STATEMENT OF
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Technological progress has been playing a major role in propelling the economy forward, especially since the middle of the 18th century. The new element in our society is the growing recognition that new products and new processes are the key to a company's growth, an industry's growth, an nation's growth - and these are dependent on the continuous development of innovations to keep the economic system expanding.

At the present time, the Federal Government is spending at the rate of $26 billion annually on research and development. This constitutes about 65 percent of the research in the United States.

Military and space research and development, which in dollar terms is 70 to 80 percent of all Government-financed research, is concerned - like all other research - with obtaining new knowledge and producing new techniques and products. Although these are concerned with military needs, these actions have civilian applications.

We must recognize the degree to which military research and development is applied to civilian enterprise, and the degree to which it affects the country's resources and its economic development. Throughout the years, many civilian products and techniques have been the direct result of military and space expenditures. Some well-known and often-cited examples are yellow-fever eradication, chlorination of water, nuclear power, modern aircraft, helicopters, space communications, new high temperature alloys, aircraft engines, silicon transistors, new automobile power-steering and suspension systems, anti-icing equipment, battery-powered hand tools, chemical processing equipment and so on.

The disposition of rights resulting from Government research and development can increase monopoly and the concentration of economic power or, alternatively, can spread the resulting benefits throughout our society with consequent benefit to the maintenance of a competitive free enterprise system and more rapid economic growth. The Congress has always recognized these principles and whenever it has spoken, has always provided that the United States Government should acquire title and full right of use and disposition of scientific and technical information obtained and inventions made at its direction and its expense, and in some cases subject to waiver. The basic premise is that inventions should belong to those who pay to have them created.

Although the subject of these hearings has been advertised as Government patent policy, it should be recognized that it is

not concerned with the administration of the Patent Office. The subject we are dealing with involves the disposition of the public's property rights.

It is dismaying therefore, to find that a Department of Commerce Report, "U.S. Technology," issued in draft form in March, 1977, makes the same old, tired, discredited claims we heard years ago to justify the giving away of Government owned rights. The report states that existing Federal patent policies are a hindrance to the commercialization of technology developed with Government funds.

No supporting evidence is given.

The Commerce Department study also complains that the Federal Government's antitrust activities hampers innovation - without any supporting evidence; that Federal patent policy discourages private firms from engaging in R&D projects with the Government with no supporting evidence offered.

In April, 1977, a bill was introduced in the other body (H.R. 6249) and, "I must confess, it is a beaut. This is what a real giveaway should be like. It gives everything away; it doesn't leave even a sliver of meat on the bone."

The bill supposedly includes a narrowly limited right for the government to "march-in" and disrupt the existing business arrangements of an established agency contractor. Although government agencies have had this power for over 14 years, oddly enough, they have never used it.

Given the costs involved, the numbers of patents that might be involved, and the varying interests and expertise of the many Federal agencies in the areas of public interest described in the "march-in" provisions, we think it unrealistic to assume that the public interest would be adequately protected.

The time delays inherent in any ultimately successful exercise of "march-in" rights in a really important case could well be intolerable.

This proposed legislation is one of the most radical, far-reaching and blatant giveaways that I have seen in the many years that I have been a member of the United States Senate.