

**Relief of the
Collier Manufacturing Company, Inc.**

HEARING
BEFORE A
SUBCOMMITTEE OF
THE COMMITTEE ON CLAIMS
UNITED STATES SENATE

SEVENTY-THIRD CONGRESS

SECOND SESSION

ON

S. 2242

A BILL FOR THE RELIEF OF THE COLLIER MANUFACTURING COMPANY OF BARNESVILLE, GA.

FEBRUARY 14, 1934

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RELIEF OF THE COLLIER MANUFACTURING CO., INC.

WEDNESDAY, FEBRUARY 14, 1934

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON CLAIMS,
Washington, D.C.

The subcommittee met, pursuant to call, at 3:30 p.m., Senator Hubert D. Stephens presiding.

Present: Senator Stephens.

Also present: Ex-Senator Thomas W. Hardwick, as counsel for the claimant.

Mr. J. C. Collier and Mr. D. C. Collier.

The subcommittee had under consideration the bill S. 2242, for the relief of the Collier Manufacturing Co., of Barnesville, Ga.

Senator STEPHENS. Senator, you may proceed now.

Mr. HARDWICK. For the record, I offer the decision of the United States Court of Claims in *Collier Manufacturing Company (Inc.) v. The United States*, showing that this case was decided on a purely technical point.

(The decision referred to is attached as an appendix to this record.)

Mr. HARDWICK. Next I offer a written affidavit from one of these gentlemen, Mr. D. C. Collier, as to the merits of this claim, with an itemized statement of the damages that he claims to have suffered, and I will not take your time and patience to read it, because it will be in the record and I am going to offer this gentleman to testify as to the details.

(The affidavit of Mr. D. C. Collier, referred to, is attached as an exhibit to this record.)

Mr. HARDWICK. Now I am going to ask that Mr. Collier, Sr., hold up his right hand.

Senator SHEPHENS. We do not swear the witnesses.

STATEMENT OF J. C. COLLIER

Mr. HARDWICK. Mr. Collier, will you please tell Senator Stephens, constituting the subcommittee on this matter, exactly what you know, in a brief, terse way, about this claim that you have against the Government that is embraced in this bill which was introduced by Senator George?

Mr. J. C. COLLIER. Senator Stephens, I was not the inside mill man. I was the president and executive, and my offices were uptown.

Along in the spring of 1918, we received communications from the depot quartermaster's office at St. Louis, asking for immediate delivery, also future delivery, on shirts for the Army. A little later

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we received communications from the depot quartermaster's office at Atlanta, Ga.

I went up and talked with them personally and solicited their business, because at that time we were all in the humor to help in the World War all we could. We knew that the war was coming—I mean by that that we knew that this country was fixing to join the Allies.

I found out just the type of undershirt to make and went back to our mills at Barnesville and took the matter up with my son, Mr. D. C. Collier, who was the vice president and general superintendent of the mill.

We submitted samples to the Atlanta depot quartermaster's office, which pleased them—just what they wanted. In fact, it was copied after the sample that they gave me from the depot quartermaster's office.

Clift & Goodrich, of New York City, were our sole sales agents on the contract, but these negotiations were all had by the mill, because we checked our own sales, but, naturally, when the time came to take these orders we had them come through Clift & Goodrich, because we did not have to make a bond to the War Department in doing it that way and, secondly, we did not care to make a change in our routine of doing business.

Senator STEPHENS. Right there, you say that you had negotiations directly with the authorities, with the War Department?

Mr. J. C. COLLIER. Yes, sir.

Senator STEPHENS. Do you have any documents relating to that?

Mr. J. C. COLLIER. Oh, yes, sir.

Senator STEPHENS. Do you expect to put them in the record?

Mr. J. C. COLLIER. That is for Mr. Hardwick; I guess so.

Mr. HARDWICK. Yes; we can furnish that.

Senator STEPHENS. There ought to be something, I think, to indicate that.

Mr. HARDWICK. You have letters from those people?

Mr. J. C. COLLIER. Plenty of them.

Mr. HARDWICK. We will furnish them for the record.

Mr. D. C. COLLIER. Most of those negotiations were verbal.

Senator STEPHENS. You might state that some of these communications were verbal, and some in writing.

Mr. D. C. COLLIER. Most of the negotiations in Atlanta were verbal, because we are only 56 miles away from Atlanta.

Mr. HARDWICK. That is a preliminary question of not much importance, for this reason, that it is conceded that the contract was signed by Clift & Goodrich, but the contract that Clift & Goodrich signed as your sales agent specified that these undershirts were to be made in your plant, did they not?

Mr. J. C. COLLIER. Yes; by the Collier Manufacturing Co., of Barnesville, Ga.

Senator STEPHENS. And to be shipped from where?

Mr. J. C. COLLIER. To be shipped from the depot quartermaster in Atlanta.

Mr. HARDWICK. And that was the way that it was handled?

Mr. D. C. COLLIER. May I say something?

Senator STEPHENS. Yes, sir.

Mr. D. C. COLLIER. I will say that the procedure in the handling of this order was for the depot quartermaster in Atlanta to furnish directly to the Collier Manufacturing Co. shipping instructions, furnish the bill of lading, and the Collier Manufacturing Co. immediately sent a copy of the invoice to the Government depot in Atlanta and a copy to Clift & Goodrich at the same time. The form of billing of the invoice came through the office of Clift & Goodrich, to conform to the original contract.

Mr. HARDWICK. All right. Now, will you proceed, Mr. Collier?

Mr. J. C. COLLIER. About that time I came East.

Mr. HARDWICK. What time was that? Will you identify that time?

Mr. J. C. COLLIER. In the spring of 1918.

Mr. HARDWICK. You do not remember the month, do you?

Mr. J. C. COLLIER. No, sir; I could not give it to you.

Mr. HARDWICK. Was it in the early spring of 1918?

Mr. J. C. COLLIER. Yes, sir.

Mr. HARDWICK. After we had entered the war?

Mr. J. C. COLLIER. No, sir; we had not gone into the war yet, I do not think—yes, we had.

Mr. HARDWICK. We went in on April 7.

Senator STEPHENS. April 17.

Mr. HARDWICK. Yes; that is right; we went in on April 17. All right, excuse me.

Mr. J. C. COLLIER. I stopped in Washington, and went to those little new buildings that you had by the Washington Monument, and the headquarters of the War Department, right behind the main building over there, and called for the quartermaster, and I met a gentleman connected with the knitting-goods division who was the member of the firm of A. S. Haight & Co., of New York. His name was Steve Haight.

I was trying to get at the man that had charge of purchasing. That was before we had gotten any actual order from the War Department, and Mr. Haight said, "Is your name Clem Collier?" That means I. C. Collier, knitting-goods man, of New York City.

I said no, but that my father was I. C. Collier, of Georgia, and that my name was J. C. Collier, and that I was trying to find out the man who buys knit underwear for the Army.

He said, "You will have to go to New York City, and go to the civilian committee that is doing the buying, up on Sixteenth Street."

All right; I went to New York City that night. I made all arrangements for these orders to be filled, and we secured at that time, or a very few days afterward—I make the arrangements, but I did not get the order at that time—for 120,000 dozen shirts.

Mr. D. C. COLLIER. 120,000 garments.

Mr. J. C. COLLIER. That is it; 120,000 garments.

We next went to work to make the merchandise, and to deliver it, and we did it very satisfactorily. Out of the delivery of about 60,000 garments, we had approximately only 60 single garment "rejects" by the Department in Atlanta, and 50 of those, about 52 or 53 of them, were touched up and returned and accepted, so that in reality we only had about 6 "rejects" in the delivery of around 60,000 garments.

We had been in the knit-goods business since 1898, and we served the largest firms in America, such as Lord & Taylor, Marshall Field & Co., Rice-Stix, St. Louis Dry Goods Co., Eli & Walker of New York, and others. That is the class of trade that we had, and we served the biggest trade satisfactorily.

Just after the victory of Chateau Thierry, we could not, ourselves, at that time see why the Department was commencing to be technical in the knit-goods branch in New York City and elsewhere. We did not learn until about 60 days later. We, of course, were experienced; we knew, when people wanted to cut out an order, how they could pick small flaws in a contract; we had had that experience in the civilian trade, but we did not think that the Government would be that way.

So they commenced to make moves to slow down this order. We would make the goods and chase them up in the mill, and second invoices, but we were not allowed to ship until the bills of lading were made out at the Atlanta depot and sent to us, conforming with the invoice that had been mailed to them. Our invoice went directly to the depot at Atlanta.

Mr. D. C. COLLIER. May I add something else?

Senator STEPHENS. All right.

Mr. D. C. COLLIER. In other words, we had trouble at the mill by a congestion of merchandise, due to the fact that the Government inspectors were slowing up delivery, and we were having considerable trouble securing shipping instructions and bills of lading.

That congested our entire mill. It interfered with the production of Government merchandise, as well as our regular civilian business.

Senator STEPHENS. You refer to Government inspectors. Did they come to the mill and make the inspection there?

Mr. D. C. COLLIER. They did, in the latter part of the contract.

Mr. HARDWICK. Suppose that you tell the Senator about this inspection business now.

Mr. J. C. COLLIER. When those "rejects" were only 5 or 6 garments out of 60,000, they were inspected by the Department or depot quartermaster at Atlanta, at the Atlanta depot. About the time, along in July, they got some inspectors to come to Barnesville. One was a boy that had wrapped merchandise for the George T. Muse Clothing Co., of Atlanta. The other was a machine fixer over in an overall factory in Alabama, and the other boy had been a machine fixer, I think, in Atlanta, but I won't be positive.

Mr. HARDWICK. Had any of them had any experience in this knitting business?

Mr. J. C. COLLIER. None whatever. They never had any experience in a knitting mill before.

The main trouble at first was like Mr. D. C. Collier stated just now, that the goods were made and cased and we could not get rid of them, and it took lots of money, for yarns were high and labor was high, and we could not put a thing on the train until they made out the bills of lading, and sent them to us.

Finally these boys commenced to be very technical and very slow in checking the merchandise as it was turned over to them. There were just mounds of underwear there, many piles ready for these

Government inspectors to take charge of, and they inspected just a little bit each day.

After they became so very technical, it gave us trouble, and I made numerous trips to New York, and my son made several trips to New York, to the committee's headquarters on Sixteenth Street, and we also talked to our agents, Cliff and Goodrich.

Now, the committee on Sixteenth Street were not officers in the war, in the Army; they were civilians. One was connected with Bliss, Fabian & Co., on West Street, and the other one with C. C. Valentine & Co., on Broadway, and the other one with William Islein & Co.

They recommended purchases to the Department here in Washington.

Finally the thing—

Mr. D. C. COLLIER (interposing): That was about the time we went to New York.

Mr. J. C. COLLIER. Finally the thing became so congested and with no shipping orders being given on the merchandise that had been inspected, and with a very light inspection going on, that I sent my son to New York to find out the trouble, and he made certain agreements that he will tell you about later which were not carried out.

Later I went on to New York, to know why these agreements were not carried out, because down in Atlanta I could not find out anything.

Now, perhaps, Senator, you heard of the buck being passed when you tried to make a loan in the bank and you cannot get it. That is just the way that they did me. I was in Washington here eight or ten times. The newsboys, coming up on the Southern Railway, knew me, for I was on the train so often, and the bell boys in New York knew me, I was there so much, but I could not get anywhere.

Senator STEPHENS. About what time did this trouble begin, Mr. Collier?

Mr. J. C. COLLIER. About the latter part of July, around after the victory at Chateau Thierry.

Senator STEPHENS. That was in 1918?

Mr. J. C. COLLIER. That was in 1918.

Mr. HARDWICK. But it did not get fierce until August?

Mr. D. C. COLLIER. In other words, each Government official referred you to another—is that the idea?

Mr. J. C. COLLIER. And in September it was very bad. We could not do a thing. They just tied us up. Each man sent us to another. They would send me to 2 or 3 places in Washington.

Senator STEPHENS. While this trouble was going on, were those inspectors still at your factory?

Mr. J. C. COLLIER. No, sir; they had withdrawn the inspectors—no, they did not withdraw the inspectors about the time of the armistice and, to be frank with you, I was sitting in the office of the knit goods committee in the last week of October, talking to Harry Jacobson, when a rumor went through the building that Germany had surrendered. Of course, it happened 2 weeks later, on

November 11, and I saw what we were into and I was doing my best to get rid of the goods before the war stopped. I was not able to carry the line, because these undershirts did not suit the civilian trade. It was a short-sleeved, no button affair, that you pulled down over your head. They were lightweight summer garments, and there was no demand for them except from the man who was not able to buy a good undershirt in the civilian trade.

Finally Major Burger made a proposition to my son, which was confirmed to me over the telephone, that if we would allow the cancelation of these contracts, that he would take all of the merchandise that we had manufactured off of our hands and pay us the losses, reasonable losses sustained thereby.

Senator STEPHENS. About what was the date of this conversation?

Mr. J. C. COLLIER. It was in September; that is my recollection. I will give you the date directly; I do not have it in my mind now.

Major Burger, and Frankfoot of Chicago, who was then the head of that committee, tried to confirm the same thing, verbally. We could not get anything in writing.

We went back to Atlanta. We could not get any action; we could not get anything carried out, and we struggled all through the fall of 1918 and through the spring of 1919, up until the time that we were advised to place this claim before the Judge Advocate here in Washington.

Now, I knew as a business man—that is, I thought I knew as a business man that probably we would be overruled, because our names did not appear as the real contractors, but on that original order, the words “to be made by the Collier Manufacturing Co., Barnesville, Ga.,” were what we stood on when we went into the courts here after we got the Judge Advocate’s decision.

Our agents were not interested any further than getting a commission on what we had sold and shipped, and they got it, and they bunged the thing up and deceived us; they went and made a supplementary agreement without our knowing it.

Mr. HARDWICK. And a cancelation of the original contract at the same time?

Mr. J. C. COLLIER. Yes, sir.

Mr. HARDWICK. How long after that was it before you found it out?

Mr. J. C. COLLIER. It was in March 1919, or thereabouts, and I found it out down here. I believe the officer was named Shaffer.

Senator STEPHENS. What were the terms of that supplemental contract, other than it carried a cancelation of the original contract?

Was there anything in it except the cancelation?

Mr. J. C. COLLIER. No, sir.

Mr. HARDWICK. Well, let us see and refresh your memory just a minute.

At the time of the cancelation, they made supplemental agreements, did they not, as to the manufacture of other stuff? I think that that is what the Court of Claims finding shows, that there were three supplemental contracts, of October 18, 19, and 22, 1919, at

the time that your people in New York canceled without any instructions, and you got nothing for it?

Mr. J. C. COLLIER. Do you mean about Major Parker?

Mr. HARDWICK. No. I mean what Clift & Goodrich did, as I understand the matter, on October 18, 19, and 22, 1919, when certain supplemental agreements were made.

Mr. J. C. COLLIER. They made those without my knowledge and consent.

Mr. HARDWICK. But they were made out?

Mr. J. C. COLLIER. Yes, sir.

Mr. HARDWICK. At the time of this so-called “cancelation”?

Mr. J. C. COLLIER. Yes, sir; and I always thought that they went too far.

Senator SPEPHENS. My question was what those supplemental agreements were, if you remember.

Mr. J. C. COLLIER. I mean that so far as Clift & Goodrich were concerned, the dates were dated back; there is something in the agreements about a cancelation by Clift & Goodrich, but not by us. We agreed to no cancelation, unless they would take all the merchandise and clean us up, and then we would allow them to cancel the unfilled portion.

Mr. HARDWICK. The record shows that the agents up there, on October 18, 19, and 22, 1919, agreed that, in consideration of the cancelation of the original contracts, the Government should make certain different contracts about other and further goods, as I understand it—is that right?

Mr. J. C. COLLIER. Yes, sir.

Now, I will go a little further.

Senator STEPHENS. You said “other and further goods.” Were those goods to come through the Collier Manufacturing Co., or else was a contract with Clift & Goodrich made relating to some other concern?

Mr. HARDWICK. That was with respect to the Collier Manufacturing Co.?

Mr. J. C. COLLIER. Yes.

Mr. HARDWICK. In other words, instead of carrying out the original contract, “We will give you a different, supplemental contract.”

Mr. J. C. COLLIER. I will tell you this, that the civilian buying committee in New York knew—it had been talked about—that the war was won. So, in the latter part of September 1918, Major Burger, whom I knew personally before that time; he was not a major in the Army; that was an honorary title given to him after he became a buyer, for he was a commercial man—he advised me to allow a cancelation of these contracts. The proposition came from him, that they would take the merchandise already made up and relieve us, and our mill should get back to the civilian business, and he gave that advice because he knew what was going on. I did not. I was not in position to know, and he admitted to me afterwards, several months afterwards, in the spring of 1919, that there were just tons of merchandise all over the country that the Army had no use for.

Senator STEPHENS. How much of these goods did you manufacture, Mr. Collier, after the Government inspectors were withdrawn from the factory?

Mr. J. C. COLLIER. Now, I cannot give you those details. My son can. I was the executive; I borrowed the money and kind of kept in touch with what was going on, and right at that time we had to borrow a good deal of money—things like that. I was not the inside man. My son is a trained textile engineer, and I grew up as a country merchant.

Now, later in the spring of 1919, when they changed forces down in Atlanta, we made a delivery of some of that merchandise. The new man, Major Parker, found room and we made the delivery without complaint, with not a garment returned, and the goods were paid for. We tried to deliver all that we could. It embarrassed us very much by not being able to make that delivery at that time.

Mr. HARDWICK. Now, I will ask you a question or two, just to get right down to the last part of what you said.

These garments that you had manufactured under these contracts you had subsequently to dispose of, did you not?

