

shall be paid an immediate life annuity beginning on the first day of the month following the date of final separation from the service. Such annuity shall have a value equal to an annuity computed as provided in section 4 of this Act reduced by one-sixth of 1 per centum for each full month any such officer or employee is (A) under the age of sixty years if he has rendered at least thirty years of service computed as prescribed in section 5 of this Act, or (B) under the age of sixty-two years if he has rendered less than thirty years of service computed as prescribed in section 5 of this Act."

Approved August 8, 1946.

[CHAPTER 909]

AN ACT

To amend section 5 of the Act entitled "An Act authorizing the Secretary of Agriculture to collect and publish statistics of the grade and staple length of cotton".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5 of the Act entitled "An Act authorizing the Secretary of Agriculture to collect and publish statistics of the grade and staple length of cotton", approved March 3, 1927, be amended to read as follows:

"SEC. 5. That, of the reports issued by the Secretary of Agriculture, pursuant to the Act entitled 'An Act authorizing the Department of Agriculture to issue semimonthly cotton crop reports and providing for their publication simultaneously with the ginning reports of the Department of Commerce', approved May 3, 1924, only five shall be issued hereafter, one as of August 1, one as of September 1, one as of October 1, one as of November 1, and one as of December 1, each of which shall state the condition and progress of the crop and the probable number of bales which will be ginned, these reports to be issued simultaneously with the cotton-ginning reports of the Bureau of the Census relating to the same dates, the two reports to be issued from the same place at 11 antemeridian of the eighth day following that to which the respective reports relate. When such date of release falls on Sunday, a legal holiday, or other day which pursuant to statute or Executive order is a nonworkday in the Department of Agriculture at Washington generally, the report shall be issued at 11 o'clock antemeridian of the next succeeding workday."

Approved August 8, 1946.

[CHAPTER 910]

AN ACT

To extend temporarily the time for filing applications for patents, for taking action in the United States Patent Office with respect thereto, for preventing proof of acts abroad with respect to the making of an invention, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the rights of priority provided by section 4887 of the Revised Statutes (U. S. C., title 35, sec. 32), as amended, for the filing of applications for patent for inventions, discoveries, and designs, which rights had not expired on the 8th day of September 1939, or which rights have arisen since the 8th day of September 1939, shall be, and the same are hereby, extended until the expiration of a period of twelve months from the passage of this Act in favor of the citizens of the United States and of citizens or subjects of all countries which have extended, or which now extend or which within said period of twelve months shall extend substantially reciprocal privileges to citizens of the United States, and such

46 Stat. 471,  
5 U. S. C. § 698;  
Supp. V, § 698.

August 8, 1946  
[H. R. 4769]  
[Public Law 689]

Cotton statistics.

44 Stat. 1373.  
7 U. S. C. § 475.  
Reports.

43 Stat. 115.  
7 U. S. C. § 475.

August 8, 1946  
[H. R. 5223]  
[Public Law 690]

Patents.  
Rights of priority  
for filing applications.

extension shall apply to applications upon which patents have been granted, as well as to applications now pending or filed within the period specified herein: *Provided*, That no such extension shall apply to any patent unless a request in writing was made therefor during the pendency of the application for such patent in the United States Patent Office, or within twelve months after the passage of this Act, which request must be accompanied by (1) a copy of the original foreign application, certified to by the patent office of the country in which it was filed, but if the original foreign application has been destroyed, other evidence pertaining thereto may be accepted; (2) a sworn translation of the same if it is not in the English language; and (3) if the foreign application was not made by the inventor himself, an affidavit by the applicant or patentee stating that such application was filed for his benefit or on his behalf and that such procedure is in accordance with the procedure in the foreign country: *Provided further*, That no patent granted or validated by reason of any such extension shall in any way furnish a basis of claim against the Government of the United States: *Provided further*, That such extension shall in no way abridge or otherwise affect the right of the United States, or of any person, firm, association, company, or corporation, who, before the passage of this Act was bona fide in possession of any rights in or under patents or applications for patents conflicting with rights in patents granted or validated by reason of such extensions to exercise such rights by itself or himself personally, or by such agents, or licensees as derived their rights from it or him before the passage of this Act, to the extent that they shall not be amenable to any action for infringement of any patent granted or validated by reason of such extension.

Request for extension.

Restriction.

Exercise of rights.

A patent shall not be refused on an application coming within the provisions of this section, nor shall a patent granted on such application be held invalid, by reason of the invention having been patented or described in any printed publication or in public use or on sale in the United States more than one year prior to the filing of the application in the United States, unless such patent or publication or such public use or sale was prior to the filing of the foreign application upon which the right of priority is based.

Publication, etc., prior to filing foreign application.

SEC. 2. Whenever, prior to the 8th day of April 1946, an invention, discovery, or a design has been communicated in writing or embodied in any article supplied to the Government of the United States or to any person, firm, or corporation in the United States at the request of said Government, pursuant to and by reason of an agreement or arrangement between the Government of the United States and the government of a foreign country for the supply or mutual exchange of information or articles for use for national defense purposes during the periods of the national emergencies declared by the President of the United States preceding World War II, or for use for war purposes during World War II—

Invention, etc., communicated prior to Apr. 8, 1946.

