

WAITE *v.* UNITED STATES.

CERTIORARI TO THE COURT OF CLAIMS.

No. 103. Submitted January 30, 1931.—Decided February 24, 1931.

Under the Act of July 1, 1918, which gives a remedy against the United States for the unlicensed use of a patented invention, and provides that compensation to the owners in such cases shall be reasonable and "entire," interest on the amount of the damages should be allowed. P. 509.

69 Ct. Cls. 153, reversed.

CERTIORARI, *post*, p. 817, to review a judgment of the Court of Claims disallowing interest in a suit against the United States for unlicensed use of a patent.

Messrs. O. Ellery Edwards and Hyman M. Goldstein were on the brief for petitioner.

Solicitor General Thacher, Assistant Attorney General Rugg, and Mr. H. Brian Holland were on the brief for the United States. They conceded that interest should have been allowed.

MR. JUSTICE HOLMES delivered the opinion of the Court.

This is a suit under the Act of July 1, 1918, c. 114, 40 Stat. 704, 705; U. S. Code, Title 35, § 68, to recover for the unlicensed use of a patented invention. The liability of the United States is established by the findings of the Court of Claims and is not disputed. Neither is there any dispute that the profits that the plaintiff would have made are a proper measure of the damages suffered. The Court of Claims, however, ruled that interest should not be allowed upon the amount so fixed, and a writ of certiorari was granted by this Court upon that question.

The Government, without formally confessing error, states its belief that interest should have been allowed.

The statute grants 'recovery of his reasonable and entire compensation for such use.' We are of opinion that interest should be allowed in order to make the compensation 'entire.' In addition to the purpose of the word, adverted to in *Richmond Screw Anchor Co. v. United States*, 275 U. S. 331, 343, we cannot doubt that it was intended to accomplish complete justice as between the plaintiff and the United States. See *Seaboard Air Line Ry. Co. v. United States*, 261 U. S. 299. *Brooks-Scanlon Corp. v. United States*, 265 U. S. 106. *Liggett & Myers Tobacco Co. v. United States*, 274 U. S. 215. *Phelps v. United States*, 274 U. S. 341.

Judgment reversed.

ALWARD *v.* JOHNSON, TREASURER OF
CALIFORNIA.

CERTIORARI TO THE SUPREME COURT OF CALIFORNIA.

No. 41. Argued January 8, 1931.—Decided February 24, 1931.

1. A State, upon reasonable grounds, may classify property and lay an appropriate tax upon each class. P. 513.
2. A tax on automotive vehicles that are used in operating a stage line and make constant and unusual use of the highways, may be measured by gross receipts and be assessed at a higher rate than taxes on property not so employed. So *held* where the tax was exclusive of all other taxation of the property, and its proceeds were assigned to the maintenance of roads. P. 513.
3. The taxpayer was engaged in operating an automotive stage line between points in California under a mail carrier's contract. The gross income, for the year in question, was over four times the market value of the property employed, and considerably more than half of it came from the mail contract, the rest from freight and passengers. The line could not have been run profitably without the mail contract. Under § 15, Art. XIII, California Constitution, the State laid a tax on the property, in lieu of other taxes, equal to 4½% of the gross receipts. The rate on other property assessed *ad valorem* in the vicinity, did not exceed 3%. *Held*: