remaining issue is whether the patented invention in question was so made," said the court in *Mine Safety Appliances Co. v United States.*[9] The court continued, "Inventions made under a Government contract are the products of expenditure from the public treasury in the course of a governmental function; the public, having in a sense ordered and paid for the invention through its representatives, should not again be taxed for its use, nor excluded from its use, nor permitted to use it upon restrictive conditions advantageous to no one but the patent owner."

§ 19:46 Employer-Employee Relations and Rights in and Title to Inventions and Patents Arising Out of Such Relations

Generally speaking, it must be borne in mind that the mere existence of the employer-employee relation gives the employer no right to claim title to inventions of the employee made in the course of employment. The courts are reluctant to divest an inventor of title to his invention and will not imply a duty to assign to his employer, where the contract of employment is either silent on the subject, or there is lacking that clarity and definiteness of intention which the courts insist upon before implying a duty to assign. It may be noted that the principles governing title to inventions as between employer and employee are generally not affected by the nature of the employment, i.e., whether the inventor be an ordinary workman, machinist, chemist, electrician, metallurgist, foundryman, engineer, technician, or superintendent,—or stockholder, director, officer or other operating head. The exception seems to arise only where, as in the case of an official of a corporation, a fiduciary or trust relationship may be implied so that, under such circumstances, title which would ordinarily remain in the employee, is held to vest in the employer because of such fiduciary or trust relationship. So far as general employees and officers are concerned, including those directly connected with production as an ordi-

9. Mine Safety Appliances Co. v United States, 176 Ct Cl 777, 364 F2d 385, 392, 150 USPQ 453, 459 (1966).