(a) A patent based on an application filed by the inventor of the invention, discovery, or design so communicated or supplied shall not be refused or held invalid merely because of the fact that the invention, discovery, or design had been in public use or on sale in the United States, or described in a printed publication, if such public use or sale or publication was in consequence of and attributable to the communication or supply and subsequent to the date of the communication or supply; and

Public use, etc.

(b) For use in any action in a United States court or proceeding in the Patent Office involving a patent for an invention, discovery, or a design, or involving an application for patent for an invention, discovery, or a design so communicated or supplied any court of the

Use in court action, etc.

Papers, etc., in possession of Government agency.

United States for any district or Territory thereof, and the Commissioner of Patents shall have the power to call upon any department or agency of the Government of the United States to produce information or papers in its possession relating to the communication or supply or relating to the further communication of the invention, discovery, or design by said department or agency to any person, firm, or corporation in the United States: *Provided, however,* That the head of any department or agency may refuse and omit to comply with any call for information or papers when in his opinion such compliance would jeopardize the national defense.

Refusal, etc., to comply with call for information.

Restrictions on benefits.

No benefit under section 2 of this Act shall be extended to any person unless (1) an application for patent for the same invention, discovery, or design which was communicated or supplied as aforesaid is filed in the United States Patent Office prior to the expiration of twelve months from the date of this Act; and (2) unless sufficient information in writing and under oath as to what was communicated or supplied, the date thereof and to whom made, is furnished to the Commissioner of Patents by the owner of such application while it is pending, or prior to the expiration of twelve months from the date of this Act to enable him to judge of the identity of the invention so communicated or supplied with the invention claimed in such application, which information shall be made a part of the record of such application and shall have no evidentiary value as proof of the facts stated therein; and (3) unless the country of which such person is a national extends substantially reciprocal privileges to citizens of the United States.

Extension of time for payment of fees, etc.

SEC. 3. That whenever it shall be shown to the satisfaction of the Commissioner of Patents that the time now fixed by law for the payment of any fee, or for the taking of any other action, with respect to an application for patent for an invention, discovery, or design has lapsed because of conditions growing out of World War II, which time had not expired on the 8th day of September 1939, or which commenced after the 8th day of September 1939, such time may be extended by the Commissioner to a date not later than twelve months after the passage of this Act, without the payment of extension fees or other penalty, in favor of citizens of the United States and the citizens or subjects of countries which have extended, now extend, or shall extend prior to the expiration of twelve months after the passage of this Act substantially reciprocal privileges to citizens of the United States: *Provided,* That no extension herein shall confer such privileges upon the citizens or subjects of a foreign country for a longer term than the term during which such privileges are conferred by such foreign country upon the citizens of the United States, but nothing in this Act shall give any right to reopen interference proceedings where final hearing before the Examiner of Interferences or the Board of Interference Examiners has taken place.

Restrictions.

Right to continue manufacture, etc.

SEC. 4. That no patent granted or validated by reason of any extension of time provided for by sections 1 and 3 of this Act shall abridge or otherwise affect the right of the United States, or of any person, firm, association, company, or corporation, or agent or agents, or his successor in business, to continue or to resume any manufacture, use, or sale bona fide commenced by it or him in the United States before the passage of this Act, or, in the case of an application claiming the benefits of section 3 hereof, commenced by it or him before the taking of action or the payment of any fee under that section if such action or payment was later than the passage of this Act, nor shall the further manufacture, use, or sale by it or him, or its or his agents or successors in business or the use or sale of the devices resulting from such manufacture or use constitute an infringement: *Provided,* That

Nonapplicability.

the benefits of this section shall not apply to the manufacture, use, or sale as aforesaid if and to the extent that it is based upon or attributable to a communication of the invention, discovery, or design so manufactured, used, or sold to the United States or to any person, firm, or corporation in the United States at the request of said Government under an agreement or arrangement between the Government of the United States and the government of another country for the supply or mutual exchange of information or articles for use for national defense purposes during the periods of the national emergencies declared by the President of the United States preceding World War II, or for use for war purposes during World War II.

SEC. 5. Notwithstanding the provisions of sections 4885 and 4887 of the Revised Statutes (U. S. C., title 35, secs. 41 and 32, respectively) no patent issued subsequent to July 17, 1945, which was scheduled for issue on that date, or on July 24, July 31, or August 7, 1945, shall be held invalid because of the deferment of the issuance of such patent due to the failure to issue patents on July 17 and July 24, 1945.

Deferment of issuance.