Mr. J. C. COLLIER. Yes, sir.

Mr. HARDWICK. And you did so at a considerable loss?

Mr. J. C. COLLIER. With enormous loss.

Mr. HARDWICK. Your son can give the details?

Mr. J. C. COLLIER. My son can give the details.

As I stated before, they were not suited for the civilian trade.

Mr. HARDWICK. When you went into this project, you had to make expensive changes in your plant and machinery, in order to manufacture what the Government required?

Mr. J. C. COLLIER. Oh, yes; and it disrupted the organization, and we bought new machinery.

Mr. HARDWICK. And you quit the civilian business practically entirely?

Mr. J. C. COLLIER. About 50 percent; about half and half.

Mr. HARDWICK. But you had to buy expensive equipment, and when you finally quit trying to do anything on these Government contracts, did you have to make any changes in your plant whatever?

Mr. J. C. COLLIER. Oh, yes; to change back.

Mr. HARDWICK. At considerable cost?

Mr. J. C. COLLIER. Yes.

Mr. HARDWICK. Have you any idea yourself, even in a general way, what your actual loss out of pocket—not profits—was on account of this?

Mr. J. C. COLLIER. Our actual loss, and we did not figure on our losses—we never have—reached around \$50,000.

Mr. HARDWICK. Exclusive of interest?

Mr. J. C. COLLIER. Exclusive of interest.

Mr. HARDWICK. Just counting the money actually out of pocket?

Mr. J. C. COLLIER. Yes; and many trips on the railroad in and out of Atlanta were not figured.

Mr. HARDWICK. Did you agree to the modification of this contract made by Clift & Goodrich at all?

Mr. J. C. COLLIER. Well, we made it. Clift & Goodrich did not make it. It was made to us; it was made to my son.

Mr. D. C. COLLIER. He means in regard to the cancelation of the contract.

Mr. HARDWICK. Yes.

Mr. J. C. COLLIER. Now, I did not agree, and did not know it.

Mr. HARDWICK. How long after it occurred was it before you knew it?

Mr. J. C. COLLIER. Next spring, in March, probably.

Mr. HARDWICK. Did you get any consideration for your cancelation?

Mr. J. C. COLLIER. None whatever.

Mr. HARDWICK. Senator, I think that that covers all that I expect to go into with him.

Senator STEPHENS. Thank you.

Mr. J. C. COLLIER. I am much obliged to you.

Mr. HARDWICK. I will now take the testimony of Mr. D. C. Collier.

STATEMENT OF D. C. COLLIER

Mr. HARDWICK. Mr. Collier, your name is D. C. Collier?

Mr. D. C. COLLIER. Yes.

Mr. HARDWICK. And you are the executive manager of this textile industry at Barnesville, Ga.?

Mr. D. C. COLLIER. Yes.

Mr. HARDWICK. Cotton mill?

Mr. D. C. COLLIER. Knitting mill.

Mr. HARDWICK. And you were at the time of these occurrences that have been spoken of here in that position?

Mr. D. C. COLLIER. Yes.

Mr. HARDWICK. I would like for you to state to Senator Stephens what this transaction exactly was, giving details and figures and dates as much as you can, and, before you do that, I will suggest that you take this affidavit that you have already filed and follow that order in presenting the matter, so that you will shorten your remarks and present them a little more logically.

Mr. D. C. COLLIER. Preliminarily I will endeavor only to give the main points regarding this entire transaction, and try not to testify on points which have already been covered by Mr. J. C. Collier.

After securing order 11048 from the United States Government, we made certain deliveries against this order which greatly pleased the Government officials, and the evidence of this was that the Governments' buying committee in New York, the Knit Goods Branch, placed a second contract, no. 2848-A, to be followed by the placement of a third contract, no. 3735-A, all three contracts calling for 120,000 garments each.

The placement of the last two contracts is full evidence that the quality of manufacture and delivery of the merchandise was satisfactory to the Government officials in New York and Atlanta.

Mr. HARDWICK. Now, just one word there.

As to these three contracts that you specified, were all of the contracts that you made with the Government made through Clift & Goodrich, your selling agents in New York?

Mr. D. C. COLLIER. Yes.

Mr. HARDWICK. Now, go on.

Mr. D. C. COLLIER. We had thorough cooperation from all Government officials in the Atlanta depot until the latter part of July, when—

Mr. HARDWICK. Give the year for the latter part of July.

Mr. D. C. COLLIER. The latter part of July 1918—when the method of inspection and the slowness of inspection and delay in getting shipping instructions became very pronounced. We had such a great amount of trouble in this respect that, with the loss of production on Government orders as well as civilian orders, the writer made a trip to New York.

Mr. HARDWICK. You mean that you made a trip to New York?

Mr. D. C. COLLIER. I make a trip to New York, in September 1918. I brought the details of our troubles, and the exact situation, before Messrs. Jacobson and Burger, of the Knit Goods Branch.

The first statement made by Mr. Burger was that he would advise a cancelation of our contracts, and that the Collier Manufacturing Co. should go back to the manufacture of civilian orders as quickly as possible, that he had already canceled a contract for similar merchandise with the Signal Knitting Mills, at Chattanooga, Tenn.

The writer—

Mr. HARDWICK. You mean you?

Mr. D. C. COLLIER. I then brought to his attention the samples, the mutilation of certain seconds which we had on hand, and which the Government usually took at 15 percent less than the regular contract price.

Mr. HARDWICK. Will you explain to the Senator what you mean by mutilation, and what these tests were and how they were made?

Mr. D. C. COLLIER. These inspectors had a method of marking with blue and red crayons and of tearing merchandise so as to mark it as a "reject".

This mutilation rendered these seconds unfit for commercial sale.

I brought this question before Messrs. Burger and Jacobson, that I thought that the Government was obligated to take this merchandise, by reason of the mutilation by the Government inspectors. They quite agreed with me that this should not have been done, and that this was the only case that they knew of where Government inspectors had tested merchandise by tearing it.

Mr. HARDWICK. You have not mentioned yet, and probably the Senator does not understand, what the ordinary test of that sort of garment is.

Mr. D. C. COLLIER. The usual and ordinary test of knit underwear for tensile strength is by a machine made especially for that purpose.

Mr. HARDWICK. Yes; and what method was employed, you say, by these particular inspectors?

Mr. D. C. COLLIER. These inspectors tested the garment by tearing it, by main strength.

Mr. HARDWICK. Was that method employed anywhere else?

Mr. D. C. COLLIER. Mr. Burger stated to me that this was the only case in all of their inspection reports where the merchandise was mutilated by them.

Senator STEPHENS. How did they tear the garments? By pulling them with their hands?

Mr. J. C. COLLIER. Yes; a summer-weight underwear, and stretching it with their hands.

Mr. D. C. COLLIER. They would take it up at the neck just literally like that [illustrating]. The usual way is with a little machine, about this large [illustrating], with a screw on it, and you put the pressure on, and there is the pressure for a usual amount of pounds of strength.

Senator STEPHENS. And the same amount of strength is used in each instance with the machine?

Mr. D. C. COLLIER. That is right.

Senator STEPHENS. It is not possible by hand?

Mr. J. C. COLLIER. A baseball player about 21-years old can tear anything.

Mr. HARDWICK. He might tear a steel shirt.

Senator STEPHENS. What percentage of the shirts were torn? Many, or just a few?

Mr. J. C. COLLIER. Not many.

Mr. D. C. COLLIER. A great many were torn, and all of the "rejects" were marked with blue and red crayons.

We had the depot quartermaster at Atlanta modify those blue and red crayons for markings. After a certain time, they used a small stamp which was not noticeable, but practically 95 percent of the inspection was done by this mutilation method and we could not get it stopped.

Referring further to my conversation with Messrs. Burger and Jacobson, I will state that I was in New York 4 days. The final agreement was that if we would allow cancelation of unfilled orders, or of these three orders, that they would have the Government accept all merchandise in process of manufacture and in cases, and that they would take the seconds at 15 percent less, and that they would then issue a cancelation for the balance unfilled.

They made the statement further that they would not issue cancelations at that time, because they did not have the exact quantities which were in process and on hand.

I told these gentlemen that that would be satisfactory to me, provided that they took all firsts and seconds which we had on hand and in process, and I requested that this matter be handled in the quickest way possible.

They replied that they would wire the depot quartermaster in Atlanta and immediately send inspectors to our plant to complete the acceptance and inspection of the merchandise as per agreement.

Mr. HARDWICK. In other words, all that you assented to was that if they took the stuff you had already manufactured for them, and what you had in process of manufacture, that you would be glad to cancel the balance—is that it?

Mr. D. C. COLLIER. Yes?

Mr. HARDWICK. And that condition was coupled with any agreement you made about cancelation—is that right?

Mr. D. C. COLLIER. Yes, sir.

Now, if this had been carried out as per the agreement we had, we would not have had any material loss; we could have disposed of our yarns under contract which we had purchased at half prices to make this merchandise, and we could have sold the machinery that we had on hand.

