

any of the governments associated with the United States during either of said World Wars: *Provided, however,* That such person shall have an honorable discharge or separation from such service or continue to serve honorably after the date of cessation of such hostilities as determined herein."

Approved, October 29, 1942.

[CHAPTER 634]

AN ACT

To provide for adjusting royalties for the use of inventions for the benefit of the United States, in aid of the prosecution of the war, and for other purposes.

October 31, 1942
[S. 2794]
[Public Law 768]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, to aid in the successful prosecution of the War, whenever an invention, whether patented or unpatented, shall be manufactured, used, sold, or otherwise disposed of for the United States, with license from the owner thereof or anyone having the right to grant licenses thereunder, and such license includes provisions for the payment of royalties the rates or amounts of which are believed to be unreasonable or excessive by the head of the department or agency of the Government which has ordered such manufacture, use, sale, or other disposition, the head of the department or agency of the Government concerned shall give written notice of such fact to the licensor and to the licensee. Within a reasonable time after the effective date of said notice, in no event less than ten days, the head of the department or agency of the Government concerned, shall by order fix and specify such rates or amounts of royalties, if any, as he shall determine are fair and just, taking into account the conditions of wartime production, and shall authorize the payment thereof by the licensee to the licensor on account of such manufacture, use, sale, or other disposition: *Provided, however,* That the licensee or licensor, if he so requests within ten days from and after the effective date of said notice, may within thirty days from the date of such request present in writing or in person any facts or circumstances which may, in his opinion, have a bearing upon the rates or amounts of royalties, if any, to be determined, fixed and specified as aforesaid, and any order fixing and specifying the rates and amounts of royalties shall be issued within a reasonable time after such presentation. Such licensee shall not after the effective date of said notice pay to the licensor, nor charge directly or indirectly to the United States a royalty, if any, in excess of that specified in said order on account of such manufacture, use, sale, or other disposition. The licensor shall not have any remedy by way of suit, set-off, or other legal action against the licensee for the payment of any additional royalty remaining unpaid, or damages for breach of contract or otherwise, but such licensor's sole and exclusive remedy, except as to the recovery of royalties fixed in said order, shall be as provided in section 2 hereof. Written notice as provided herein shall be mailed to the last known address of the licensor and licensee and shall be effective upon receipt or five days after the mailing thereof, whichever date is the earlier.

Use of inventions
for benefit of U. S.
Adjustment of
royalties.

Provido,
Presentation of facts
by licensee or licensor.

Payment, etc., of
royalties.

Effective date of
written notice.

Suit for recovery of
just compensation.

SEC. 2. Any licensor aggrieved by any order issued pursuant to section 1 hereof, fixing and specifying the maximum rates or amounts of royalties under a license issued by him, may institute suit against the United States in the Court of Claims, or in the District Courts of the United States insofar as such courts may have concurrent jurisdiction with the Court of Claims, to recover such sum, if any, as, when added to the royalties fixed and specified in such order, shall constitute fair and just compensation to the licensor for the manu-

Defenses available.

R. S. §§ 4883-4971.
35 U. S. C. §§ 31-79;
Supp. I, § 47.

Settlement and compromise of claims.

facture, use, sale, or other disposition of the licensed invention for the United States, taking into account the conditions of wartime production. In any such suit the United States may avail itself of any and all defenses, general or special, that might be pleaded by a defendant in an action for infringement as set forth in title sixty of the Revised Statutes, or otherwise.

SEC. 3. The head of any department or agency of the Government which has ordered the manufacture, use, sale, or other disposition of an invention, whether patented or unpatented, and whether or not an order has been issued in connection therewith pursuant to section 1 hereof, is authorized and empowered to enter into an agreement, before suit against the United States has been instituted, with the owner or licensor of such invention, in full settlement and compromise of any claim against the United States accruing to such owner or licensor under the provisions of this Act or any other law by reason of such manufacture, use, sale, or other disposition, and for compensation to be paid such owner or licensor based upon future manufacture, use, sale, or other disposition of said invention.

Effect of reduction in royalties.

SEC. 4. Whenever a reduction in the rates or amounts of royalties is effected by order, pursuant to section 1 hereof, or by compromise or settlement, pursuant to section 3 hereof, such reduction shall inure to the benefit of the Government by way of a corresponding reduction in the contract price to be paid directly or indirectly for such manufacture, use, sale, or other disposition of such invention, or by way of refund if already paid to the licensee.

Delegation of authority.

SEC. 5. The head of the department or agency of the Government concerned is further authorized, in his discretion and under such rules and regulations as he may prescribe, to delegate and provide for the delegation of any power and authority conferred by this Act to such qualified and responsible officers, boards, agents, or persons as he may designate or appoint.

