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INNOVATION SPEECH -- PRELIMINARY NOTES -- JULY 16

- John Locke -- "Man hath a right to what he hath mixed his labors with." Further, the work that he did in order to justify constitutional monarchy ultimately became the foundation of our Constitution.

As far as I can determine, the essence of his protection of constitutional monarchy was that in order for it to survive, individuals had to have the right to Life, Liberty, and Property. (I don't know where that Pursuit of Happiness stuff came from.)

Insert the letter from Madison to Jefferson here. It justified the special treatment for inventors in the Constitution.

The next step is that the Constitution itself gave Congress discretionary authority to take care of inventors by giving them exclusive right to their inventions for a limited period of time.

The Congress actually acted on that and created the Patent System.

Notwithstanding the Constitution, U.S. Common Law provides for assignment rights as a condition of employment.

The next step is the gradual growth of institutions and the capital content of research or invention. The Constitutional presumption of inventor ownership has been blurred and as a result, employed inventors have lost their identity in society.

(Belief) During the 1960's, the public perception of corporations became increasingly negative for a variety of reasons. One of them is that they became faceless institutions rather that the organizations built around key people that the public can recognize.

Enter statistics on the decrease of inventions per Research dollar, with a corresponding increase of U.S. patents going to foreign firms.

People count.
Bottom-up
Innovation/inventor
Management--provide the resources to creative people and get out of the way.

Paul A. Blanchard and Frank B. McDonald's article "Reviewing the Spirit of Enterprise: Role of the Federal Labs," is a timely, well done, ~~and~~ useful chronology and discussion of current issues confronting Federal laboratories. I am grateful for the author~~s~~'s acknowledgement of the Department of Commerce's contribution to the OSTP working group's recommendations on strengthening technology transfer from the Federal laboratories to the private sector. I believe it is important, however, to amplify on part of these recommendations in light of ~~the~~ Irwin Goodwin's ~~footnote identifying~~ editorial note describing the guarantee of at least 15% of any royalty to Government inventor(s) on any development licensed by the laboratory for commercial use as being "controversial."

While the specifics of this recommenation are clearly open to discussion and modification, the following analysis of the principles involved should help to conclude that the recommendation is more "necessary" than "controversial."

1) John Locke, the British philosopher who masterfully built the consensus for western constitutional government established as one of its principles that "a man ~~hath~~ has a right ~~in~~ to what he hath mixed his labor with." Certainly there can be no argument against extending that right ~~should extend~~ to a ~~man~~ person's own ideas and inventions.

2) The United States Constitution builds on Locke's thesis by giving Congress the ~~mandate~~ power to reserve to inventors the exclusive right to their ~~respective~~ inventions as

progress of science and useful

an encouragement to the arts ~~and sciences.~~ (2)

3) Public Laws 96-517 and 98-620, which guarantees ~~the~~ universities and small businesses the right to own~~ership of~~ inventions made by THEIR ~~its~~ inventors in the performance of Federally funded research, qualified university ownership and made it consistent with the constitutional mandate by requiring that royalties be shared with THEIR ~~its~~ inventors. (3)

This was done with university urging as they feared ~~management would funnel~~ these returns WOULD BE FUNNELED away for other purposes, ~~and would~~ thereby destroying the inventor's incentive to participate.

4) The explosion of industry-university collaboration accompanied by the transfer of technology triggered in part by P. L. 96-517 (4) suggested the need to establish similar incentives for technology transfer in the Federal laboratories since they, like universities, ~~were~~ are isolated from the private sector with no compelling need to bridge the gap.

5) The university-industry collaborative experience has not ~~evidenced~~ either a desire or an ability ~~by~~ of industry to bias unversities away from basic research to any great extent. In fact, the relationship has no doubt given universities new frontiers to explore which would not have been otherwise addressed.

6) Public Laws 96-517 and 98-620 do not require royalty-sharing between small business and its inventors since

the goal of ~~such~~ THE business is ~~already~~ to make a profit through the delivery of new products, processes and services to the marketplace. This ~~primary~~ goal seemed to assure a need to share the fruits of commercialization with its inventors through whatever incentive system ~~was~~ IS deemed most appropriate, or face the prospect of ~~their possible loss~~ LOOSING KEY PEOPLE to competitors. New incentive systems to motivate industry employees are one of the key elements fueling the entrepreneurial revolution spreading through the country. It is clear that this kind of FEDERAL LAW SHOULD NOT INTERFERE WITH INDUSTRIAL flexibility ~~should not be interferred with~~ But ~~will not~~ THIS SORT OF FLEXIBILITY CANNOT be developed in nonprofit or public institutions as their goals are not primarily aimed at delivering new products, processes or services to the marketplace ~~nor will present~~ UNLESS laws permit them to do so. The Administration's commitment to strengthening third world intellectual property laws through negotiation is best centered on how they and their inventors can benefit. A failure to address the interests of Federally employed inventors is a dismissal of our heritage and could make our motives suspect in the context of these negotiations.

The need to address the incentives that are necessary to motivate Federally employed inventors to participate in the innovative process is one of the important issues of our day. Dismissing royalty-sharing which is an established policy in unversities as being "controversial" or presuming that government

boards that randomly and insufficiently, if ever, reward inventors ~~is a rejection of our great heritage and an effront to our creative people.~~ does not respond to the problem.

TP - MOREOVER, (A)

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2)

3)

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