrator of General Services shall prescribe (1) the types of estimates, certificates, or other evidence to be required to support such interim financing; (2) the terms and conditions upon which such interim financing shall be made including the use of standard forms for agreements with respect to such interim financing to the extent practicable; (3) the classes of cases in which such interim financing shall be refused; and (4) such methods of supervision and control over such interim financing as he deems necessary or desirable to assure adequate and speedy interim financing to subcontractors of the war contractor.

[(d) Penalty for overstatement of claims.

[In case of an overstatement by any war contractor of the amount due on his termination claim or claims in connection with any interim financing under this chapter, such contractor shall pay to the United States, as a penalty, an amount equal to 6 per centum of the amount of the overstatement, but the Administrator of General Services may suspend or modify any such penalty if in his opinion the imposition thereof would be inequitable. Any penalty may be deducted from any amounts due the war contractor upon such termination claim or claims, or otherwise, or may be collected from the war contractor by suit. The obligation to pay any penalty imposed and to repay any interim financing made or assumed by the United States under this chapter shall constitute a debt due to the United States within the meaning of section 191 of Title 31.

[(e) Advance payments as part of termination settlement.

[Any contracting agency may allow any advance payments, previously made or authorized by it in connection with the performance of a war contract, to be used for payments and expenses related to the termination settlement of such contract, upon such terms and conditions as it deems necessary or appropriate to protect the interest of the Government.

[(f) Liquidation of loans, etc., prior to final settlement.

[No interim financing shall be made by any contracting agency under this chapter unless the terms of such financing provide for the liquidation by the war contractor of all loans, discounts, advance payments, or partial payments thereunder not later than the time of final payment of the amount due on the settlement of the termination claim or claims of the war contractor involved or such time thereafter as the contracting agency deems necessary for the liquidation of such interim financing in an orderly manner.

[(g) Settlement of claims; validation of prior financing.

Any contracting agency may settle, upon such terms and conditions as it deems proper, any claim or obligation due by or to the Government arising from or related to any interim financing made, acquired, or authorized by it. Any interim financing made, acquired, or authorized by any contracting agency before the effective date of this chapter shall be valid to the extent it would be authorized under the provisions of this chapter if made after its effective date.

[§ 109. Advance or partial payments to subcontractors; excessive payments, interest, liability of war contractor.

[(a) Any contracting agency may make advance or partial payments to any war contractor on account of any termination claim or claims, and may authorize, approve, or ratify any such advance or partial payments by any war contractor to his subcontractors, upon such conditions as it deems necessary to insure compliance with the provisions of subsection (b) of this section. Each contracting agency shall make final payments from time to time on partial settlements or on settlements fixing a minimum amount due before complete settlement, or as tentative payments before any settlement of the claim or claims.

[(b) Where any such advance or partial payment is made to any war contractor by any contracting agency or by another war contractor under this section, except a final payment on a partial settlement, any amount in excess of the amount finally determined to be due on the termination claim shall be treated as a loan from the Government to the war contractor receiving it, and shall be payable upon demand together with a penalty computed at the rate of 6 per centum per annum, for the period from the date such excess advance or partial payment is received to the date on which such excess is repaid or extinguished. Where the advance or partial payment was made by a war contractor and authorized, approved, or ratified by any contracting agency, the war contractor making it shall not be liable for any such excess payment in the absence of fraud on his part and shall receive payment or credit from the Government for the amount of such excess payment.

[§ 110. Guarantee of loans, advances, etc., for financing termination of contracts.

[(a) Any contracting agency is authorized—

[(1) to enter into contracts with any Federal Reserve bank, or other public or private financing institution, guaranteeing such financing institution against loss of principal or interest on loans, discounts, or advances or on commitments in connection therewith, which such financing institution may make to any war contractor or to any person who is or has been engaged in performing any operation deemed by such contracting agency to be connected with or related to war production, for the purpose of financing such war contractor or other person in connection with or in contemplation of the termination of one or more such war contracts or operations; and

[(2) to make, enter into contracts to make, or to participate with any Government agency, any Federal Reserve bank or pub-

lic or private financing institution in making loans, discounts, or advances, or commitments in connection therewith, for the purpose of financing any such war contractor or other person in connection with or in contemplation of the termination of such war contracts or operations.

[(b) Any such loan, discount, advance, guaranty, or commitment in connection therewith may be secured by assignment of, or covenants to assign, some or all of the rights of such war contractor or other person in connection with the termination of such war contracts or operations, or in such other manner as the contracting agency may prescribe.

[(c) Subject to such regulations as the Board of Governors of the Federal Reserve System may prescribe with the approval of the Administrator of General Services, any Federal Reserve bank is authorized to act, on behalf of the contracting agencies, as fiscal agent of the United States in carrying out the purposes of this chapter.

[(d) This section shall not limit or affect any authority of any contracting agency, under any other statute, to make loans, discounts, or advances, or commitments in connection therewith or guaranties thereof.

[§ 111. Advance notice of termination.

[(a) In order to facilitate the efficient use of materials, manpower, and facilities for war and civilian purposes, each contracting agency—

[(1) shall provide its prime contractors with notice of termination of their prime contracts as far in advance of the cessation of work thereunder as is feasible and consistent with the national security without permitting unneeded production or performance;

[(2) shall establish procedures whereby prime contractors shall provide affected subcontractors with immediate notice of termination; and

[(3) shall permit the continuation of some or all of the work under a terminated prime contract whenever the agency deems that such continuation will benefit the Government or is necessary to avoid substantial injury to the plant or property.

[(b) Whenever a contracting agency hereafter directs a prime contractor to cease or suspend all or a substantial part of the work under a prime contract, without terminating the contract, then, unless the contract provides otherwise, (1) the contracting agency shall compensate the contractor for reasonable costs and expenses resulting from such cessation or suspension, and (2) if the cessation or suspension extends for thirty days or more, the contractor may elect to treat it as a termination by delivering written notice of his election so to do to the contracting agency, at any time before the contracting agency directs the prime contractor to resume work under the contract.

