in the private or public interest [11] without constitutional protest, and could be stretched again in the public interest, if need appeared. The patent system is not a law, but an ancient and worldwide institution, a very stable one, yet modifiable.

[32] Throughout the world the system has an unusual degree of uniformity, with ownership nominally for around 16 years, all other features being of much less importance than the multifarious institution of private ownership. Inventors have full liberty to patent in foreign countries on equal terms, there are international conventions and a little recognition of other nations' patents, and one would seem to see a sociological basis, in similarity of habits and purposes, for international patenting, like the achieved international copyright. Potentially a vast convenience, it is at last being advanced in Europe (¶ 495).

[33] Let us glance at what differences there are between the American and foreign patent systems.[12] Frost [13] says "It is no accident that the nation with the strongest patent system is also most dedicated to the principles of competition." Many call ours the best patent system in the world. It may be; yet also it is the most archaic. It is the most elaborated in its details, rigid as to claims,[14] and perhaps the most restrictive as to inventive grade; and yet in its essence it is the simplest, the least changed of all of them from the Venetian statute of 1474, and also the most favorable to the patentee. Unlike foreign usage, an American patent runs for 18 to 30 years or so, delays included, as we said above (¶ 28). There is no way it can be revoked, unless by an unsuccessful infringement suit. The patentee chooses his time and court for any fight, unless the defendant can first get a declaratory judgment against the patent, and we have the peculiar feature of Interferences, found only in American and Canadian law. This means that when two or more patent applications are found in the Office at the same time, or one is even filed within a year after a patent issues, covering more or less the same invention (which happens fairly often, with our long pendency) the Office summons the parties to fight out the question of which had the duplicated idea, or its various steps, first. The interference procedures established by the Patent Office are particularly complicated, last 4 years on the average,[15] or longer if carried to court. Interferences probably involve about 2½% of patents applied for, one-third of the time involve an issued patent, and are increasing at 29% per year. In 1960, interference involved 3,128 patents, 1.4% of those pending, 6.2% as many as in a year's grant. All other countries give the patent to the first applicant, unless theft of the idea can be shown; and he wins 80% of our own contests.[15]

[34] A number of additions to the simple, original patent principle, that used to be found in the American statutes, have been eliminated, our law of 1836 remaining otherwise almost unchanged. We dropped off renewal of patent, caveat (warning that one is working on an invention), compulsory license (once briefly in our patent law, and today abundantly ordered in antitrust decisions), and discrimination against foreigners. Contrastingly most foreign countries formally provide for compulsory license under certain circumstances, such as

[11] By granting a host of patents which do not "promote the Progress of Science and Useful Arts", and plant patents, and by taking patents for public use, and enforcing cancellation or licensing in antitrust cases.