

## Patent Act Celebration

July 4, 1961 marked the 125th anniversary of the Patent Act of 1836. This Act re-established an examination system for patent applications, and created the Patent Office as a distinct and separate bureau in the Department of State, with a Commissioner of Patents as its head.

**Three Millionth Patent Issued.** Over three million patents have been issued in the United States since then. Patent No. 3,000,000 was, in fact, granted on September 12, 1961 to Dr. Kenneth R. Eldredge for his invention of an automatic reading system. The present system of numbering patents consecutively was begun in 1836. Several thousand unnumbered patents had been issued by the United States prior to 1836.

**First Patent Act.** The Patent Act of 1836 was not the first United States Patent Law. The first Patent Act was signed by President Washington on April 10, 1790. This first Patent Law provided for examination for usefulness and importance, but it lasted less than three years.

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## Ladd Greets Bulletin; Asks Association's Aid

The Editor, the NYPLA Bulletin:

I am pleased to learn that The New York Patent Law Association is starting a new monthly bulletin. We have reached a time when important changes in our patent system must be formulated by the Patent Office and be realistically appraised by the Patent Bar. Your paper could be helpful in focusing attention on our problems and in publicizing possible solutions as they are brought forward.

Our basic difficulty is that our backlog of patent applications is again rising. It did reach 200,000 cases at the end of the fiscal year. There are at least two reasons for this failure to keep up with the incoming load. First, our Examiner turnover has increased to an annual level of 20%, despite our concentrated efforts over a period of years to build up the Examining Corps. Secondly, the output of the Examining Corps is declining at a rate of about 2% per year. This decline stems from the fact that the cases now being filed are more complicated than formerly and that there is a continuing increase in the material that must be searched by the Examiners.

To permanently reverse these trends we must find some way to hold our Examiners once we have trained them and we must find a way to make broad use of automatic information retrieval in our searching. We are studying the possibility of setting up a school where both Patent Examiners and personnel from law firms and corporations can learn the theory of Patent Office practice. This would be instituted with the hope of eliminating the continuing inroads by outsiders on our staff of trained Examiners. As a second step in this direction we also plan to greatly increase the appropriation for research on information retrieval in the hope that we can force a break-through in this area. But this will all take time.

To help the Patent Office hold its own in the interval we are investigating immediate means for cutting down its application load and building up its revenue. More pressure to dispose of the average case in fewer actions, the greater use of dependent claims, the institution of full or limited opposition proceedings, an increase in present fees, and the substantial innovation in the United States of maintenance fees on patents that have been in force for five years or more, and the often discussed twenty-year patent limitation have been suggested as possible steps to these ends.

We will be discussing and evaluating these and other suggestions in detail in the coming months and I would ask the sympathetic understanding, suggestions, and support of the members of your Association in this our effort to improve the effectiveness of the Patent Office.

David L. Ladd,  
Commissioner of Patents

### CALENDAR

#### MAJOR COMING EVENTS

- Oct. 7th American Legion Dinner Dance honoring Chief Judge Eugene Worley of the U. S. Court of Customs and Patent Appeals. (NYPLA members invited to attend.)
- Oct. 10th Dinner Meeting. Celebration of 125th Anniversary of the Patent Act of 1836. Commissioner Ladd will speak. Terrace Room, Hotel Roosevelt, Madison Avenue at 45th Street. Cocktails at 5:30, Dinner at 6:30. \$7.50 per person.
- Oct. 18th Three day program at Washington, D.C.,  
" 19th "Celebration of the American Patent Sys-  
" 20th tem—125th Anniversary of the Patent Act of 1836." (NYPLA members invited to attend.)
- Dec. 8th Annual Christmas Dinner Dance, Hotel Pierre, Fifth Avenue at 61st Street.

#### LOOKING INTO 1962

- Feb. — Third Annual Judicial Conference.
- Mar. 23rd 40th Annual Dinner in honor of the Federal Judges.
- Apr. — Antitrust Meeting.
- May 24th Annual May Business Meeting.
- June 8th 6th Annual Spring Outing and Dinner Dance.