[(c) The Administrator of General Services shall have no authority under this chapter to regulate or control the classes of contracts to be terminated by the contracting agencies.

[§ 112. Removal and storage of materials.

[(a) Termination inventory.

[It is the policy of the Government, upon the termination of any war contract, to assure the expeditious removal from the plant of the

war contractor of the termination inventory not to be retained or sold by the war contractor.

[(b) Statement on material of inventory.]

Any war contractor may submit to the contracting agency concerned or to any other Government agency designated by the Administrator of General Services, one or more statements showing the materials which such war contractor claims to be termination inventory under one or more war contracts and desires to have removed by the Government. Such statements shall be prepared in such form and detail, shall be submitted in such manner, through the prime contractor or otherwise, and shall be supported by such certificates or other data, as may be prescribed under this chapter.

[(c) Removal and storage by Government agency.]

Within sixty days after the submission of any such statement by a war contractor, or such shorter period as may be prescribed under this chapter, or within such longer period as the war contractor may agree, the Government agency concerned (1) shall arrange, upon such terms and conditions as may be agreed, for the storage by the war contractor on his own premises or elsewhere of all such claimed termination inventory which the war contractor does not retain or dispose of, except any part which may be determined not to be allocable to the terminated war contract or contracts, or (2) shall remove from the plant or plants of the war contractor all of such claimed termination inventory not retained, disposed of, or stored by the war contractor or determined not to be allocable to the terminated war contract or contracts.

[(d) Removal and storage by war contractor.]

Upon the failure of the Government so to arrange for storage by the war contractor or to remove any termination inventory within the period specified under subsection (c) of this section, the war contractor, subject to regulations prescribed under this chapter, may remove some or all of such termination inventory from his plant or plants and may store it on his own premises or elsewhere for the account and at the risk and expense of the Government, using reasonable care for its transportation and preservation. If any war contractor intends so to remove any claimed termination inventory, he shall deliver to the Government agency concerned written notice of the date fixed for removal and a statement showing the quantities and condition of the materials so to be removed, certified on behalf of the war contractor to have been prepared in accordance with a concurrent physical inventory of such materials. Such notice and statement shall be delivered at least twenty days in advance of the date fixed for removal and may be delivered before or after the expiration of the period specified under subsection (c) of this section. If the Government agency fails to check such materials, at or before the time of their removal by the war contractor, a certificate of the war contractor specifying the materials shown on such statement which were so removed, and filed with the Government agency concerned within thirty days after the date fixed for removal, shall constitute prima facie evidence against the United States as to the quantities and condition of the materials so removed, and the fact of their removal.

[(e) Acquisition by Government agency of inventory material; liability.

【Notwithstanding any other provisions of law, but subject to subsection (h) of this section, the contracting agency concerned or the Administrator of General Services, or any Government agency designated by him, on behalf of the United States, may, by the exercise of any contract right or otherwise, acquire and take possession of any termination inventory of any war contractor, and any materials removed by the Government or stored for its account under subsections (c) and (d) of this section, whether or not such materials are finally determined not to constitute termination inventory. With respect to any such materials, the Government shall be liable to any war contractor concerned only for their return to such war contractor or for their disposal value at the time of their removal or for the proceeds realized by the Government from their disposal, at the election of the Government agency concerned, unless the Government agency and the war contractor agree or have agreed on a different basis. Any amount so paid or payable to a war contractor for materials allocable to a terminated war contract shall be credited against the termination claim under such contract but shall not otherwise affect the amount due on the claim, unless the Government agency concerned and the war contractor agree or have agreed otherwise. Any materials to which the Administrator of General Services takes title under this section shall be delivered for disposal to any appropriate Government agency authorized to make such disposal.

[(f) Postponement or delay of termination settlement.

【No contracting agency shall postpone or delay any termination settlement beyond the period specified in subsection (c) of this section for the purpose of awaiting disposal by the war contractor or the Government of any termination inventory reported in accordance with subsection (b) of this section.

[(g) Government-owned machinery.

【Whenever any war contractor no longer requires, for the performance of any war contract, any Government-owned machinery, tools, or equipment installed in his plant for the performance of one or more war contracts, the Government agency concerned, upon written demand by the war contractor, and within sixty days after such demand or such other period as may be prescribed under this chapter, and upon such conditions as may be so prescribed, shall remove or provide for the removal of such machinery, tools, or equipment from such plant, unless the Government agency concerned and the war contractor, by facilities contract or otherwise, have made or make other provisions for the retention, storage, maintenance, or disposition of such machinery, tools or equipment. The Government agency concerned may waive or release on behalf of the United States any obligation of the war contractor with respect to such machinery, tools, or equipment upon such terms and conditions as the agency deems appropriate. Upon the failure of the Government so to remove or provide for removal of any such machinery, tools, or equipment, the war contractor, subject to regulations prescribed under this chapter, may remove

all or part of such machinery, tools, or equipment from his plant and may store it on his own premises or elsewhere, for the account and at the risk and expense of the Government, using reasonable care for its transportation and preservation.

[(h) Limitation on Government acquisition of inventories.

Nothing in this chapter shall limit or affect the authority of the Department of the Army, Department of the Air Force, Navy Department, or Maritime Commission, respectively, to take over any termination inventories and to retain them for their use for any purpose or to dispose of such termination inventories for the purpose of war production, or to authorize any war contractor to retain or dispose of such termination inventories for the purpose of war production.

[(i) Removal and storage by war contractor at own risk.

Nothing in this section shall be construed to prevent the removal and storage of any termination inventory by any war contractor, at his own risk, at any time after termination of any war contract to which it is allocable.

[§ 113. Appeals.

[(a) Failure to settle claims by agreement; preparation of findings; notice to war contractor.