On returning to the mill, we found that the Government had not sent inspectors to take the merchandise, as per their agreement. I called up the Atlanta depot, and they stated that they had no instructions from New York for inspectors to come to our mill, and that they could not move until they received orders.

I wired Clift and Goodrich to interview Messrs. Burger and Jacobson, and have them send inspectors, and I wired Messrs. Burger and Jacobson of the knit-goods branch, and they did not even reply to my telegrams.

So, in about two and a half weeks, inasmuch as we had failed to get action, and inasmuch as the Government had not carried out their part of the agreement, Mr. J. C. Collier went to New York to find out directly from these gentlemen why they had not carried out their agreements and what the status of our orders were. I will not mention the conversation that he had with them, because that is already in evidence.

On November 5 we finally received from Clift and Goodrich a letter from the knit-goods branch, addressed to Clift and Goodrich, setting forth new conditions of inspection governing the acceptance of the merchandise that we had on hand in our mill. These conditions were never a part of the original contract, and they were so set forth that it would have been an impossibility for the Collier Manufacturing Co. or any mill in America to have delivered merchandise on them.

In that letter, there was no mention of the fact that the knit-goods branch had already canceled these contracts, because, as we found out in the spring of 1919, that the dates of the cancellation of these contracts were October 18, October 19, and October 22, 1918—

Senator STEPHENS. What was the date of this letter that you referred to?

Mr. D. C. COLLIER. This letter was dated November 4.

Mr. HARDWICK. And you did not make the discovery of the cancellation until 6 months afterward?

Mr. D. C. COLLIER. Until 5 or 6 months afterward.

Mr. J. C. COLLIER. Could I add a word right there?

Mr. HARDWICK. I think so.

Mr. J. C. COLLIER. On May 14, 1919, I was in the city of Washington, and that is when I discovered the cancellations, and I have a letter from Clift and Goodrich when I requested them to address me at the Hotel Raleigh. That is the first time we really knew those things were being covered.

Mr. HARDWICK. Months afterward?

Mr. J. C. COLLIER. Yes, sir.

Mr. D. C. COLLIER. I would offer that in evidence, I think.

Mr. HARDWICK. Yes; we will give that to the report in connection with that interpolation here.

(The letter referred to, from Clift and Goodrich to J. C. Collier, dated New York, May 14, 1919, is attached as an exhibit to this transcript.)

Mr. D. C. COLLIER. In connection with the general attitude of the officials of the knit-goods branch, it was very pronounced that they were endeavoring to get out of all the contracts possible. On several occasions they suggested to Clift & Goodrich, as well as to our-

selves, that they would be glad to cancel our contracts. It appeared in the testimony of Mr. Burger before the board of contract adjustment that the knit-goods branch bought no more merchandise after July 15, 1918. Mr. Burger stated that after the battle of Chateau Thierry he had received orders not to buy any more merchandise, and that the minds of the war had a different idea as to the future of the war.

Then, too, the actual records of the War Department, after the armistice, showed that there were many millions of cotton under shirts on hand, surplus above all possible requirements of the Army.

This, again, shows why the knit-goods branch and the inspection division of the Department were endeavoring to get rid of all merchandise and of all contracts possible.

In the spring of 1919, Lieutenant Parker, who was assistant to Captain Winterberger, found a way to take a few thousand garments which had been manufactured by us in August and September 1918.

Mr. HARDWICK. These very things that they were complaining about?

Mr. D. C. COLLIER. Yes, sir.

Mr. HARDWICK. Is this the letter [handing letter to the witness]?

Mr. D. C. COLLIER. Yes, sir.

(The letter referred to, dated Mar. 20, 1919, from the zone supply officer, zone inspection division, textile branch, Atlanta, Ga., to the Collier Manufacturing Co., is attached as an exhibit to this record.)

Mr. D. C. COLLIER. Lieutenant Parker, as well as Winterberger, recognized the quality of our merchandise as being first class and satisfactory, and months after the supposed cancellation by Clift & Goodrich, they accepted this merchandise, which conclusively shows that the merchandise was satisfactory.

We have letters during the summer of 1918 stating that the merchandise was satisfactory, from Clift & Goodrich to ourselves.

Senator STEPHENS. Let me ask you this question right there: When the question of the cancellation of the contracts came up, what reason, if any, was assigned for desiring the cancellation?

Mr. D. C. COLLIER. They did not give us the reason. They just suggested cancellation.

Senator STEPHENS. What complaint, if any, had been made against your product?

Mr. D. C. COLLIER. There had not been any complaint. We went to them—

Senator STEPHENS. You went to them with reference to the tests that they made?

Mr. D. C. COLLIER. Yes, sir; and to take the seconds on hand which they had not taken, and we went to them from the standpoint of trying to get order out of congestion and demoralization.

Mr. HARDWICK. Let me see if I cannot get what the Senator has in mind, what the Senator means on this.

When did this suggestion for cancellation occur? Was it after they realized that they had overbought and the war was about to end?

Mr. D. C. COLLIER. The first suggestion came on August 28.

Mr. HARDWICK. And the war was nearly over?

Senator STEPHENS. 1918?

Mr. HARDWICK. Yes.

Did they tell you that they were overbought in that sort of goods?

Mr. D. C. COLLIER. They did not tell us.

Mr. HARDWICK. They told you later?

Mr. D. C. COLLIER. We thought so when they canceled the Signal Knitting Co. order, and we went to them, asking them for suggestions to remedy the particular conditions at our plant.

Senator STEPHENS. That is, the condition of congestion, and the method of testing?

Mr. D. C. COLLIER. And the method of inspection; yes, sir.

Mr. HARDWICK. I think that maybe we have that part of the picture pretty well. Would you mind taking this schedule of yours and going over these items, showing Senator Stephens actually how much money you were out of cash, actually out of pocket?

Now, Mr. Collier, drawing your attention to the precise point that the Senator has just made, I want you to itemize the actual losses that you have sustained on account of this transaction that we have been describing; and, in doing so, do not, in any case, include profits that you might have made on this contract if it had been carried to completion or anything else except money that you are actually out-of-pocket and have lost, because of this conduct of the Government.

Mr. D. C. COLLIER. I am going to enumerate the actual losses that we incurred as the result of the cancelation of these orders, which we knew nothing about until the spring of 1919, and which will be substantiated by testimony that I will give as to our audit reports, as to the fiscal results for the year 1918, to our company.

Mr. HARDWICK. Now, your first item?

Mr. D. C. COLLIER. The first item is the merchandise which was made specially for the Government, on a special style, and which was not merchantable to the civilian trade. We had a loss of \$14,082.29.

Senator STEPHENS. Of merchandise?

Mr. HARDWICK. Yes. Now, tell the Senator how you arrived at that figure.

Mr. D. C. COLLIER. We arrived at that figure by taking our cost price on the merchandise, which is substantiated by what we paid for the yarns, labor, and so forth.

Mr. HARDWICK. What did the materials to make up this stuff cost you?

Mr. D. C. COLLIER. We had a total of 21,538 garments, firsts, and 25,350 garments, seconds, which cost \$6.32 per dozen, with our mill cost sheet attached, thus giving a total cost, on November 12, 1918, of \$24,694.35.

Mr. HARDWICK. Well, now, just a moment there. That represents, does it, what the material and labor and so forth, cost on these garments that the Government would not take under its contract; is that right?

Mr. D. C. COLLIER. Yes, sir.

Mr. HARDWICK. All right. Now, then, tell what you did with those garments. That is not all, is it?

Mr. D. C. COLLIER. No.

Mr. HARDWICK. All right.

Mr. D. C. COLLIER. Now, the date this merchandise was sold was August 17, 1919.

Mr. HARDWICK. Yes.

Mr. D. C. COLLIER. That is the first time that we were even able to get an order or offer. Had we sold this merchandise in January or February of 1919—or May; I should have said May 1919—it would probably have been only \$1.50 to \$2 per dozen. The interest on this cost—

Mr. HARDWICK. Eliminate the interest.

Mr. D. C. COLLIER. I beg your pardon, but this is due in here, because it shows the actual cost of this merchandise on August 17, 1919. The interest on this cost, from November 12, to August 17, 1919, at 6 percent, is \$1,119.51. In other words, that material in those shirts actually cost us \$25,813.86, on August 17, 1919.

Mr. HARDWICK. Now, did you sell it at that date?

Mr. D. C. COLLIER. Yes, sir.

Mr. HARDWICK. Who did you sell it to?

Mr. D. C. COLLIER. That was sold to H. Goldstein Brothers Co., of New York City.

Mr. HARDWICK. All that stuff, that cost you that much money, you say?

Mr. D. C. COLLIER. We have copies of the invoice on the sale. The salvage value of this merchandise, as sold to H. Goldstein, was \$11,731.57, giving a net loss sustained of \$14,082.29.

Mr. HARDWICK. And that is item 1 that you have put to your affidavit here?

Mr. D. C. COLLIER. That is item 1.