SEC. 6. Notwithstanding the provisions of the Act of Congress approved July 1, 1940 (54 Stat. 710; U. S. C., title 35, sec. 42), as amended by the Act approved August 21, 1941 (55 Stat. 657; U. S. C., title 35, secs. 42a-42f), and as further amended by the Act of June 16, 1942 (56 Stat. 370), no person shall be debarred from receiving a patent for an invention made in the United States, nor shall any patent issued for such invention be deemed or held invalid under said Act, merely because authorization to file an application for patent for such invention in any country foreign to the United States was not first obtained from the Commissioner of Patents: *Provided*, That the Commissioner subsequently authorized the filing of the application in such foreign country.

Failure to obtain authorization in foreign country.

35 U. S. C., Supp. V, § 42 note, 42a-42f.

SEC. 7. That all applications for patents for inventions, discoveries, or designs officially accepted by the Patent Office and given a serial number and date of filing since the 8th day of September 1939, and prior to the passage of this Act, which were executed by an agent of the applicant, and in which a duplicate copy of the specification and a new petition and oath, all duly signed and executed by the inventor or his executor or administrator has been or shall have been filed within a period of twelve months from the approval of this Act, and the patents granted on such applications, shall have the same force and effect as if the papers signed and executed by the inventor, or his executor or administrator, had been filed on the date on which the papers signed by his agent were deposited in the United States Patent Office.

Validity of applications executed by agents.

SEC. 8. That all applications for patents for inventions, discoveries, or designs filed since the 8th day of September 1939, in which the oath was executed before or authenticated by a consular officer, or other representative qualified to administer oaths, of a government acting in the interest of the Government of the United States, shall have the same force and effect as if said oath had been executed by the applicant before a consular officer of the United States.

Oath.

SEC. 9. That in proceedings in the Patent Office and in the courts of the United States an applicant for a patent for an invention, discovery, or a design, or a patentee, shall not be permitted to establish the date of invention or discovery by reference to knowledge or use thereof, or other activity with respect thereto, in a country foreign to the United States, other than the filing in a foreign country of an application for a patent for the same invention, discovery, or design which, in accordance with the provisions of section 4887 of the Revised Statutes, as amended, or in accordance with and subject to the provisions of this Act, is entitled to have the same force and

Restriction on establishing date of invention, etc.

35 U. S. C. § 32.

Invention of person serving abroad.

effect as it would have had if filed in the United States on the date on which it was filed in such foreign country: *Provided*, That where an invention was made by a person, civil or military, during the time such person was domiciled in the United States or its possessions and was serving in a foreign country in connection with the prosecution of the war on behalf of the United States or its allies, the inventor thereof shall be entitled, in interference and other proceedings arising in connection with such invention, to the same rights of priority with respect to such invention as if the same had been made in the United States.

Term of patent.

SEC. 10. No patent for an invention or a discovery granted under the provisions of section 1 or 3 of this Act shall extend for a longer term than twenty years from the filing date of the first application regularly filed in any country disclosing the same invention, and in no event for a period in excess of seventeen years from the date of the grant of such patent.

Claims for patent infringement, etc., restriction.

SEC. 11. No claims for patent infringement shall be made or action brought by or on behalf of or for the benefit of any country or a national of any country against which the United States has declared the existence of a state of war, in respect to any manufacture, use, or sale since September 8, 1939.

Acts done under special measures taken in World War II.

SEC. 12. That nothing in this Act shall affect any act which has been or shall be done by virtue of the special measures taken during World War II under legislative, executive, or administrative authority of the United States in regard to the rights of any enemy, or ally of an enemy, as defined by the Trading With the Enemy Act of October 6, 1917 (40 Stat. L. 411), as amended, in patents for inventions and designs.

50 U. S. C. app. §§ 1-31; Supp. V, § 3 *et seq.*  
*Ante*, pp. 50, 54, 182, 418, 925; *infra*.  
 Repeal.  
 40 Stat. 420.  
 50 U. S. C. app. § 10 (a).

SEC. 13. Section 10 (a) of the said Trading With the Enemy Act, relating to the filing and prosecution of applications for patents and the registration of trade-marks, prints, labels, and copyrights, by an enemy, or ally of an enemy, is hereby repealed.

Nonextension of benefits.

SEC. 14. The benefits of this Act shall not extend in favor of inventions, applications, or patents made by or owned by citizens of any country with which the United States shall have been at war since the 8th day of September 1939. The Alien Property Custodian shall be entitled to the benefits of this Act.

Judicial finding on validity of patent.

SEC. 15. Nothing contained in this Act shall be effective to nullify any judicial finding upon the validity of any patent for an invention, discovery, or a design heretofore made by a court of competent jurisdiction.

Separability of provisions.

SEC. 16. If any clause, sentence, paragraph, or part of this Act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Approved August 8, 1946.

[CHAPTER 911]

AN ACT

To amend the Civil Aeronautics Act of 1938, as amended, so as to improve international collaboration with respect to meteorology.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 803 of the Civil Aeronautics Act of 1938, as amended (U. S. C., 1940 edition, title 49, sec. 603), is amended to read as follows:

August 8, 1946

[H. R. 6036]

[Public Law 691]

Civil Aeronautics Act of 1938, amendment.

52 Stat. 1014.