Whenever the contracting agency responsible for settling any termination claim has not settled the claim by agreement or has so settled only a part of the claim, (1) the contracting agency at any time may determine the amount due on such claim or such unsettled part, and prepare written findings indicating the basis of the determination, and deliver a copy of such findings to the war contractor, or (2) if the termination claim has been submitted in the manner and substantially the form prescribed under this chapter, the contracting agency, upon written demand by the war contractor for such findings, shall determine the amount due on the claim or unsettled part and prepare and deliver such findings to the war contractor within ninety days after the receipt by the agency of such demand. In preparing such findings, the contracting agency may require the war contractor to furnish such information and to submit to such audits as may be reasonably necessary for that purpose. Within thirty days after the delivery of any such findings, the contracting agency shall pay to the war contractor at least 90 per centum of the amount thereby determined to be due, after deducting the amount of any outstanding interim financing applicable thereto.

[(b) Rights of war contractor.

Whenever any war contractor is aggrieved by the findings of a contracting agency on his claim or part thereof or by its failure to make such findings in accordance with subsection (a) of this section, he may bring suit against the United States for such claim or such part thereof, in the Court of Claims or in a United States district court, in accordance with subsection (20) of section 41 of Title 28, except that, if the contracting agency is the Reconstruction Finance Corporation, or any corporation organized pursuant to the Reconstruction Finance Corporation Act, or any corporation owned or con-

trolled by the United States, the suit shall be brought against such corporation in any court of competent jurisdiction in accordance with existing law.

[(c) Procedure.

Any proceeding under subsection (b) of this section shall be governed by the following conditions:

[(1) When any contracting agency provides a procedure within the agency for protest against such findings or for other appeal therefrom by the war contractor, the war contractor, before proceeding under subsection (b) of this section, (i) in his discretion may resort to such procedure within the time specified in his contract or, if no time is specified, within thirty days after the delivery to him of the findings; and (ii) shall resort to such procedure for protest or other appeal to the extent required by the Administrator of General Services, but failure of the contracting agency to act on any such required protest or appeal within thirty days shall operate as a refusal by the agency to modify its findings. Any revision of the findings by the contracting agency, upon protest or appeal within the agency, shall be treated as the findings of the agency for the purpose of appeal or suit under subsection (b) of this section. Notwithstanding any contrary provision in any war contract, no war contractor shall be required to protest or appeal from such findings within the contracting agency except in accordance with this paragraph.

[(2) A war contractor may initiate proceedings in accordance with subsection (b) of this section (i) within ninety days after delivery to him of the findings by the contracting agency, or (ii) in case of protests or appeal within the agency, within ninety days after the determination of such protest or appeal, or (iii) in case of failure to deliver such findings, within one year after his demand therefor. If he does not initiate such proceedings within the time specified, he shall be precluded thereafter from initiating any proceedings in accordance with subsection (b) of this section, and the findings of the contracting agency shall be final and conclusive, or if no findings were made, he shall be deemed to have waived such termination claim.

[(3) Notwithstanding any contrary provision in any war contract, the court shall not be bound by the findings of the contracting agency, but shall treat such findings as prima facie correct, and the burden shall be on the war contractor to establish that the amount due on his claim or part thereof exceeds the amount allowed by the findings of the contracting agency. Whenever the court finds that the war contractor failed to negotiate in good faith with the contracting agency for the settlement of his claim or part thereof before appeal or suit thereon, or failed to furnish to the agency any information reasonably requested by it regarding his termination claim or part thereof, or failed to prosecute diligently any protest or appeal required to be taken under subsection (c) (1) (ii) of this section, the court (i) may refuse to receive in evidence any information not submitted to the contracting agency; (ii) may deny interest on the claim or part thereof for such period as it deems proper; or (iii) may remand the case to the contracting agency for further proceedings upon such terms as the court may prescribe. Unless the case is remanded, the court shall enter the

appropriate award or judgment on the basis of the law and facts, and may increase or decrease the amount allowed by the findings of the contracting agency.

[(4) Any such proceedings shall not affect the authority of the contracting agency concerned to make a settlement of the termination claim, or any part thereof, by agreement with the war contractor at any time before such proceedings are concluded.

[(d) Omitted.

[(e) Arbitration.

[The contracting agency responsible for settling any claim and the war contractor asserting the claim, by agreement, may submit all or any part of the termination claim to arbitration, without regard to the amount in dispute. Such arbitration proceedings shall be governed by the provisions of United States Arbitration Act to the same extent as if authorized by an effective agreement in writing between the Government and the war contractor. Any such arbitration award shall be final and conclusive upon the United States to the same extent as a settlement under subsection (c) of section 106 of this title, but shall not be subject to approval by any settlement review board.

[(f) Conclusiveness of decisions.

[Whenever any dispute exists between any war contractor and a subcontractor regarding any termination claim, either of them, by agreement with the other, may submit the dispute to a contracting agency for mediation or arbitration whenever authorized by the agency or required by the Administrator of General Services.

[Any award or decision in such proceedings shall be final and conclusive as to the parties so submitting any such dispute and shall not be questioned by the United States in settling any related claim, in the absence of fraud or collusion.

[§ 114. Court of Claims.

[(a) Appointment of auditors.

[For the purpose of expediting the adjudication of termination claims, the Court of Claims is authorized to appoint not more than ten auditors.

[(b) Procedure.