Mr. HARDWICK. Well, now, take item 2, which is the loss of yarns. See what that is, how much you lost on the yarns.

Mr. D. C. COLLIER. There was left over a certain amount of the raw material to manufacture this special merchandise, and also certain yarns on contract.

Mr. HARDWICK. Well, now, explain to the Senator what you mean by "on the contract." You had bought them at future delivery?

Mr. D. C. COLLIER. We bought certain merchandise from the Swift Spinning Mills, the Johnson Manufacturing Co., to manufacture.

Mr. HARDWICK. Certain merchandise—you mean yarns?

Mr. D. C. COLLIER. I mean yarns, yes; and Claude D. Smith Co., to manufacture these Government orders.

Mr. HARDWICK. Well, what did they cost you? That is the 110,000 pounds that you had on hand?

Mr. D. C. COLLIER. We had a total loss of 110,000 pounds of 16's yarns left on hand, which amounted to \$26,090.

Mr. HARDWICK. Now, how do you get that amount? They cost you how much? That stuff cost you how much? \$67,300? I am following your affidavit here. Maybe you had better have this before you, instead of that. Now, the yarns—that stuff that you had left over, that you bought to fill this contract, cost you how much in actual money?

Mr. D. C. COLLIER. It cost us \$67,300.

Mr. HARDWICK. Did you afterward dispose of that very quantity of yarns? Is that the same yarns?

Mr. D. C. COLLIER. We did not dispose of these yarns, because it was very difficult to find a market, but we were referred to the textile papers' quotations, as of May 1919.

Mr. HARDWICK. That is when you finally abandoned all relations with the Government?

Mr. D. C. COLLIER. Yes, sir.

Mr. HARDWICK. And what was it worth, then, at the market price?

Mr. D. C. COLLIER. One hundred and ten thousand pounds of yarns, at the date of this claim, was \$41,210.

Mr. HARDWICK. And there had been how much lost, then?

Mr. D. C. COLLIER. Giving a total loss of \$26,090.

Mr. HARDWICK. On yarns?

Mr. D. C. COLLIER. On yarns. That is item 2.

Mr. HARDWICK. Well, now, what is item 3, there?

Mr. D. C. COLLIER. To manufacture this special merchandise, we had to purchase certain machinery, and we bought 10 Flatlock machines from the Wilcox & Gibbs Machine Co., at a total price of \$550 each, or \$5,500. We had these machines appraised by two appraisal machinery experts, who estimated their value at \$2,750.

Mr. HARDWICK. And did you try to sell it?

Mr. D. C. COLLIER. We tried to sell them, and we received offers, much less than this figure.

Mr. HARDWICK. Well, now, could you use those in your business, outside of the manufacture of the goods under this contract for the Government?

Mr. D. C. COLLIER. No, sir.

Mr. HARDWICK. They were useless to you, in the ordinary yarn business that you had there, outside of the contracts?

Mr. D. C. COLLIER. Yes, sir; because they were bought special to make this type of shirt.

Mr. HARDWICK. All right. Now take item 4 next. Proceed.

Mr. D. C. COLLIER. We bought one S. & W. knitting machine at a price of \$700. We had this machine appraised as to its value, by two different appraisal machinery experts, who estimated its value at \$350.

Mr. HARDWICK. Did you try to sell it?

Mr. D. C. COLLIER. We tried to sell it, but we couldn't, because there was so much surplus machinery on the market after the war, that there was no demand.

Mr. HARDWICK. Could you get as much offered to you for it is the appraisal value, even?

Mr. D. C. COLLIER. No, sir.

Mr. HARDWICK. All right. Item 5, or the next one, whatever the number is.

Mr. D. C. COLLIER. Item 5 covered certain—

Mr. HARDWICK. Item 5 is "burlap"?

Mr. D. C. COLLIER. Burlap; yes.

Mr. HARDWICK. Item marked "4", paragraph C.

Mr. D. C. COLLIER. The Government called for special type of package, baling their merchandise by the use of burlap. All of our civilian merchandise was shipped in wooden cases. This was a total loss, practically, to us, but in the appraisal which is attached

to this claim it was listed at a certain value, which showed us a net loss of \$272. The burlap was of no use to us after that.

Senator STEPHENS. Was it ever disposed of, or was it?

Mr. D. C. COLLIER. It was disposed of as waste.

Mr. HARDWICK. You threw it away, practically?

Mr. D. C. COLLIER. Yes, sir.

Mr. HARDWICK. All right. Now, let us take the next item, item 6.

Mr. D. C. COLLIER. Item 6. That is what we call total losses.

Mr. HARDWICK. Yes; I believe that is right; item 6, yes, "Total loss." "Sponge rolls" or "squeeze rolls"?

Mr. D. C. COLLIER. "Squeeze rolls", I think.

Mr. HARDWICK. Yes; something like that.

Mr. D. C. COLLIER. To handle this heavier fabric than we had been manufacturing, we had to purchase special rubber squeeze roll in our bleacher, and this was covered by appraisal in the same way as the other. It was of no use to us after we finished.

Mr. HARDWICK. Could you sell it or dispose of it or anything?

Mr. D. C. COLLIER. No, sir.

Mr. HARDWICK. You couldn't even get the appraised value that you allowed for in calculating these losses?

Mr. D. C. COLLIER. No, sir; could not sell it at all.

Mr. HARDWICK. And what was your loss on that item?

Mr. D. C. COLLIER. That was \$113.50.

Mr. HARDWICK. Now, come to the next item, no. 7, on your affidavit, is that, which is "Total loss sustained." That is paragraph D of that claim, I reckon, \$5,061.91. Tell the Senator what that is and how you arrived at that figure.

Mr. D. C. COLLIER. There was express, freight, and so forth, on above special machinery, in the amount of \$100.

Mr. HARDWICK. All right.

Mr. D. C. COLLIER. There was one sealer for the baling machine, at \$10.

Mr. HARDWICK. All those are small amounts. Where do you get the bulk of that figure there?

Mr. D. C. COLLIER. There is one item of \$3.50, for freight.

Mr. HARDWICK. That is on this machinery that you bought specially to make this Government contract stuff?

Mr. D. C. COLLIER. That is to return a baler which we bought and which the manufacturer agreed to take back.

Mr. HARDWICK. Yes.

Mr. D. C. COLLIER. The cost to systematize and change over our plant, in the spring of 1918, to the manufacture of this Government work, was \$2,801.03.

Mr. HARDWICK. \$2,801.03; all right.

Mr. D. C. COLLIER. There is attached an itemized list, with affidavits as to the cost of it, as to the cost of doing this work, in each department of our mill.

There is another item of \$2,147.38; to change the plant back to civilian work, all properly sworn to and itemized, in every department, giving a total loss of \$5,061.91.

Mr. J. C. COLLIER. What is the number of that item there?

Mr. D. C. COLLIER. Item no. 7.

Mr. J. C. COLLIER. All right. Give the total on item no. 7.

Mr. HARDWICK. Yes.

Mr. D. C. COLLIER. This gives a total of \$48,719.70.

Mr. HARDWICK. Actual losses, outside of interest?

Mr. D. C. COLLIER. Actual losses. Again, there are some traveling items—

Mr. HARDWICK. Exclude all the interest items, until you come down to item 10, interest on \$49,773.80, "and other expenses." Now, explain how much of that "other expenses" there is, and what it is, because I think possibly we are allowed that.

Mr. D. C. COLLIER. I think it is nine hundred and something.

Mr. HARDWICK. \$905; there it is. We figured it out. Tell the Senator how that expense was incurred, and what it consists of, that last item—item no. 10, I believe it is.

Mr. D. C. COLLIER. No. 10.

Mr. HARDWICK. Yes.

Mr. D. C. COLLIER. Let me see—I have part of that. Have you got part of it there?

Mr. HARDWICK. No; that is just the affidavit. That is all of the affidavit. Item no. 10 is set out in this affidavit, along with a lot of interest. I want to leave that off, but I want to know about this \$905, actual expenses that you incurred, running around, trying to get this thing adjusted.

Mr. D. C. COLLIER. There was an item of traveling and incidental expenses, occasioned in the handling and details of this entire proposition, amounting to \$905.75.

Mr. HARDWICK. Well, now, what is that item, \$905? What is it made up of?

Mr. D. C. COLLIER. Traveling expenses.

Mr. HARDWICK. Hotel bills, telegrams, or what?

Mr. D. C. COLLIER. That is right—hotel bills, and traveling expenses, railroad expenses, telegrams, and telegraphs.

Mr. HARDWICK. Go on and tell him.

Mr. D. C. COLLIER. New York and Washington, trying to get the whole matter straightened out, to find exactly where we were; because it was only in the spring of 1919 that we found out the status of this whole thing.

Mr. HARDWICK. Adding to these actual losses that you have outlined, and for which we will leave the detailed papers here with the clerk, to either be put in the record or not, Senator, as you want.

Senator STEPHENS. Yes.

Mr. HARDWICK. You might keep them and use them.

Senator STEPHENS. We will preserve them.