## BULLETIN

of The New York Patent Law Association  
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The BULLETIN is published monthly (except in July, August, and September) for the members of The New York Patent Law Association. It endeavors to keep its readers informed on all phases of the Association's activities; to direct attention to important events in the patent, trademark, copyright, and related fields; to furnish information on outstanding activities of other patent organizations; and to constitute a forum for debating questions of particular concern to the profession. Correspondence may be directed to the Editor, Room 1711, 135 East 42nd Street, New York 17, N. Y.

### Officers of the Association for 1961-62

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### YOUR BULLETIN IS LAUNCHED

For a number of years past the Boards of your Association have been keenly aware of the need for a new means of communication with the membership. A "Bulletin Committee" was finally named in 1960 with orders to arrange for the launching of a monthly publication.

The primary objective of the BULLETIN will be to keep the members informed on all phases of the Association's activities, with emphasis on the work of the officers, the Board, and the various committees. It will direct the attention of the membership to important events in the patent, trademark, and copyright fields. It will endeavor to keep the members informed on the outstanding activities of other patent associations. It will constitute a forum for debating questions of particular concern to the profession.

It is hoped ultimately to expand the scope and size of the BULLETIN so that it can publish entire speeches and articles of special interest, including original contributions from members of the Association. Such expansion can be anticipated in due course once the BULLETIN has proved its value to the membership.

The BULLETIN will not be of value, however, unless each officer, Board member, and committee chairman makes a conscious effort to share his activities with the membership through the pages of the BULLETIN.

By the same token, the paper will be neither of value nor of interest if it is not read. The size, format, and style of the BULLETIN are all designed for quick and easy reading so that even the busiest attorney can find the few minutes required to scan it. But to serve you most effectively the BULLETIN should be posted so that the calendar and comments on coming events will be in front of you for constant reference. It will serve you not at all if buried in the "For Future Attention" pile on your desk.

It is our intention to keep the format flexible and the Editor will welcome comments on what the members would like to see in future issues. —The Editor

## Meetings Committee Reorganized; Publicity Receiving Attention

**Committees on Meetings and Forums Merged.** The Committee on Meetings is combining its activities with those of the Forum Committee this year. This merger, without intending to lead to a monopoly of interesting NYPLA activities, was carefully planned for greater operating efficiency. George W. Whitney is chairman of the committee and Albert C. Nolte, Jr., last year's Forum Committee Chairman, is the Vice Chairman in Charge of Forums.

**Social.** Mr. Whitney has pointed out that two groups were originally set up because they were to handle different types of functions. The Meetings Committee was to handle the general and social interest of the Association. Meetings were to be held at the leading hotels. The speakers were to be from outside the Association.

**Technical.** The Forum Committee was to be more specialized in interest. It was to deal with the more technical aspects of patents, trademarks, and copyrights. Its meetings were designed to operate on a lower budget by using the facilities of the smaller hotels. For the most part, its speakers were to be from the Association's able membership. Basically, this difference in view is to continue, while gaining the advantages of unified direction.

**Questionnaire Sent Out.** Mr. Nolte has circulated a questionnaire to check the preferences of the members on Forum topics. He wants to know what subjects interest the members. He also needs to know which of the members would be willing to speak at a Forum, and on what topics. A wide response to the questionnaire is essential if the committee is to meet the wishes of the membership.

**New Emphasis on Publicity.** This year a new direction in public relations will be charted when the committee joins with the Special Committee on Public Information and Education, headed by Ferdinand Kump, Jr., in a major effort to obtain wide publicity for the October 10th meeting, which is to celebrate the 125th anniversary of the Patent Office. The assistance of public relations experts from several industries has been pledged to this endeavor and is expected to be of invaluable assistance to the committee.



W. Philip Churchill receiving his golfing prize at the Annual Outing from George W. Whitney, Chairman Committee on Meetings, as Alan W. Borst presides at microphone.