[The Court of Claims, on motion of either of the parties, or on its own motion, may summon any and all persons with legal capacity to be sued to appear as a party or parties in any suit or proceeding or any nature whatsoever pending in said court to assert and defend their interests, if any, in such suits or proceedings, within such period of time prior to judgment as the Court of Claims shall prescribe. If the name and address of any such person is known or can be ascertained by reasonable diligence, and if he resides within the jurisdiction of the United States, he shall be summoned to appear by personal service; but if any such person resides outside of the jurisdiction of the United States, or is unknown, or if for any other good and sufficient reason appearing to the court personal service cannot be had, he may be summoned by publication, under such rules as the court may adopt, together with a copy of the summons mailed by registered mail to such person's last known ad-

dress. The Court of Claims may, upon motion of the Attorney General, in any suit or proceeding where there may be any number of persons having possible interests therein, notify such persons to appear to assert and defend such interests. Upon failure so to appear, any and all claims or interests in claims of any such person against the United States, in respect of the subject matter of such suit or proceeding, shall forever be barred and the court shall have jurisdiction to enter judgment pro confesso upon any claim or contingent claim asserted on behalf of the United States against any person who, having been duly served with summons, fails to respond thereto, to the same extent and with like effect as if such person had appeared and had admitted the truth of all allegations made on behalf of the United States. Upon appearance by any person pursuant to any such summons or notice, the case as to such person shall, for all purposes, be treated as if an independent proceeding has been instituted by such person pursuant to section 250 of Title 28, and as if such independent proceeding had then been consolidated, for purposes of trial and determination, with the case in respect of which the summons or notice was issued, except that the United States shall not be heard upon any counterclaims, claims for damages or other demands whatsoever against such person, other than claims and contingent claims for the recovery of money hereafter paid by the United States in respect of the transaction or matter which constitutes the subject matter of such case, unless and until such person shall assert therein a claim, or an interest in a claim, against the United States, and the Court of Claims shall have jurisdiction to adjudicate, as between any and all adverse claimants, their respective several interests in any matter in suit and to award several judgments in accordance therewith.

[(c) Jurisdiction.

[(The jurisdiction of the Court of Claims shall not be affected by this chapter except to the extent necessary to give effect to this chapter, and no person shall recover judgment on any claim, or on any interest in any claim, in said court which such person would not have had a right to assert in said court if this section had not been enacted.

[§ 115. Personal financial liability of contracting officers.

[(a) Whenever any payment is made from Government funds to any war contractor or other person as an advance, partial or final payment on any termination claim, or pursuant to any loan, guaranty, or agreement for the purchase of any loan, or any commitment in connection therewith, entered into by the Government, no officer or other Government agent authorizing or approving such payment or settlement, or certifying the voucher for such payment, or making the payment in accordance with a duly certified voucher, shall be personally liable for such payment, in the absence of fraud on his part. In settling the accounts of any disbursing officer the General Accounting Office shall allow any such disbursements made by him notwithstanding any other provisions of law.

[(b) For the purpose of making termination settlements or interim financing any Government agency is authorized to rely upon such certificates of war contractors as it deems proper and to permit war

contractors and other persons to rely upon such certificates without financial liability in the absence of fraud on their part.

§ 116. Functions of General Accounting Office; certification of fraudulent settlements to Department of Justice; reports to Congress.

(a) Any other provision of law notwithstanding, the function of the General Accounting Office with respect to any termination settlement made, authorized, ratified, or approved by a contracting agency shall be confined to determining, after final settlement, (1) whether the settlement payments to the war contractor were made in accordance with the settlement, and (2) whether the records transmitted to it, or other information, warrant a reasonable belief that the settlement was induced by fraud. For this purpose the General Accounting Office shall have the authority to examine any records maintained by any contracting agency or by any war contractor relating to any termination settlement.

(b) Whenever the Comptroller General is convinced that any settlement was induced by fraud, he shall so certify, together with all the facts relating thereto, to the Department of Justice, to the Administrator of General Services, and to the contracting agency concerned. Upon receipt of such certificate (1) the Department of Justice shall make an investigation to determine whether such settlement was induced by fraud, and (2) until the Department of Justice notifies the contracting agency that in its opinion the facts do not support the belief that the settlement was induced by fraud, the contracting agency, by set-off or otherwise, may withhold, from amounts owing to the war contractor by the United States under such settlement or otherwise, the amount of the settlement, or the portion thereof, which in the opinion of the Comptroller General as stated in his certificate, was affected by the fraud. In any such case the Department of Justice shall take such action as it deems appropriate to recover payments made to such war contractor. The General Accounting Office shall not suspend credit to any disbursing officer on any disbursements made by him under such settlement in the absence of fraud on his part.

(c) The Comptroller General may investigate the settlements completed by each contracting agency for the purpose of reporting to the Congress from time to time on—

(1) whether the settlement methods and procedures employed by such agency are of a kind and type designed to result in expeditious and fair settlements in accordance with and subject to the provisions of this chapter and the orders and regulations of the Administrator of General Services;

(2) whether such methods and procedures are followed by such agency with care and efficiency; and

(3) whether such methods and procedures adequately protect the interest of the Government.

If in any such report the Comptroller General shall find that the settlement methods and procedures fail to meet the foregoing standards, he shall make suggestions and recommendations to such agency for the improvement of such methods and procedures and to the Congress for any additional legislation needed to carry out the policies of

this chapter. At least thirty days before filing any such report with the Congress, the Comptroller General shall deliver a copy thereof to the agency concerned and the Administrator of General Services, and shall forward to the Congress together with such report any comments of such agency with respect thereto.

[(d) The jurisdiction of the Comptroller General of the United States shall not be affected by this chapter except to the extent necessary to give effect to the specific provisions thereof.

[§ 117. Defective, informal, and quasi contracts; termination date for filing claims.

[(a) Where any person has arranged to furnish or furnished to a contracting agency or to a war contractor any materials, services, or facilities related to the prosecution of the war, without a formal contract, relying in good faith upon the apparent authority of an officer or agent of a contracting agency, written or oral instructions, or any other request to proceed from a contracting agency, the contracting agency shall pay such person fair compensation therefor.