Mr. HARDWICK. Adding to these actual losses of \$48,719.70, this last item \$905.75, what figure do you get as your actual losses, out-of-pocket, on this matter?

Mr. D. C. COLLIER. \$905.75?

Mr. HARDWICK. Yes; \$48,719.70 and \$905.75.

Mr. D. C. COLLIER. \$49,625.45.

Mr. HARDWICK. Now, is that, Mr. Collier, the actual money that you are out of pocket, leaving out all profits, and everything else, on this transaction?

Mr. D. C. COLLIER. That is the actual loss.

Mr. HARDWICK. Leaving out interest and everything else?

Mr. D. C. COLLIER. Not considering interest.

Mr. HARDWICK. Well, you figured interest at \$1,000?

Mr. D. C. COLLIER. Yes.

Mr. HARDWICK. On one little matter, there. What was it?

Mr. J. C. COLLIER. That was the cost of his garments.

Mr. D. C. COLLIER. Well, that actually was a cost of that yarn, when it was sold in August.

Mr. HARDWICK. In other words, the yarn cost him that much more, because he had to pay interest at the bank, to pay for it and hold it until he could sell it?

Mr. D. C. COLLIER. That is right.

Mr. HARDWICK. What is the amount of that interest? There is one item here. I want to get it in the record now. What is the item of that interest, now?

Mr. J. C. COLLIER. He told you just a moment ago.

Mr. HARDWICK. He told us, but I do not think we got it in the record. I doubt it.

Mr. D. C. COLLIER. This thing is so voluminous.

Mr. HARDWICK. It was one-thousand-and-some-odd dollars.

Mr. D. C. COLLIER. Yes; here it is—\$1,119.51.

Mr. HARDWICK. All right.

Mr. J. C. COLLIER. That is added to the cost of the shirts?

Mr. D. C. COLLIER. That is it.

Mr. J. C. COLLIER. That you sold to Goldstein?

Mr. D. C. COLLIER. Yes.

Mr. J. C. COLLIER. That would be just that much less, then, eliminating that.

Mr. HARDWICK. Yes. And what is the result that we get, there—\$49,625.45?

Mr. D. C. COLLIER. \$49,625.45.

Mr. HARDWICK. Now, just take from that, \$1,100 and what?

Mr. D. C. COLLIER. \$1,119.51.

Mr. HARDWICK. \$1,119.51, and what is the result then? Of course, that is a matter of calculation. There is no use bothering with it. Senator STEPHENS. Yes.

Mr. J. C. COLLIER. Get it down correctly, and let the reporter get it.

Mr. HARDWICK. It might be more convenient.

Mr. J. C. COLLIER. We can do it when we get through here. Now, I would like to testify this: The actual loss that we claim, namely \$49,625.45, is proven by our fiscal results during the year 1918. Our audit report for the first 6 months of 1918 shows that we made a net profit from operation of over \$50,000.

Mr. HARDWICK. That is, in civilian business? Before you went into the Government business?

Mr. J. C. COLLIER. Yes; that is for civilian business, and a certain amount of war orders which were coming through, which were made in May and June.

Senator STEPHENS. There is one thing I would like to ask you, Mr. Collier. You had three contracts with the Government?

Mr. D. C. COLLIER. Yes, sir.

Senator STEPHENS. Did each one carry 120,000 garments?

Mr. D. C. COLLIER. Yes, sir.

Senator STEPHENS. How many garments were actually delivered and accepted?

Mr. D. C. COLLIER. All of 1164-A was considered as completed.

Senator STEPHENS. That is the first contract?

Mr. D. C. COLLIER. We delivered a portion of the 2848-A. There were no deliveries made against 3735-A.

Mr. J. C. COLLIER. We had not reached the delivery time on that. That was November.

Senator STEPHENS. The reason I am asking this is because I want to know whether or not any of that surplus yarn and other materials, if manufactured into goods, would have exceeded the amount of your contract; in other words, whether there was a surplus, an unnecessary surplus in it, at all.

Mr. HARDWICK. Whether they bought too much or not?

Senator STEPHENS. Yes.

Mr. HARDWICK. I will just ask that question in a direct way. Now, in all these items which you specified, of material that you bought—yarns, and so forth, to fill these Government orders—did you buy ahead enough to fill them all?

Mr. D. C. COLLIER. I bought the exact quantity of yarns to fill these three contracts of 120,000 garments each.

Mr. HARDWICK. Well, were there 120,000 garments each?

Mr. D. C. COLLIER. Yes, sir.

Mr. J. C. COLLIER. Total, 360,000.

Mr. HARDWICK. But you did not buy, and did not include in this, any stuff to fill the so-called "supplemental contracts" to which reference has been made, did you?

Mr. D. C. COLLIER. No, sir.

Mr. HARDWICK. Well, you did not know about this until long afterwards?

Mr. D. C. COLLIER. As a matter of fact, we used an entirely different weight of yarn on the Government orders than we did in all our other business. We used 30's yarn on the civilian business, and 16's yarn on the Government business.

Mr. HARDWICK. In other words, the yarns that you have been testifying about, every bit of it was bought, every pound of it was bought, I will put it that way, to use in the Government work, on the Government contracts?

Mr. D. C. COLLIER. Yes, sir.

Mr. HARDWICK. And it was not suitable for anything else?

Mr. D. C. COLLIER. No, sir.

Mr. HARDWICK. Is that what you want, Senator?

Senator STEPHENS. Yes.

Mr. J. C. COLLIER. In other words, Mr. Hardwick, when we get an order, we go out and buy the cotton or the yarn to fit that order, just enough.

Mr. D. C. COLLIER. Well, let me finish this testimony.

Mr. J. C. COLLIER. We had to buy that ahead, because it was hard to get merchandise to do anything with, and we bought everything we needed for that contract.

Mr. D. C. COLLIER. Our auditor's report shows from July 1, 1918, that we had an actual loss from operations of \$46,267.45.

Mr. J. C. COLLIER. You mean for the last half of 1918.

Mr. HARDWICK. You see, that is just by way of corroboration.

Senator STEPHENS. Yes.

Mr. HARDWICK. Of the correctness of that figure.

Mr. J. C. COLLIER. You mean the last half of 1918, now?

Mr. D. C. COLLIER. That is what I said.

Mr. J. C. COLLIER. Your first half of 1918—what were your profits?

Mr. D. C. COLLIER. I beg your pardon, I have already covered all that. It is in the record.

Senator STEPHENS. Yes; \$50,000, or something like that.

Mr. D. C. COLLIER. Yes.

Mr. HARDWICK. The idea on which we offer that testimony is to show how close it corroborates these figures made up from the items of damages. Their book losses show that.

Mr. D. C. COLLIER. Now, for the year 1919—that is not relevant, is it?

Mr. HARDWICK. No.

Mr. J. C. COLLIER. Senator Stephens, would you like to know the names of the auditors who made that audit?

Mr. STEPHENS. You might state that; yes.

Mr. HARDWICK. Tell the reporter.

Mr. J. C. COLLIER. There is the report.

Mr. HARDWICK. This audit that you refer to was made by whom?

Mr. D. C. COLLIER. William H. James & Co.

Mr. HARDWICK. Are they certified public accountants?

Mr. D. C. COLLIER. Yes, sir.

Mr. HARDWICK. Where do they live?

Mr. D. C. COLLIER. Atlanta, Ga.

Mr. HARDWICK. When was this audit made?

Mr. D. C. COLLIER. It was made in July 1918.

Mr. HARDWICK. July 1918?

Mr. J. C. COLLIER. Let Senator Stephens see it.

Mr. HARDWICK. Well, we will just put that in. Now, every document that you have got, Mr. Collier, relating particularly to these items of the loss, I think you had better leave them, without any doubt. Where is that affidavit?

Mr. D. C. COLLIER. I haven't the audit for the second half, right with me, you see, but I have this income tax report.

Mr. HARDWICK. The question is how much you lost during that period.

Senator STEPHENS. I think the question of loss has been pretty well covered, anyway.

Mr. HARDWICK. Still, I wanted to leave the supporting documents.

Senator STEPHENS. Yes. I will be glad to have them.

Mr. HARDWICK. Showing that he was not merely guessing at it.

Senator STEPHENS. Yes.

Mr. HARDWICK. Now, where is that affidavit we were using?

Mr. D. C. COLLIER. Right here.

comparatively small number, approximately 60, were rejected on inspection by the defendant.

VII

The garments were made by the plaintiff at its plant at Barnesville, Ga. Shipments were made to the depot quartermaster at Atlanta. Invoice of the shipment was sent by plaintiff direct to Clift & Goodrich in New York and a copy of the invoice was forwarded to the depot quartermaster. Upon its receipt by them, Clift & Goodrich sent an invoice to the depot quartermaster at Atlanta for the goods that had been shipped direct, and payments were made to Clift & Goodrich by the Government at New York. Upon the contract of May 7, 1918, which called for the delivery of 120,000 undershirts, approximately 10,480 were delivered and accepted under the same shipping and billing conditions as obtained with reference to the contract dated March 7, 1918. No deliveries were made on contract of June 11, 1918.

