R file w/speeches NOR

1. You are all aware that on Oct 3 of last year an important law amending 96-517 passed. The primary purpose of the law (P.L. 98-620) was to enhance your ability to manage, assign or license University inventions resulting from federal funding.

2. I believe passage of P.L. 98-620 was prompted in large measure by Congress's recognition of your success in managing the invention rights left to universities under P.L. 96-517.

3. This is clearly reflected from an Office of Technology Assessment study and a Science magazine summary of the study. The study found the U.S. holds "a commanding lead over its industrial competitors in the development and application of biotechnology". Science explains the lead as ~~being based on~~ "recently established links between University scientists and biotechnology companies that have moved the technology rapidly into the private sector." Science further indicates that "University industry links have not flourished as vigorously in Europe and Japan".

4. Over the last 3 years corporate contributions have been said to have increased to about 6-7% of total academic R&D, or about $400-$500 million annually.

5. Your success is not going unnoticed. The European common market research community recently announced its intent to abandon large targeted development programs in favor of more basic research and U.S. style university-industry collaboration in furthering the results of this research to the marketplace.

6. Similarly, prompted by the threat of the end to free access to U.S. technology, the most recent Japanese budget increases basic research funding at universities and calls for closer industry-university cooperation in Japan.

7. If any of you are frustrated by the difficulty of technology management — take heart — you are doing what the rest of technological world wishes to duplicate. — Imitation is the sincerest form of flattery.

8. Now to address P.L. 98-620. The Act amends 96-517 as follows:

~~1. Ends the discretionary exclusion~~

Q. It ends Agency discretion to exclude University run Government owned laboratories from the general rule of university/nonprofit ownership of federally-funded inventions. This impacts primarily on ~~the~~ D.O.C. laboratories who are conducting ~~it affects~~ about 3 billion dollars of research annually. ~~Thus~~, Henceforth, the first option

to ownership of inventions resulting from that research will be in the universities/nonprofits managing the labs.

b. As part of the change affecting university/nonprofit contractors of Gov't owned facilities a limit was placed on the amount of royalties that the contractors are entitled to retain.

c. The Act includes the favorable reporting provisions that were developed in OMB Circular A-124. These provisions have been proven to work. Small Bus and Nonprofits are now assured of their continuance beyond Feb. 198 when A-124 is scheduled for sunset expiration.

d. The Act repeals - conditions placed on licensing of inventions by universities/nonprofits.
5 yr. cap — limitations on licensing by pat. management corp.

e. Regulation drafting is consolidated in Commerce — easier to make necessary changes.

f. Definition of invention expanded to cover inventions included in the Plant Variety Act.

g. Prohibits ~~an~~ agency retention of patent rights in any invention made under an educational awards (fellowship, training grant, etc.) ← Important permits fellows on privately funded projects

Foreign Competition

Let me try to put that ~~matter~~ question in context.

When a federally-funded creating organization does not establish a proprietary position in its ideas, the organization is really putting those ideas into the public domain. In the public domain they are freely available not only to American but to foreign industry.

The Japanese especially understand this past policy and continue to exploit it beyond any reasonable expectations. They scour the public domain for our basic research results, bring it back to Japan — add some value to it thus creating their own proprietary position — and then export the products covered worldwide.

Using this technique the Japanese can predict that they will take the lead in all technologies by the end of the decade.

Insert

Our change in policy has had a very visible effect on Japanese R+D policy — recognizing we are moving to close down ~~No~~ access to our publicly funded research ideas and facilities by giving ownership of technology to our creative organizations they have increased funding their own universities basic research facilities and are actively ~~are~~ trying to buy access into ours.

But our federal laboratories are still dealing in the public domain asset and the Japanese are clearly taking advantage of that in places like N.I.H.

There are 1000 foreign ~~investigators~~ ~~at N.I.H.~~ and 700 U.S investigators at N.I.H. Of 1000 foreign investigators 400 are from foreign industry. 100 of these are from Japan and 50 from Germany. Only 10-15 of the U.S investigators are from the U.S industry. ONLY 3 U.S. industry investigators are in Japanese labs.

These dramatic statistics are not going unnoticed at N.I.H.

Dr Wyngaarden the N.I.H director began advising U.S. industry last fall that the P.L. 99-502 creates a whole new environment for U.S. industry investigators at N.I.H.

1st the Act permits N.I.H. to accept U.S. investigators with industry funds to pay for them.

2nd given a delegation to manage technology - N.I.H. can now agree in advance to ~~[illegible]~~ license industry sponsors under ideas developed jointly at N.I.H. with U.S. industry investigators.

3rd With the prospect of royalty return to N.I.H, industry can be better assured that inventions will be identified & patented.

Dr. Wyngaarden's initiatives under the Act clearly intended to correct the imbalance between foreign & U.S investigators at N.I.H. I would further note that Dr. Wyngaarden has the authority under P.L. 99-502 to deny entry into N.I.H. of foreign investigators whose countries do not provide reciprocal treatment to U.S. investigators. Further, the Act leads to the need to require foreign investigators to report inventions made while at N.I.H. for equitable disposition — This is not now done under any stated policy.

we hope other fed. Labs will follow N.I.H's example.

What drives this entrepreneurial revolution? ~~Part the answer starts with John Locke~~ Let me theorize at least to ~~the~~ high-technology entrepreneurship.

John Locke, ~~the~~ was a British philosopher and one of the earliest known supporters of constitutional government. He asserted that constitutional government could only be effective if it ~~guaranteed~~ recognized the natural rights of man including the right to life liberty and property. The recognition of these rights ~~appeared~~ was considered to be the best way to assure prosperity and thus stable government.

~~Locke said that a man has a right in himself and thus in his own labor; in turn he has a right to what "he hath mixed his labor with" or a right to property.~~

Locke's proposition is widely held to be the ~~precursor of the~~ underpinning of the U.S. constitution. While it is unclear whether Locke intended to include intellectual property as part of man's natural right to property, the U.S. constitution gives the Congress the discretion or power to secure for limited times to inventors the exclusive rights to their discoveries. ~~The Congress's action in enacting the patent laws~~ ~~The enactment~~

Congress's enactment of the patent laws evidences their belief that the right to own intellectual property is a natural right of man, and ~~a pre~~ thereby a necessary element for successful constitutional government ~~and democracy~~, ~~[illegible]~~ and the prosperity envisioned by such governments. Similarily state law protects trade secrets.