[(b) Whenever any formal or technical defect or omission in any prime contract, or in any grant of authority to an officer or agent of a contracting agency who ordered any materials, services, and facilities might invalidate the contract or commitment, the contracting agency (1) shall not take advantage of such defect or omission; (2) shall amend, confirm, or ratify such contract or commitment without consideration in order to cure such defect or omission; and (3) shall make a fair settlement of any obligation thereby created or incurred by such agency, whether expressed or implied, in fact or in law, or in the nature of an implied or quasi contract.

[(c) Where a contracting agency fails to settle by agreement any claim asserted under this section, the dispute shall be subject to the provisions of section 113 of this title.

[(d) The Administrator of General Services shall require each contracting agency to formalize all such obligations and commitments within such period as the Administrator of General Services deems appropriate. No person shall be entitled to recover compensation, to receive a settlement of any alleged obligation, or to obtain the benefit of any amendment, confirmation, ratification, or formalization of any alleged contract or commitment under the provisions of subsections (a), (b), (c), or (d) of this section, unless such person shall, on or before one hundred and eighty days after June 28, 1954, have filed a claim therefor with the contracting agency.

[§ 118. Administration.

[(a) Records and forms.

[(The Administrator of General Services shall establish policies for such supervision and review within the contracting agencies of termination settlements and interim financing as he deems necessary and appropriate to prevent and detect fraud and to assure uniformity in administration and to provide for expeditious settlements. For this purpose he shall prescribe (1) such records to be prepared by the contracting agencies and by war contractors as he deems necessary in connection with such settlements and interim financing; and (2) the records in connection therewith to be transmitted to the General Ac-

counting Office. He shall, seek to reduce the amount of record keeping, reporting, and accounting in connection with the settlement of termination claims and interim financing to the minimum compatible with the reasonable protection of the public interest. Each contracting agency shall prescribe forms for use by war contractors in connection with termination settlements and interim financing to the extent it deems necessary and feasible.

[(b) Repealed. Oct. 31, 1951, ch. 654, § 1 (111) 65 Stat. 705.

[(c) Advance notice on cut-backs.

[(The Administrator of General Services, by regulation, shall provide for making available to any interested Government agency such advance notice and other information on cut-backs in war production resulting from terminations or failures to renew or extend war contracts, as he deems necessary and appropriate.

[(d) Investigations.

[(The Administrator of General Services shall make such investigations as he deems necessary or desirable in connection with termination settlements and interim financing. For this purpose he may utilize the facilities of any existing agencies and if he determines that the facilities of existing agencies are inadequate, he may establish a unit in the General Services Administration to supplement and facilitate the work of existing agencies. He shall report to the Department of Justice any information received by him indicating any fraudulent practices, for appropriate action.

[(e) Certification of fraudulent settlements to Department of Justice.

[(Whenever any contracting agency or the Administrator of General Services believes that any settlement was induced by fraud, the agency or Administrator of General Services shall report the facts to the Department of Justice. Thereupon, (1) the Department of Justice shall make an investigation to determine whether such settlement was induced by fraud, and (2) until the Department of Justice notifies the contracting agency that in its opinion the facts do not support the belief that the settlement was induced by fraud, the contracting agency, by set-off or otherwise, may withhold, from amounts owing to the war contractor by the United States under such settlement or otherwise, the amount of the settlement, or the portion thereof, which, in its opinion, was affected by the fraud. In any such case the Department of Justice shall take such action as it deems appropriate to recover payments made to such war contractor.

[§ 119. Fraudulent claims, vouchers, statements, etc.; jurisdiction.

[(Every person who makes or causes to be made, or presents or causes to be presented to any officer, agent, or employee of any Government agency any claim, bill, receipt, voucher, statement, account, certificate, affidavit, or deposition, knowing the same to be false, fraudulent, or fictitious or knowing the same to contain or to be based on any false, fraudulent, or fictitious statement or entry, or who shall cover up or conceal any material fact, or who shall use or engage in any other fraudulent trick, scheme, or device, for the pur-

pose of securing or obtaining, or aiding to secure or obtain, for any person any benefit, payment, compensation, allowance, loan, advance, or emolument from the United States or any Government agency in connection with the termination, cancelation, settlement, payment, negotiation, renegotiation, performance, procurement, or award of a contract with the United States or with any other person, and every person who enters into an agreement, combination, or conspiracy so to do, (1) shall pay to the United States an amount equal to 25 per centum of any amount thereby sought to be wrongfully secured or obtained but not actually received, and (2) shall forfeit and refund any such benefit, payment, compensation, allowance, loan, advance, and emolument received as a result thereof and (3) shall in addition pay to the United States the sum of \$2,000 for each such act, and double the amount of any damage which the United States may have sustained by reason thereof, together with the costs of suit.

¶The several district courts of the United States, the District of Columbia, the several district courts of the Territories of the United States, within whose jurisdictional limits the person, or persons, doing or committing such act, or any one of them, resides or shall be found, shall, wheresoever such act may have been done or committed, have full power and jurisdiction to hear, try, and determine such suit, and such person or persons as are not inhabitants of or found within the district in which suit is brought may be brought in by order of the court to be served personally or by publication or in such other reasonable manner as the court may direct.

¶§ 120. Powers and duties of contracting agencies.

¶(a) Limitation.

¶Each contracting agency shall have authority, notwithstanding any provisions of law other than contained in this chapter, (1) to make any contract necessary and appropriate to carry out the provisions of this chapter; (2) to amend by agreement any existing contract, either before or after notice of its termination, on such terms and to such extent as it deems necessary and appropriate to carry out the provisions of this chapter; and (3) in settling any termination claim, to agree to assume, or indemnify the war contractor against, any claims by any person in connection with such termination claims or settlement. This subsection shall not limit or affect in any way any authority of any contracting agency under First War Powers Act, 1941, or under any other statute.

¶(b) Evidence required; conclusiveness of determinations.

¶Any contracting agency may prescribe the amount and kind of evidence required to identify any person as a war contractor, or any contract, agreement, or purchase order as a war contract for any of the purposes of this chapter. Any determination so made that any person is a war contractor, or that any contract, agreement, or purchase order is a war contract, shall be final and conclusive for any of the purposes of this chapter.