VIII

Plaintiff increased its plant and facilities for the performance of the work called for by these contracts. In September 1918 Major Burgher, one of defendant's officers, advised plaintiff to change its plant back to civilian work and allow the Government to cancel the contracts and take over what merchandise plaintiff had in process of manufacture. After deliveries on first contract and while in the performance under second contract, defendant placed at plaintiff's plant incompetent inspectors, who, over the protest of plaintiff, mutilated about 25,000 undershirts, rendering them unfit for civilian trade. Major Burgher, of defendant's knit-goods buying committee, stated to plaintiff that he would do what he could to have the Government take these goods off of plaintiff's hands, and afterwards stated to plaintiff that he had found a way to do so, and promised to give plaintiff shipping instructions, which was not done. Plaintiff's loss, if any, on this item is not satisfactorily shown by the evidence. On September 5, 1918, plaintiff received from Major Gray, one of defendant's officers, a telegram as follows: "No further shipments will be received on contract 2848-A until satisfactory garments can be delivered." This telegram was received by plaintiff while the inspectors, referred to, were at the plaintiff's plant. The failure to accept further deliveries caused plaintiff to receive less money than it would have received if the contracts had been fully performed. The amount of the loss, if any, is not satisfactorily proved.

IX

Plaintiff knew that defendant's officer, Major Burgher, had no authority to enter into or sign contracts; that his authority was limited to recommending purchases.

X

On October 18, October 19, and October 22, 1918, the Government entered into supplemental agreements with Clift & Goodrich, canceling the three original contracts herein referred to and mentioned in Finding V. Copies of these supplemental agreements dated October 18, 19, and 22, 1918, are attached to plaintiff's petition marked "Exhibits D, E, and F," respectively, and are made a part of these findings by reference.

XI

On November 4, 1918, defendant wrote Clift & Goodrich a letter as follows: "Referring to the recent interview with Mr. Collier, Sr., and Mr. McKenzie regarding the quantity still on hand of undershirts at the Collier Mfg. Co.

"It will be recalled that this branch stated that we would investigate the matter and find some way by which it would be possible to recommend the stock of approximately 27,000 undershirts for purchase.

"We have taken this matter up very thoroughly with our inspection and depot relations branch, who in turn took the matter up with Maj. Frank Walton, in charge of the Atlanta depot.

"We are informed by the inspection and depot relations branch to notify you that a recommendation for purchase will be made under the following conditions:

"The Collier Mfg. Co. to thoroughly and carefully inspect the total quantity of undershirts on hand and segregating those garments that they consider to be imperfect and of tender fabric.

"Notify this branch as to the quantity then remaining which they offer for purchase and for which a recommendation to purchase will be made by this branch.

"The Atlanta depot quartermaster will then inspect the quantity purchased and if rejects are found in this lot to exceed 3 percent of the amount purchased, the entire quantity will be rejected and contract considered as completed.

"Will you take this matter up immediately and inform this branch if you will accept the above conditions to apply against the purchase of the quantity on hand? On receipt of your reply stating the quantity to be purchased, this branch will then make the necessary recommendations.

"By authority of the Director of Purchase."

XII

On April 8, 1919, defendant, in reply to a letter from plaintiff of April 5, 1918, sent the following letter:

"In reply to your favor of April 5, you are informed that the dates of supplemental agreements reducing your contracts are as follows:

"Contract No. 1164-A, October 18, 1918.

"Contract No. 2848-A, October 22, 1918.

"Contract No. 3735-A, October 19, 1918."

XIII

This claim was presented to the Board of Contract Adjustment of the War Department and that board found that no agreement was entered into between the Collier Manufacturing Co. and any officer or agent of the Government acting under the authority, direction, or instructions of the Secretary of War or of the President within the purview of the act of March 2, 1919. This action was confirmed by the Secretary of War. (See vol. 8, p. 8, Decisions of the War Department.)

CONCLUSION OF LAW

Upon the foregoing findings of fact the court decides, as a conclusion of law, that the plaintiff is not entitled to recover and the petition must be, and it is hereby, dismissed.

Judgment is rendered against the plaintiff in favor of the United States for the cost of printing the record in this case, the amount thereof to be entered by the clerk and collected by him according to law.

MEMORANDUM

Three contracts were made by Clift & Goodrich with the Government, copies of them being attached to the petition. Plaintiff alleges that Clift & Goodrich were sales agents, and on account of the cancellation of the contracts by separate supplemental contracts, also made by Clift & Goodrich, it claims to have suffered a loss. There is no question that the contracts were made with Clift & Goodrich, nor is there any question that there was a settlement made with them by the Government. The plaintiff seeks to make these contracts its own upon the assumption that Clift & Goodrich were its agents. The only thing in the contract that identified the plaintiff with them was that the goods were to be of their make. But this was an undertaking by Clift & Goodrich so far as the Government is concerned, and having made the contract with them, whether they were sales agents of plaintiff or not, the Government had a right to deal with them and did so. The plaintiff had no enforceable contract with the Government. When the matter was heard before the Board of Contract Adjustment they came to that conclusion and the conclusion was confirmed by the Secretary of War. (See Decisions of War Department, vol. 6, p. 461, and vol. 8, p. 8.) There being no contract, express or implied, between the Government and the plaintiff, it cannot recover.

GRAHAM, *Judge*, took no part in the decision of this case.

EXHIBIT 2

CLIFT & GOODRICH,
New York, May 14, 1919.

Mr. J. C. COLLIER,
Raleigh Hotel, Washington, D.C.

DEAR SIR: We have your telegram reading, "Mail Raleigh Hotel copies, our date contracts with you, copies of three Government contracts for orders given us, copies of the cancellations of contracts given Government by you." We wish to state that the following are the numbers and the dates:

Contract no. 1164A, dated March 7, 1918. H. J. Hirsch by H. M. Schofield.
Contract no. 3735A, dated June 11, 1918. H. J. Hirsch, S. W. Shaffer.
Contract no. 2848A, dated May 6, 1918. Hirsch by Schofield.

We regret to state that we cannot give you the exact date of the cancelation. We wrote you under date of November 15, 1918, as follows:

"We have today received official cancelation from Washington covering the three contracts which you have the balance due on contracts nos. 2848, 1164 and the entire amount due on contract 3735."

This probably will answer your purpose. If we can help you in any way please do not hesitate to call on us and trusting that you will have success, we remain

Yours very truly,

CLIFT & GOODRICH.

EXHIBIT 3

In the matter of the House bill no. 6828, and Senate bill no. 2242 for the relief of the Collier Manufacturing Co., Barnesville, Ga., from losses sustained by reason of having contracts canceled by the United States Quartermaster Department in 1918, said bills now being before the Committee on Claims.

Personally came before me, one D. C. Collier, who under oath this the 1st day of February 1934 makes the following statement.

1. That he was manager of the Collier Manufacturing Co., of Barnesville, Ga., a textile firm which had accepted through its selling agent, Clift & Goodrich, of New York, N.Y., the following contracts for manufacturing cotton undershirts, from the Quartermaster Department of the United States Army:

1164A, dated March 7, 1918, for 120,000 garments.
2848A, dated May 6, 1918, for 120,000 garments.
3735A, dated June 6, 1918, for 120,000 garments.

2. That prior to the closing of these contracts that said Collier Manufacturing Co. was approached by depot quartermasters at both St. Louis and Atlanta to take orders for the manufacture of merchandise for the United States Army during the national emergency.

3. That for patriotic reasons said Collier Manufacturing Co. passed up most profitable civilian business and took the before-mentioned business through its selling agent, Clift & Goodrich, and that the Collier Manufacturing Co. sustained losses during the year 1918 by reason of the governmental handling and cancelation of these contracts, whereas practically all other manufacturing concerns were showing large profits during this period.

4. That, the Collier Manufacturing Co. filled all of contract 1164A but did not secure bills of lading from the Quartermaster Department to ship all of the merchandise, said Collier Manufacturing Co. being allowed to start on the manufacture and delivery of contract 2848A, it being the intent to later give delivery instructions for a certain quantity of seconds at the Collier Manufacturing Co.'s plant which the Quartermaster Department had allowed to be applied to contract 1164A, but which the Government never accepted.

5. That, the merchandise manufactured by the Collier Manufacturing Co. and applied against contract 1164A was very satisfactory to the Quartermaster Department in Atlanta, as the records showed that only a total of 50 rejects out of 60,000 garments delivered.

6. That, partial deliveries were made against contract no. 2848A when mill was held up on delivery by telegram dated September 6, 1918, quoted: "No further shipments will be received on contract 2848A until satisfactory garments can be delivered; signed; Gray, 10:08 a.m."