# Government Patent Policy on Defense Contracts

**Monson's Position on Pending Bills.** At the Association's May dinner the speaker, Claude M. Monson, Vice-President of The Garrett Corporation, urged members of the Patent Bar to seek defeat of Senate bills S. 1084 and S. 1176. These bills, introduced by Senators McClellan and Long, would make any invention conceived or first reduced to practice under a government contract, government property.

Since both industry and government pour research money into the fields from which the defense hardware emerges as the final product, he insisted that the government should be satisfied with a non-exclusive, royalty-free, irrevocable license and not reach for title to the inventions and patents.

**NYPLA Statement to Senate Subcommittee.** Hugh A. Chapin's Subcommittee on Government Relations to Patents has made a study of these bills. It prepared for President Donohue's signature, and the approval of the Board of Governors, a statement which has now been submitted to the McClellan Subcommittee on Patents, Trademarks and Copyrights of the Senate Judiciary Committee.

The conclusion of the statement reads as follows:

- "1. That inventions arising from government contracts are in large measure properly attributable to the contractor's prior knowledge developed through his own investments in time and money.
- "2. That the progress of the useful arts as well as our economy is best promoted by industry rather than government ownership of patents.
- "3. That the protection of our national interest and security, which is the objective sought by most if not all of the government-industry contracts coming within the purview of these bills, will be best served by adherence to the so-called 'license policy' as distinguished from the so-called 'title policy.'
- "4. That the administration, in accordance with the directive of Article I, Section 8, of the Constitution, of the extensive and varied patent rights that would be vested in the government by the provisions of S. 1084 and S. 1176 would impose difficulties and burdens upon the government out of all proportion to the contemplated benefits, if any."

## Patent Act Celebration

Continued from Page 1

**Patent Act of 1793.** In 1793, a new Patent Act became law. It substituted a "registration" system for the previous "examination" system, so that the issuing of patents became little more than a clerical function. This system remained in effect until the Act of 1836.

**1793 Act Criticized.** The 1836 Act came into existence because of dissatisfaction with the then existing law. In 1836 a Senate Committee studied the patent law. In its report the committee criticized the issuance of patents without examination. It charged that frauds had developed; that people were obtaining patents by merely copying existing patents with slight changes; that patents had become of little value; and that the objectives of the patent laws had been in large measure defeated.

Speaker  
Claude M. Monson  
and President  
Mark N. Donohue  
at the NYPLA dinner  
following the  
Annual Meeting



## Meet Our New President

Mark N. Donohue was elected President of the NYPLA for the 1961-62 term at the Annual Meeting on May 25th.

Mark Donohue was born in Wilmington, Delaware on November 18, 1905 and received his preparatory education at the University of Delaware, graduating in 1927. In 1930, he completed his formal law education at Harvard Law School and was admitted to the Delaware Bar the same year. The following year, he was admitted to the New York Bar. He is now a senior partner in the firm of Brumbaugh, Free, Graves and Donohue.

As a member of the NYPLA, Mark Donohue served in 1953 on a Special Committee to Assist the Attorney General's National Committee to Study the Antitrust Laws, and the following year he served as chairman of the Legal Aid Committee. He was named to the Committee on Professional Ethics and Grievances in 1957.

Active also in The Association of the Bar of the City of New York, he served on that association's Committee on Professional Ethics from 1953 to 1957, at which time he was appointed chairman. From 1955 to 1958, he was active on the Committee on Patents, and in 1957, he became a member of the Committee on Increased Membership. He is now a member of its Committee on Grievances.

Mr. Donohue is also a member of the American Bar Association, The American Judicature Society, the American Patent Law Association, The New York Law Institute, the Harvard Club of New York City, and the Downtown Association.

**Examination System Re-Established.** The Act of July 4, 1836, which resulted from the report of the committee, re-established the examination system to determine the novelty and usefulness of an invention. Broadly speaking, the patent laws of today are based on the principles set forth in the Act of 1836.