¶(c) Appropriations.

¶There are authorized to be appropriated such sums as may be necessary for administering the provisions of this chapter.

[(d) Validation of prior settlements.

[(All policies and procedures relating to termination of war contracts, termination settlements, and interim financing, prescribed by the Secretary of the Treasury or any contracting agency, in effect upon the effective date of this chapter, and not inconsistent with this chapter, shall remain in full force and effect unless and until superseded by the Administrator of General Services in accordance with this chapter, or by regulations of the contracting agency not inconsistent with this chapter or the policies prescribed by the Administrator of General Services.

[(e) Impairment of contract.

[(Nothing in this chapter shall be deemed to impair or modify any war contract or any term or provision of any war contract or any assignment of any claim under a war contract, without the consent of the parties thereto, if the war contract, or the term, provision, or assignment thereof, is otherwise valid.

[(f) Aid to war contractors.

[(Any contracting agency may authorize or direct its officers and employees, as a part of their official duties, to advise, aid, and assist war contractors in preparing and presenting termination claims, in obtaining interim financing, and in related matters, to such extent as it deems desirable. Such advice, aid or assistance shall not constitute a violation of section 198 of Title 18 or of any other law, provided the officer or employee does not receive therefor benefit or compensation of any kind, directly or indirectly, from any war contractor.

[§ 121. Administrator of General Services; additional duties.

[(In addition to his other functions under this chapter, the Administrator of General Services shall—

[(a) promote the training of personnel for termination settlement and interim financing by contracting agencies, war contractors, and financing institutions;

[(b) Omitted.

[(c) promote decentralization of the administration of termination settlements and interim financing by fostering delegation of authority within contracting agencies and to war contractors, to the extent he deems necessary and feasible; and

[(d) consult with war contractors through advisory committees or such other methods as he deems appropriate.

[§ 122. Use of appropriated funds.

[(Any contracting agency is authorized—

[(a) to use for interim financing, the payment of claims, and for any other purposes authorized in this chapter any funds which have heretofore been appropriated or allocated or which may hereafter be appropriated or allocated to it, or which are or may become available to it, for such purposes or for the purposes of war production or war procurement;

[(b) to use any such funds appropriated, allocated, or available to it for expenditures for or in behalf of any other contracting agency for the purposes authorized in this chapter; and

[(c) to determine by agreement, joint estimate, or any other method authorized by the Administrator of General Services, the part of any expenditure made pursuant to subsection (b) of this section to be paid by each contracting agency concerned and to make transfers of funds between such contracting agencies accordingly. Transfers of funds between appropriations carried upon the books of the Treasury shall be made by the Administrator of General Services in accordance with joint requests of the contracting agencies involved.

[§ 123. Delegation of authority by Administrator of General Services.

[(a) The Administrator of General Services may delegate any authority and discretion conferred upon him by this chapter to such officers and agencies of the General Services Administration as he may designate, and may delegate such authority and discretion, upon such terms and conditions as he may prescribe, to the head of any Government agency to the extent necessary to the handling and solution of problems peculiar to that agency.

[(b) The head of any Government agency may delegate any authority and discretion conferred upon him or his agency by or pursuant to this chapter to any officer, agent, or employee of such agency or to any other Government agency, and may authorize successive redelegations of such authority and discretion.

[(c) Any two or more Government agencies may exercise jointly any authority and discretion conferred upon each of them individually by or pursuant to this chapter.

[(d) Nothing in this chapter shall prevent the Administrator of General Services from exercising any authority conferred upon him by any other statute.

[§ 124. Effective date; applicability to lend-lease contracts.

[(a) This chapter shall become effective twenty days after July 1, 1944. With the exception of the provisions of paragraphs (b)-(e) of section 112 of this title, and sections 106 and 110, and 113 of this title, this chapter shall be applicable in the case of any terminated war contract which has been finally settled at or before the effective date of this chapter.

[(b) Nothing in this chapter shall limit or affect any authority conferred by sections 411 to 419 of Title 22, or Acts supplemental thereto.

[§ 125. Exemption of certain contracts outside continental United States or in Alaska.

[Subject to policies prescribed by the Administrator of General Services, any contracting agency may exempt from some or all of the provisions of this chapter (a) any war contract made or to be performed outside the continental limits of the United States or in Alaska, or (b) any termination inventory situated outside of the continental limits of the United States or in Alaska, or (c) any modification of a war contract pursuant to its terms for the purpose of changing plans or specifications applicable to the work without substantially reducing its extent.]

TITLE 42.—THE PUBLIC HEALTH AND WELFARE,
UNITED STATES CODE

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Chapter 6A.—THE PUBLIC HEALTH SERVICE

SUBCHAPTER I.—ADMINISTRATION

§ 211a. * * *

* * * * *

§ 211b. Promotion of commissioned officers.

[(a) Temporary promotions prior to July 1, 1948.

[Except as provided in the third and fourth paragraphs of this section, no promotion shall be made under section 211 of this title, prior to July 1, 1948. Until that date officers of the Regular Corps may receive temporary promotions to higher grades with the pay and allowances thereof pursuant to section 211(a)(1) of this title, in force prior to February 28, 1948, notwithstanding the termination, prior to such date, of the war and of the national emergencies proclaimed by the President. Any officer holding, on June 30, 1948, an appointment pursuant to such section to a higher temporary grade shall continue in such grade until such appointment is terminated, as the President may direct.

[(b) Service credit.

[Effective as of February 28, 1948, each officer of the Regular Corps on such date, in addition to the credit he has under preexisting legislation for purposes of promotion, shall be credited with three years of service.

[(c) Promotion based on years of service; effective date; examination; service credit.