7. That said D. C. Collier made every attempt to deliver merchandise against the above order to the Quartermaster Department at Atlanta, repeatedly calling their attention to the incompetency of the inspectors stationed at the plant of the Collier Manufacturing Co. for receiving merchandise, none of the men detailed having ever been in an underwear plant prior to their designation as knit-underwear inspectors by the Government. That said D. C. Collier protested at the method used by the inspectors of testing merchandise, forcibly tearing the cloth as a strength test, instead of using the usual machine method for testing the strength of cloth. That he repeatedly called the attention of the Quartermaster Department in Atlanta to the fact that the method of inspection so seriously damaged the merchandise that it was not salable to the civilian trade.

5. That, finally in order to try and get relief with a competent and efficient method of inspection, that said D. C. Collier made a trip to New York to interview the officials of the Knit Goods Buying Committee (civilian) and presented the case, and that immediately Messrs. Jacobson and Major Burgher suggested that the orders be canceled, stating that the Government had a sufficiency of merchandise, mentioning that they had already canceled orders which had been placed with the Signal Knitting Mills of Chattanooga, Tenn. They further stated that the inspectors detailed to the plant by the depot quartermaster had damaged the rejected merchandise by marking it up so as to render it unsalable for civilian purposes. They stated that they would order the merchandise on hand and in process inspected immediately for delivery on contract, and would wire the depot quartermaster to have inspectors report to the plant at once. Mr. Burgher stated that he had secured authority to take our seconds on hand, and as well the firsts at the mill, and that following the completion of delivery on these that then cancelation would be issued for the unfilled balance on the orders formerly referred to. Said D. C. Collier further states that this agreement was satisfactory to him and he returned to the mill to await inspectors for accepting and passing delivery of the merchandise; above agreement dated September 18, 1918.

6. That, on returning to the mill, no move was made by the Government officials to carry out the agreement aforesaid, no inspectors from the Atlanta depot reported to the plant. Said D. C. Collier further states that he used every effort to have the inspectors report to the plant for accepting the merchandise on hand, communicating with the Atlanta depot of Clift & Goodrich, and the officials of the knit goods branch in New York, but without avail. Officials of the knit goods branch not even answering the telegram.

7. Said D. C. Collier states that finally after about 30 days had elapsed, J. C. Collier made a trip to New York to see Messrs. Jacobson and Burgher of the knit goods committee to find out why they had not carried out the agreement which they had with D. C. Collier for having the merchandise on hand inspected and accepted. J. C. Collier returned and reported to the mill that he had a new agreement with Major Burgher, and that he would agree to take the merchandise on hand at the mill, and that he would order inspection to be started at the mill at once.

8. Said D. C. Collier states that on November 4 a letter was received from the Quartermaster Department setting forth certain special conditions governing the acceptance of the merchandise which were not a part of the original orders and which had not been in force previously in the inspection and acceptance of merchandise, the specifications being so tight and unreasonable that it would have been almost impossible to have delivered any of the merchandise. Said D. C. Collier stated that he endeavored to get this method of inspection modified, but without success. Said D. C. Collier further states that failing to secure a modification of these conditions of inspection that he then wired the department quartermaster accepting them and asking for inspectors to report immediately. Said D. C. Collier states that he found it impossible to have the Government accept the merchandise on hand and to complete their agreement for acceptance of the same as set forth above. Said D. C. Collier and as well J. C. Collier making numerous trips to Washington, New York, and Atlanta seeking to have the Government carry out their obligation, without avail.

7. Said D. C. Collier further states that they never received any notice from Messrs. Burgher and Jacobson of the knit-goods buying committee, or from any other Government official that Messrs. Clift and Goodrich had signed a cancelation on the three aforesaid contracts as of October 18, 19, 22, 1918, and

that this information was not secured until 1919 when Mr. J. C. Collier secured it in Washington from the War Department files.

8. Said D. C. Collier further states that the real reason that the War Department, through the knit-goods committee, was seeking to get out of taking this merchandise, and of tightening up on the inspection, and suggesting that said Collier Manufacturing Co. agree to a cancellation, was that the Quartermaster Department found that the knit-goods committee had purchased much more merchandise than they could use. Maj. F. H. Burgher testified before the Board of Contract Adjustment that his committee bought no more knit undershirts after July 15, 1918, the date of the battle of Chateau Thierry, the result of which changed the mind of the world about the future of the war. Records of the War Department following the close of the war showed millions of cotton undershirts on hand which accounts for the Government officials seeking to avoid taking additional quantities of merchandise in September and October 1918.

9. Said D. C. Collier further states that Collier Manufacturing Co. was the real contractor, and so treated by the Government, though technically a subcontractor, due to the fact that Clift & Goodrich was their selling agent, receiving only a small percent commission on all of the sales whether made direct by said Collier Manufacturing or through the efforts of the Clift & Goodrich sales force. Deponent further states that he authorized Clift & Goodrich to close these contracts aforementioned, at the price specified following negotiations with the depot quartermasters at St. Louis and Atlanta. Deponent further states that Clift & Goodrich signed the cancellation of these orders without the consent or knowledge of said Collier Manufacturing Co.

10. Deponent further states that the officials of said Collier Manufacturing Co. have used every method to collect this claim as follows against the United States Government, and as was provided by the act of March 2, 1919. That they have presented this claim before the Board of Contract Adjustment but have been denied, due to the technical reason that Clift & Goodrich is considered as the contractor, and that there is no provision in this act to take care of losses by a subcontractor.

11. Deponent further states that the United States Government is morally bound to redress this wrong through an act of Congress, as the law does not take care of this particular case as above set forth.

12. Deponent further states that as a result of the Quartermaster's handling of these contracts, refusing to carry out agreements made by the knit-goods committee, and the improper signing of cancellation without the knowledge or consent of said Collier Manufacturing Co., that the Collier Manufacturing Co. was financially damaged to a very large degree and that their loss amounted to a total of \$61,530.02 detailed below, and which can be substantiated.

SUMMARY LOSSES ON WAR CONTRACTS SUSTAINED BY COLLIER MANUFACTURING CO.

United States Quartermaster was to pay for approximately 46,888, type 6, Army undershirts under contract 2848-A at 56 cents each for firsts, 15 percent less for seconds.

1. Net loss Government merchandise sold to H. Goldstein Bros. Co., New York City, detailed on schedule no. 1 attached.....	\$14,082.29
Loss of yarns:	
The 110,000 pounds 16's yarns on hand and under contract cost (see par. C).....	67,300.00
We have a total estimated value on the 110,000 pounds 16's yarns less commission of 5 percent to resell, based on offers and market quotations (see par. C).....	41,210.00
2. Total loss on the 110,000 pounds 16's yarns.....	26,090.00
3. Loss on 10 flatlock W. & G. machines second-hand value, item (1), par C.....	2,750.00
4. Loss on 1 S. & W. knitting machine bought for war use, item (2), par. C.....	350.00
5. Item marked (4), par. C (burlap).....	272.00
6. Items marked (3), par. C, total loss (squeeze-roll).....	113.50
7. Total loss sustained (see par. D).....	5,061.91
Total.....	48,719.70

8. Interest for 6 months on \$22,629.70 of net losses sustained (not including yarns, etc.), from Nov. 12, 1918, to May 11, 1919, at 6 percent per annum.....	641.01
9. Interest on 6,000 pounds Swift yarns, 16's, and 18,000 pounds Belton 16's, amounting to \$13,770, from Nov. 12, 1918, to May 11, 1919, at 6 percent per annum.....	413.10
Total.....	49,773.80
10. Interest on \$49,773.80 and other expenses, sheet M attached, \$905.75.....	11,756.22
Total.....	61,530.02

13. Deponent states that the above claim is true and correct.

(Signed) D. C. COLLIER.

RUTLEDGE LAURENS,

Notary Public, Georgia, State at Large.

My commission expires June 16, 1937.

EXHIBIT 4

WAR DEPARTMENT,
OFFICE OF THE ZONE SUPPLY OFFICER,
Atlanta, Ga., March 20, 1919.

From: The Zone Supply Officer, Zone Inspection Division, Textile Branch, Atlanta, Ga.

To: The Collier Mfg. Co., Barnesville, Ga.

Subject: Contract 2848-A; Clift & Goodrich.

1. With reference to your letter of March 18 advising that you have on hand some 4,000 undershirts which have been inspected and accepted by inspectors from this depot.

2. The records in this office show that a supplemental agreement issued on the above contract provides for the acceptance of 10,480 garments.

3. Inspection reports show that 10,480 garments have been inspected and accepted. However, of these 10,480 garments, there have only been shipped and paid for, 9,280; which leaves a difference of 1,200 garments accepted, which have not been shipped.

4. According to the above, this office can allow you to ship 1,200 more shirts on this contract.

5. You are, therefore, requested to make out shipping order request covering 1,200 of these garments which have been inspected by the Government inspector, giving case numbers, etc., in which they are packed.

6. Upon receipt of this shipping order request, bill of lading and shipping instructions will be forwarded you, and invoices passed for payment when received by this office.

By direction of the zone supply officer:

WM. PARKER, JR.,
Second Lieutenant, Quartermaster Corps,
Textile Branch.