**American Patent System Week.** In recognition of the 125th anniversary of the Patent Act of 1836 the week of October 15 has been designated as "American Patent System Week." The principal events of the celebration will take place on October 18, 19, and 20, 1961 in Washington, D. C. The program will include an industrial exhibit, a series of seminars, tours of the Patent Office, luncheons, and a formal reception and dinner. Members of the NYPLA are invited to take part in this program.

**NYPLA Celebration.** In New York, the anniversary will be celebrated by the NYPLA at a dinner on October 10, 1961 at which the incumbent Commissioner of Patents, the Hon. David L. Ladd, will be the principal speaker.

## THE PRESIDENT'S COMMENTS

On behalf of the officers and the Board of Governors, I take this occasion to welcome the BULLETIN and to commend it as a valuable addition to the services offered by this Association to its members.

We particularly welcome the BULLETIN as a new line of communication between the Association membership and the officers and Board of Governors who are charged with the administration of the Association's affairs and activities. In an Association as large as ours, it is normally a difficult task for the officers and Board of Governors to keep in close communication with more than a limited number of the members. By the same token, the press of other matters, makes it difficult for more than a small proportion of the members to keep abreast of the Association's varied activities.

Many actions taken by the officers of the Association with the approval of the Board of Governors should, but never do, come to the attention of the members. Views are held by individual members on controversial issues which should, but never do, come to the attention of the officers and Board of Governors. These are problems of liason which to date, have not been successfully solved.

The BULLETIN should, in large measure, alleviate these problems. The officers and Board of Governors plan a continuing effort to utilize the BULLETIN to keep the membership currently advised of the actions and activities of the Association and its numerous committees.

In turn, the BULLETIN's pages should also serve those members of the Association who wish to express views on subjects, controversial or otherwise, as to which the Association acting through its committees, officers and Board of Governors, must speak for the membership.

We urge your cooperation with our Publications Committee in order to achieve the goals set for our BULLETIN.

—Mark N. Donohue

### TWO STAFF PHOTOGRAPHERS NEEDED FOR THE BULLETIN

The duties are important. The hours are short. You will have a valid excuse to practice your hobby and a chance to see your work in print. Darkroom facilities desirable, but not essential. If interested contact the Editor.

## Patent Maintenance Fee Legislation

Legislation has been introduced for concurrent consideration in both Houses of Congress providing for increases in most of the fees now payable to the Patent Office and for clarification of the statute pertaining to reissue patents.

**Maintenance Fees Proposed.** The legislation provides for a maintenance fee on patents that have been in force for five years or more. This is a completely new concept in U. S. patent practice. This suggestion, although such fees are extensively used in foreign countries, appears certain to provoke wide controversy.

**H.R. 7731, S. 2225.** The subject bills are Celler bill H.R. 7731 and McClellan bill S. 2225. It is reported that this legislation has the support of the Commissioner of Patents.

**NYPLA Study Groups Formed.** The NYPLA Subcommittee on Patent Law Revision has this legislation under review. William E. Dampier, its chairman, is forming a study group headed by Dayton R. Stemple, Jr. to review the legislation relating to fees. A second study group is headed by John W. Brumbaugh to consider the reissue provisions of the patent statute.

**Hearings.** The subcommittee has requested an opportunity to be heard at any Congressional hearings on the bills.

## Judge Worley To Be Honored

Chief Judge Eugene Worley of the U.S. Court of Customs and Patent Appeals will be honored by the American Legion at a testimonial dinner dance (black tie preferred) to be held at the Waldorf-Astoria Hotel on Saturday evening October 7th at 7:30 p.m.

## New International Patent Club

A new International Patent Club has been formed by a small group of New York patent lawyers. The club is planning monthly meetings, and will confine itself to problems of foreign patent law. Henry Freeman of Esso Research and Engineering Company was elected the first president.

Because the club will operate on an informal basis only a limited number of memberships will be made available. Inquiry as to membership may be made to Robert J. Patterson, Arthur, Dry & Dole, 1230 Sixth Avenue, New York 20, N.Y., the club's secretary.

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