[Officers of the Regular Corps who have, or who on or before July 1, 1948, will have, the years of service prescribed in paragraph (2) of section 211(d) of this title, for promotion to the senior assistant, full, or senior grade, shall be recommended to the President for such promotion, to be effective as of July 1, 1948, whether or not vacancies exist in such grade. Such promotions shall be made without examination, except that no promotions shall be made to the senior grade or any grade immediately below a restricted grade until the officer is found qualified for promotion pursuant to subsection (c) of section 211 of this title. No promotion shall be made pursuant to this paragraph to any grade in any professional category if such grade has been made a restricted grade pursuant to subsection (b) of section 211 of this title. For purposes of seniority an officer promoted under this paragraph shall be credited with the years of service in the grade to which promoted equal to the excess of his years of service on the date of promotion over the years of service required for promotion to such grade under paragraph (2) of section 211(d) of this title.

[Officers in the junior assistant grade in the Regular Corps who have, or who on or before July 1, 1948, will have four or more years of service in the junior assistant grade, shall be recommended to the President for promotion to the assistant grade, to be effective as of July 1, 1948, without examination and whether or not vacancies exist

in such grade. For purposes of promotion and seniority in grade, an officer promoted under this paragraph shall be credited with the years of service equal to the excess of his years of service on the date of promotion over four years.

[(d) Service for purpose of seniority.

[For purposes of seniority, any officer of the Regular Corps of the Public Health Service on February 28, 1948, shall be considered as having had service in the grade which he holds on such date equal to the excess of the service credited to him for promotion purposes over the length of service required under section 211(d)(2) of this title, for promotion to such grade.

[(e) Term or tenure of office unaffected prior to July 1, 1948.

[Except as provided in the third and fourth paragraphs of this section, the provisions of this section shall not, prior to July 1, 1948, affect the term or tenure of office (including any office held under temporary promotion) of any commissioned officer of the Service in office upon February 28, 1948.]

* * * * *

Chapter 9.—HOUSING OF PERSONS ENGAGED IN NATIONAL DEFENSE

SUBCHAPTER IX.—DEFENSE HOUSING AND COMMUNITY FACILITIES AND SERVICES

[§ 1592. Authority of Administrator.

[Subject to the provisions and limitations of sections 1591 to 1591c of this title, and of this subchapter, the Housing and Home Finance Administrator (hereinafter referred to as the "Administrator") is authorized to provide housing in any areas (subject to the provisions of section 1591 of this title) needed for defense workers or military personnel or to extend assistance for the provision of, or to provide, community facilities or services required in connection with national defense activities in any area which the President, pursuant to the authority contained in said section, has determined to be critical defense housing area.]

TITLE 50, APPENDIX.—WAR AND NATIONAL DEFENSE, U.S. CODE

* * * * *

TRADING WITH THE ENEMY ACT OF 1917

(Act October 6, 1917, Ch. 106, 40 Stat. 411)

§ 9. Claims to property transferred to custodian; notice of claim; filing; return of property; suits to recover; sale of claimed property in time of war or during national emergency.

(a) * * *

* * * * *

[(c) No money or other property shall be returned nor any debt allowed under this section to any person who is a citizen or subject of any nation which was associated with the United States in the prosecution of the war, unless such nation in like case extends reciprocal rights to citizens of the United States; *Provided*, That any arrangement made by a foreign nation for the release of money and other property of American citizens and certified by the Secretary of State to the Attorney General as fair and the most advantageous arrangement obtainable shall be regarded as meeting this requirement; nor in any event shall a debt be allowed under this section unless it was owing to and owned by the claimant prior to October 6, 1917, and as to claimants other than citizens of the United States unless it arose with reference to the money or other property held by the Alien Property Custodian or Treasurer of the United States hereunder; nor shall a debt be allowed under this section unless notice of the claim has been filed, or application therefor has been made, prior to the date of the enactment of the Settlement of War Claims Act of 1928.]

* * * * *

SALE OF SURPLUS WAR-BUILT VESSELS

(Act Mar. 8, 1946, Ch. 82, 60 Stat. 41)

* * * * *

[§ 1742. Price adjustment on prior sales to citizens.

[(a) Form, manner, and time of application.

[A citizen of the United States who on the date of the enactment of this Act [March 8, 1946]—

[(1) owns a vessel which he purchased from the Commission prior to such date, and which was delivered by its builder after December 31, 1940; or

[(2) is party to a contract with the Commission to purchase from the Commission a vessel, which has not yet been delivered to him; or

[(3) owns a vessel on account of which a construction-differential subsidy was paid, or agreed to be paid, by the Commission under section 504 of the Merchant Marine Act, 1936, as amended [section 1154 of Title 46], and which was delivered by its builder after December 31, 1940; or

[(4) is party to a contract with a shipbuilder for the construction for him of a vessel, which has not yet been delivered to him, and on account of which a construction-differential subsidy was agreed, prior to such date, to be paid by the Commission under section 504 of the Merchant Marine Act, 1936, as amended [section 1154 of Title 46],

shall, except as hereinafter provided, be entitled to an adjustment in the price of such vessel under this section if he makes application therefor, in such form and manner as the Commission may prescribe, within sixty days after the date of publication of the applicable pre-war domestic costs in the Federal Register under section 3(c) of this Act [section 1736(c) of this Appendix]. No adjustment shall be made

under this section in respect of any vessel the contract for the construction of which was made after September 2, 1945, under the provisions of title V [subchapter V of chapter 27 of Title 46] (including section 504 [section 1154 of Title 46]) or title VII of the Merchant Marine Act, 1936, as amended [subchapter VII of chapter 27 of Title 46].

[(b) Determination of amount.

[(Such adjustment shall be made, as hereinafter provided, by treating the vessel as if it were being sold to the applicant on the date of the enactment of this Act [March 8, 1946], and not before that time. The amount of such adjustment shall be determined as follows:

[(1) The Commission shall credit the applicant with the excess of the cash payments made upon the original purchase price of the vessel over 25 per centum of the statutory sales price of the vessel as of such date of enactment [March 8, 1946]. If such payment was less than 25 per centum of the statutory sales price of the vessel, the applicant shall pay the difference to the Commission.

