as to be almost unchangeable. Few propose to change patent uniformity,[247] except for a few limited choices listed in ¶ 502–4 and 520. especially for an option between a normal patent, and a cheap and quick one unexamined for novelty. But really, if we had a mind for drastic reform, it would be possible to grant patents on as infinitely varied terms as the patent licenses of private industry, or the contracts or concessions drawn up between Government and private industries. Indeed, it would be possible to surpass the flexibility of private industry, in freedom to alter the terms from year to year as conditions changed, as we do in contract renegotiation. But all this would require Government to extend into the patent field more of social thinking, flexibility, competence, and vigor than we are used to there. It would also call for high incorruptibility in the bureaucrats; but this we usually obtain in the Federal civil service, and the record of the Patent Office is remarkably spotless.

[246] 2. *Unadaptability.* The patent system, with its uniform standards of eligibility, fees, methods, and terms of grant, is obliged to give but nugatory, valueless service, or else to refuse patents altogether, not only to fundamental inventions, but to most other kinds of invention and work useful toward it, e.g., scientific research, as explained in the previous chapter. But patents still retain a large suitable field for good work, with limited rivalry from our other institutions.

[247] 3. *Dislocation of inventive effort.* Insofar as patents fail to reward and stimulate most kinds of invention and research, but do reward others, they necessarily tend to direct inventive activity away from those, in favor of these, distorting the natural, economic proportions. Thus science, for all its abundant cultivation, suffers a factor of neglect, and great basic inventions like the voice-operated writing machine, lacking all other means of support, suffer obvious and almost total neglect. But minor improvements and gadgets that could be sold in commercial enterprise by any of many competing firms that might get a valid patent on a good (but minor) invention, are stimulated by the patent system and much cultivated.

[248] 4. *Doubtful remuneration.* The royalties or other rewards for a patent, even to reimburse the expenses of an invention, are most uncertain, a tossup, as well as arriving only years later, if ever, when the invention has come into large enough use, unless another speculator takes over the risk, with a down payment. We know that the percentage of patents worked one time or another has risen to 60%.[132] But inventions are quickly obsoleted, and such working, perhaps only a brief trial, by no means assures any net reward, over and above all the manifold expenses of invention, patenting, perfecting, tooling up, introducing, possible litigation, and interest on the capital thus tied up for years. On the other hand a patent may never be worked, nor even intended for working, yet pay off commercially, through buttressing a monopolist's imposing patent walls, or protecting a different preferred and patented method, or "fencing in" a competitor's line of development, etc. The hazards are many. First the invention made for a patent may turn out ineligible for one; 43% of patents applied

[247] Stedman calls patents standardization with a vengeance, and quotes Hamilton on the varying time needed in different industries. N 215, p. 633 its note 53. The late Sen. Kefauver and the Antitrust and Monopoly Subcommittee would restrict drug patents, to require utility, and CL after 3 years.