Manufacture, use, etc., for U. S.

SEC. 6. For the purposes of this Act, the manufacture, use, sale, or other disposition of an invention, whether patented or unpatented, by a contractor, a subcontractor, or any person, firm, or corporation for the Government and with the authorization or consent of the Government shall be construed as manufacture, use, sale, or other disposition for the United States and for the purposes of the Act of June 25, 1910, as amended (40 Stat. 705; 35 U. S. C. 68), the use or manufacture of an invention described in and covered by a patent of the United States by a contractor, a subcontractor, or any person, firm, or corporation for the Government and with the authorization or consent of the Government, shall be construed as use or manufacture for the United States.

Applicability.

SEC. 7. This Act shall apply to all royalties directly or indirectly charged or chargeable to the United States for any supplies, equipment, or materials to be delivered to or for the Government from and after the effective date of the notice provided for in section 1 hereof. This Act shall also apply to all royalties charged or chargeable directly or indirectly to the United States for supplies, equipment, or materials already delivered to or for the Government which royalties have not been paid to the licensor prior to the effective date of the notice provided for in section 1 hereof. Sections 1 and 2 of this Act shall remain in force only during the continuance of the present war and for six months after the termination thereof, except that as to rights accrued or liabilities incurred prior to termination thereof, the provisions of this Act shall be treated as remaining in force and effect for the purpose of settling, sustaining, qualifying, or defeating any suit or claim hereunder.

Duration of certain provisions.

SEC. 8. The head of each department or agency of the Government may issue such rules and regulations and require such information as may be necessary and proper to carry out the provisions of this Act. The provisions of section 10 (1) of an Act approved July 2, 1926 (44 Stat. 787), as amended, and title XIII of Public Law 507, Seventy-seventh Congress, shall be applicable to the owner, licensor, or licensee of an invention, whether patented or unpatented, manufactured, used, sold, or otherwise disposed of for the United States, and the term "defense contract" as used in said Act shall mean and include an agreement for the payment of royalty, regardless of the date of such agreement, under or by virtue of which royalty is directly or indirectly paid by the Government or included within the contract price for property sold to or manufactured for the Government.

Rules and regulations.

10 U. S. C. § 310 (2).
Ante, p. 185.

"Defense contract."

SEC. 9. Nothing herein contained shall be deemed to preclude the applicability of Section 403 of Public Law 528, Seventy-seventh Congress, as the same may be heretofore or hereafter amended so far as the same may be applicable.

Renegotiation of war contracts.
Ante, pp. 245, 982.

SEC. 10. If any provision of this Act or the application of any provision to any person or circumstance shall be held invalid, or if any provision of this Act shall be inoperative by its terms, the validity or applicability of the remainder of the Act shall not be affected thereby.

Separability of provisions.

Approved, October 31, 1942.

[CHAPTER 635]

AN ACT

To provide for the granting of rights-of-way for pipe lines for petroleum and petroleum products and for telephone and/or telegraph lines along and across certain parkway lands in the District of Columbia.

November 9, 1942
[H. R. 7491]
[Public Law 769]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, with the approval of the National Capital Park and Planning Commission, be, and he is hereby, authorized and empowered to grant to Sinclair Refining Company, a Maine corporation, its successors and assigns, an easement for rights-of-way for pipe lines for the transportation of crude petroleum and/or the products and/or byproducts thereof, and also for telegraph and/or telephone lines to be installed in underground cables, for use in connection with the operation of such pipe line or pipe lines, along, through, under, and across all those certain lands in the District of Columbia designated as United States Reservation Numbered 451 acquired for the parkway known as Fort Drive, extending from Fort Totten Park in an easterly direction to the boundary line between the District of Columbia and the State of Maryland, which lands are shown on the map of the public parks, District of Columbia, 1942, filed in the office of National Capital Parks, Washington, District of Columbia, numbered as Map 7-105: *Provided*, That such easement shall be granted only upon a finding by the Secretary of the Interior that the same will not substantially injure the interests of the United States in the property affected thereby, and will not be incompatible with the public interest: *And provided further*, That all or any part of such easement may be annulled and forfeited by the Secretary of the Interior after reasonable notice (a) for failure of said Sinclair Refining Company, or its successor or assigns, to comply with the terms or conditions of any grant made hereunder, or (b) for abandonment of such easement.

District of Columbia.
Easement for petroleum pipe lines, telegraph lines, etc.

Proviso.
Protection of public interest.

Annulment and forfeiture.