[(2) The applicant's indebtedness under any mortgage to the United States with respect to the vessel shall be adjusted.

[(3) The adjusted mortgage indebtedness shall be in an amount equal to the excess of the statutory sales price of the vessel as of the date of the enactment of this Act [March 8, 1946] over the sum of the cash payment retained by the United States under paragraph (1) plus the readjusted trade-in allowance (determined under paragraph (7)) with respect to any vessel exchanged by the applicant on the original purchase. The adjusted mortgage indebtedness shall be payable in equal annual installments thereafter during the remaining life of such mortgage with interest on the portion of the statutory sales price remaining unpaid at the rate of 3½ per centum per annum.

[(4) The Commission shall credit the applicant with the excess, if any, of the sum of the cash payments made by the applicant upon the original purchase price of the vessel plus the readjusted trade-in allowance (determined under paragraph (7)) over the statutory sales price of the vessel as of the date of the enactment of this Act [March 8, 1946] to the extent not credited under paragraph (1).

[(5) The Commission shall also credit the applicant with an amount equal to interest at the rate of 3½ per centum per annum (for the period beginning with the date of the original delivery of the vessel to the applicant and ending with the date of the enactment of this Act [March 8, 1946]) on the excess of the original purchase price of the vessel over the amount of any allowance allowed by the Commission on the exchange of any vessel on such purchase; the amount of such credit first being reduced by any interest on the original mortgage indebtedness accrued up to such date of enactment and unpaid. Interest so accrued and unpaid shall be canceled.

[(6) The applicant shall credit the Commission with all amounts paid by the United States to him as charter hire for use

of the vessel (exclusive of service, if any, required under the terms of the charter) under any charter party made prior to the date of the enactment of this Act [March 8, 1946], and any charter hire for such use accrued up to such date of enactment and unpaid shall be canceled; and the Commission shall credit the applicant with the amount that would have been paid by the United States to the applicant as charter hire for bare-boat use of vessels exchanged by the applicant on the original purchase (for the period beginning with date on which the vessels so exchanged were delivered to the Commission and ending with the date of the enactment of this Act [March 8, 1946]).

[(7) The allowance made to the applicant on any vessel exchanged by him on the original purchase shall be readjusted so as to limit such allowance to the amount provided for under section 8 [section 1741 of this Appendix].

[(8) There shall be subtracted from the sum of the credits in favor of the Commission under the foregoing provisions of this subsection the amount of any overpayments of Federal taxes by the applicant resulting from the application of subsection (c) (1) of this section, and there shall be subtracted from the sum of the credits in favor of the applicant under the foregoing provisions of this subsection the amount of any deficiencies in Federal taxes of the applicant resulting from the application of subsection (c) (1) of this section. If, after making such subtractions, the sum of the credits in favor of the applicant exceeds the sum of the credits in favor of the Commission, such excess shall be paid by the Commission to the applicant. If, after making such subtractions, the sum of the credits in favor of the Commission exceeds the sum of the credits in favor of the applicant, such excess shall be paid by the applicant to the Commission. Upon such payment by the Commission or the applicant, such overpayments shall be treated as having been refunded and such deficiencies as having been paid.

[For the purposes of this subsection, the purchase price of a vessel on account of which a construction-differential subsidy was paid or agreed to be paid under section 504 of the Merchant Marine Act, 1936, as amended [section 1154 of Title 46], shall be the net cost of the vessel to the owner.

[(c) Conditions binding on applicant.

[An adjustment shall be made under this section only if the applicant enters into an agreement with the Commission binding upon the citizen applicant and any affiliated interest to the effect that—

[(1) depreciation and amortization allowed or allowable with respect to the vessel up to the date of the enactment of this Act [March 8, 1946] for Federal tax purposes shall be treated as not having been allowable; amounts credited to the Commission under subsection (b) (6) of this section shall be treated for Federal tax purposes as not having been received or accrued as income; amounts credited to the applicant under subsection (b) (5) and (6) of this section shall be treated for Federal tax purposes as having been received and accrued as income in the taxable year

in which falls the date of the enactment of this Act [March 8, 1946];

[(2) the liability of the United States for use (exclusive of service, if any, required under the terms of the charter) of the vessel on or after the date of the enactment of this Act [March 8, 1946] under any charter party shall not exceed 15 per centum per annum of the statutory sales price of the vessel as of such date of enactment [March 8, 1946] and the liability of the United States under any such charter party for loss of the vessel shall be determined on the basis of the statutory sales price as of the date of the enactment of this Act [March 8, 1946], depreciated to the date of loss at the rate of 5 per centum per annum: *Provided*, That the provisions of this subsection (c)(2) [of this section] shall not apply to any such charter party executed on or after the date of enactment of this amendatory proviso [August 6, 1956]; and the Secretary of Commerce is directed to modify any adjustment agreement to the extent necessary to conform to the provisions of this amendatory proviso; and

[(3) in the event the United States, prior to the termination of the existing national emergency declared by the President on May 27, 1941, uses such vessel pursuant to a taking, or pursuant to a bare-boat charter made, on or after the date of the enactment of this Act [March 8, 1946]; the compensation to be paid to the purchaser, his receivers, trustees, shall in no event be greater than 15 per centum per annum of the statutory sales price as of such date.

[(d) Applicability of other laws.

[Section 506 of the Merchant Marine Act, 1936, as amended [section 1156 of Title 46], shall not apply with respect to (1) any vessel which is eligible for an adjustment under this section, or (2) any vessel described in clause (1), (2), (3), or (4) of subsection (a) of this section, the contract for the construction of which is made after September 2, 1945, and prior to the date of enactment of this Act [March 8, 1946].]

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