Mr. Chakrabarty's Bug

Monday's Supreme Court decision that new, laboratory-produced forms of life can be patented touched on two major controversies, over the economic desirability of patent protection and the social risks of genetic engineering. The court made it clear that it was merely interpreting the intent of Congress, that it was not required to resolve more profound issues. But it nonetheless did bring the two questions, and their relationship to each other, into better focus.

The ruling emphasized — and no doubt this is the reason it received so much attention — that gene-splicing technology, through which new living organisms are created, has in a few short years come out of the experimental laboratories and into commercial application. The micro-organism at issue in the case, which can break down petroleum and could be useful in cleaning up oil spills, was developed by a researcher named Ananda Chakrabarty for General Electric. Since GE applied in 1972 for a patent on Mr. Chakrabarty's invention, there has been a stream of patent applications for protection of other organisms designed for other purposes.

Genetech Corp., for example, has worked with Eli Lilly & Co. to produce a human insulin that could have greater efficacy in controlling diabetes. The new drug interferon, which shows considerable promise for fighting cancer and virus infections, is a product of this technology. There are many other possibilities, development of food plants that take nutrients from the air and do not require fertilizer, for example. By one estimate, some $500 million will be spent this year, mostly by private firms, on gene-splicing research.

The only issue in the Supreme Court's decision was whether Congress intended patent law to extend to such living inventions. A dissenting opinion written by Mr. Justice Brennan, in which Justices White, Marshall and Powell joined, noted that the patent laws "attempt to reconcile this nation's deep-seated antipathy to monopolies with the need to encourage progress." It argued that the court should take care to extend patent protection no further than Congress has provided.

It would be nice if both the courts and the Congress would become more considerate of this "antipathy towards monopoly" in other areas of public policy, the monopoly of the Postal Service, for example, or the anti-competitive effects of petroleum price controls and allocations. Be that as it may, the dissenters argued that the granting of patents is not crucial to the continuance of a specific line of research. And they are probably right about that. Some companies don't even bother to patent inventions on the pragmatic ground that it is easier to protect a non-patented trade secret than a patented one.

However, a pragmatic view also would suggest that patents do represent an important incentive for some researchers. The possibility of a large reward through the licensing of a patent may encourage them to take the large financial risks that pioneering research usually entails. While patent protection may not be crucial, there would seem to be plenty of evidence that it has contributed, on balance, to the march of technology with its enormous yields to the nation's health, comfort and security.

The peripheral issue in the Chakrabarty case was, for lack of a better description, the "morality" of tinkering with living organisms. The People's Business Commission, which filed a friend-of-the-court brief citing all the Frankenstein horrors that might evolve from such research, greeted the decision by saying "The Brave New World that Aldous Huxley warned of is now here."

The court pretty much ignored this line of argument on the grounds that it was only deciding a patent case, not the future of the human race. Of course, the tempest which has swirled around genetic research has raised important issues. Most sober and informed scientists now regard the earlier fears as overblown, but they remain a fit subject for scientific and public policy debate.

That being the case, however, a good argument could be made that the friends of the court were arguing on the wrong side. The ability to patent genetic research will reduce the need for experimenters to maintain secrecy about what is going on in their laboratories purely for commercial reasons. Once protected by patents, they will be able to engage in a more open scientific interchange over both the risks and the benefits of what they are doing, thus enabling the broader public to learn more about what is at stake.

The court didn't settle very much, in reality. But indirectly it confirmed that both the patent laws and genetic engineering have important, and complementary, values.

Meeting of the Minds

President Carter recently promised a group of representatives of Jewish

King Hussein has turned aside past offers to join Camp David, or met

Things

Over Wall St
6/18/80 J-

By Vermont Royster

The Spoilers

It looked like it was going to be a long, dull summer with the Republicans lethargically nominating Ronald Reagan, the Democrats Jimmy Carter. Since there's hardly an ounce of charisma between the two of them the following campaign promised little excitement.

The fate of the Republic, as the saying goes, might hang on the outcome but the spectators didn't expect a breathless drama.

Now things are looking up—or down, depending on how you look at it. Anyway, struggling up from the pit of despond are two potential disrupters of this bucolic political scene, Edward Kennedy and John Anderson. Very appropriate. With revivals this year the toast of Broadway, these two could bring us a new version of Hellzapoppin.

Teddy Kennedy, as you know, is a Democratic candidate for President who couldn't get enough Democratic votes in the primaries to put suspense in the August convention. John Anderson was a Republican who suffered the same fate among the small band of GOP faithful.

They are not alone, of course. When the political season started last fall there were other hopefuls, especially among the Republicans. But as the numbers came up wrong, most of them — John Connally, George Bush, Howard Baker, to mention only a few—accepted their fates quietly if not happily. Not so John Anderson. He gave up on the Republicans but not on his presidential ambitions. He'll let Reagan have the GOP nomination without further fight. But he's fighting to get on enough state ballots so that he can run against both Reagan and Carter as an independent.

Teddy Kennedy isn't ready to abandon the party of his forebears or siblings but he won't abandon it either to Jimmy Carter. He says he intends to fight it out at the Democratic convention if it takes all week. Whether, if defeated there, he will then graciously support Mr. Carter he hasn't said.

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So it may not be such a dull summer after all. At least it will keep the politicians and political journalists busy speculating on what it will all come to.

At the Democratic convention a Kennedy revolt will succeed or it won't. It will be a miracle if it does and miracles hardly ever happen. If it doesn't all Kennedy will have accomplished is to leave Carter with a party more torn by acrimony than it already is. If he does snatch the nomination, it will be a still more tattered prize. Either way the Democratic nomination could be about as valuable as the crown of Louis XVIII.

The Republican convention faces no such battle for the crown. There, as with the Democrats in 1944, the crucial question will be who's to be crown prince, age being