

Why Is A Patent?

By H. L. T. Tideman

They named it the Temporary National Economic Committee. A news item states that in turning from an abstract consideration of the nation's economy to specific cases "the committee is hearing leaders of American industry on the possibility of monopolistic practices growing out of our policy of issuing patents to inventors."

It is conceded that a patent is a grant of monopoly. Without monopolistic practices it will avail its holder nothing. Politicians, it would seem, are a band of men who can stare fixedly at a fact and then proceed to the organization of a committee to question the existence of that fact.

What is the object of invention? Is it not to increase the production of wealth, to reduce the toil and trouble incident to our daily life?

What is the purpose of a patent? To permit its holder to prevent the production of wealth in the manner incident to the patent except upon such terms as he may concede.

As for the policy of rewarding inventors with patents by giving them control over the commerce in their inventions, whatever thesis may be maintained with specious plausibility for that policy in the distant past before the laws of physics were as well understood as they now are, no such argument can be held for the grant of patents in the present.

In the mechanical field it is safe to say that discovery is limited to the astronomical and the ultra-microscopic. If a machine is desired for any purpose it is necessary merely to state what is desired. It will be designed. That is what engineers are for. Illustrative of this fact we may mention the cigarette making machine. A factory in which cigarettes are made by hand labor must sell its products in competition with cigars and pipe tobacco. The cost of cigarettes is so high that the market is necessarily restricted to a few prosperous customers. So the cigarette making machine gets into

At a hearing before the "monopoly committee" Chairman O'Mahoney said: "A patent is a perfectly legal monopoly granted to individuals." Of course, nearly all monopolies are perfectly legal; the only extra-legal monopolies are the precarious attempts to rob the public by practices which are not condoned by law, and these are called "rackets."

However, in the course of this hearing, concerned with the patent monopoly in the glass-container industry, these facts were disclosed:

That under present patent laws, Hartford-Empire Company, dominant holder of machine patents in the glass container manufacturing field, will have use of basic patents for fifty-four years, al-

though the law limits the time to seven-teen.

That costly litigation in obtaining and establishing the validity of a patent works to the disadvantage of the individual patentee, and to the advantage of corporations or groups with ample resources.

That the so-called Steimer patent, a basic discovery in the manufacture of machinery for glass containers, was purchased in 1917 by Hartford-Empire for \$2,300 and it has grossed millions of dollars in royalties and licensees' fees.

That the patent was applied for in 1910, issued in 1937. During these years the "patent applied for" taboo protected the company in its monopoly privilege.

evolution. The first machines were partial developments. An improvement here, an addition there, and then a consolidation of the various parts and the public is invited to see a machine which rolls the cigarettes, manufactures wrappers, wraps the wrappers and affixes labels almost faster than the eyes can observe.

Here is no discovery, no mystery unveiled. It is merely the result of thought and the knowledge of mechanics. Paid for their work, thousands of men will solve the problem in hundreds of ways.

What caused the invention, if invention it be called? Was it the hope of affluence by securing patents and restricting the cigarette industry? Was not the competition for the cigarette market a much more potent influence?

Patents may have been the source of some moderate fortunes. They may add occasionally to the dividends of great corporations; but is it not at the expense of their neighbors? And in the main, does not the prosperity of business men depend upon their ability to meet the competition of their rivals for public favor rather than upon legally granted monopolies? And is not this competition beneficial to the neighbors?

"But," and the objector rises, "think of the great research laboratories of our large corporations and their wonderful work. To abolish

the patent giving policy would remove the incentive for this activity." On the contrary, if the field for competition be kept open, the necessity for keeping abreast in the race for trade will make these activities greater than ever.

One has but to observe the changes in the styles and the improvements in the automobile, during the last decade, made in spite of many grants of patents to the makers of the machinery used in their manufacture, to note the still greater possibilities of free competition. In the interplay of economic forces, new methods of production will arise with every new demand for things—and no monopoly incentive is necessary.

How about the morality of patents? No one need deny that the produce of an inventor is his own. He need not use it nor disclose it to others. If he wishes to be a miser with the product of his talents none can question his act. But surely the fact that he makes a discovery or designs a useful tool cannot give him the right to prevent his neighbor from profiting by doing likewise.

A legal arrangement which seeks to promote progress by any other process than an extension of freedom is suspect from its origin. Given freedom, the fundamental law that "man seeks to gratify his desires by the least exertion" will automatically produce progress; for in attempting to serve himself every man will serve his fellow man, to the end of an ever increasing prosperity for all,