They concede that the biggest hurdle to overcomie is the weight of conventional wisdom. It goes something like this. Such a bill would permit the founding of monopolies that can charge high prices for the fruits of tax-aided research. It's a free lunch, say the critics, and it's not fair. One Senate aide who was skeptical of the bill put it this way. “At the stroke of a pen,” he said, “you are creating billions of dollars of property that did not exist before, property that is created with taxpayer support. We are not about to jump on the bandwagon. We have an obligation to the public and to other patent holders. We want to make sure this is good public policy before we start touting its wonders.”

For more than 30 years, the government has operated on the assumption that the economic rewards from federally funded R & D should be captured by the government, or shared only grudgingly with others, since public funds were used. Hence, the government’s collection of 30,000 patents. That policy, however, has not produced an astounding record of economic returns, and the conventional wisdom on public money and private gain may be in the midst of change. The innovation “lag,” moreover, is becoming pop drama, as evidenced not only by the Administration’s domestic policy review but by media coverage such as the 4 June Newsweek cover story on innovation, subtitled “Has America lost its edge?” The winds of opinion are shifting. It may no longer take a leap of logic to see that good public policy might include a modicum of private gain, especially when the alternative is patent portfolios that gather dust on government shelves.

—William J. Broad

Whistle Blower Reinstated at HEW

For more than a decade, Norman J. Latker, while working as patent counsel for HEW, urged the department to give the patents derived from HEW-funded research back to the universities that originally did the work. During this time, HEW patent policy became a model for many federal agencies. Then, last December, Latker was bounced out of government service after denouncing an attempt by his superiors to put a lid on patent transfers. He has now, however, been reinstated.

Latker returned to his post as HEW patent counsel at the end of July. The action was called for by a civil service review board that overturned Latker’s firing on procedural grounds. HEW, which hedged for 1 month before commenting on the action of the review board, has decided not to appeal the ruling.

The reinstatement is timely. Support is now building for the Bayh-Dole patent bill, and Latker’s return to HEW is seen by many university researchers and patent-transfer fans, to whom Latker is something of a hero, as a shot in the arm for their cause.

Latker is anything but a revolutionary. A 22-year veteran of government service, with 15 of them in HEW’s patent office, he is credited with helping develop such mild-mannered innovations as Institutional Patent Agreements (IPA), which aid the fans, to whom Latker is something of a hero, as a shot in the arm for their cause.

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