

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 than 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 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 ^{editorial Note describing} ~~footnote~~ identifying 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 recommendation are clearly open to discuss^{ION} and^A modification, the following analysis of the principle^S 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 man ^{has} hath a right ^{to} in what he hath mixed his labor with. ¹⁾ Certainly there can be no argument ^{against extending} that that right ~~should extend~~ ^{PERSON'S} to a man's own ideas and inventions.
- 2) The United States Constitution builds on Locke's thesis by giving Congress the ^{power} mandate 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 ownership of inventions made by ~~its~~ ^{THEIR} 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 ~~its~~ ^{THEIR} inventors. (3)

This was done with university urging as they feared ~~management would funnel~~ ^{WOULD BE FUNNELLED} these returns away for other purposes, and ~~would~~ ^{ING} thereby destroy 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 (8) suggested the need to establish similar incentives for technology transfer in the Federal laboratories since they, like universities, ^{once} were 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 ^{of} by industry to bias universities 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

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the goal of ~~such~~ 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~~ ^{LOSING KEY PEOPLE} loss 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
~~FEDERAL LAW SHOULD NOT INTERFERE WITH~~
that this kind of flexibility ~~should not be interfered~~
~~with~~ ^{THIS SORT OF FLEXIBILITY CANNOT} ~~but will not~~ be developed in nonprofit or public
institutions as their goals are not primarily aimed at
delivering new products, processes or services to the
marketplace ~~not will present~~ ^{UNLESS} law permit them to do so.

~~xx~~ 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
universities as being "controversial" or presuming that government

INDUSTRIAL

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boards that randomly and insufficiently, if ever, reward
inventors ~~is a rejection of our great heritage and an affront to~~
~~our creative people.~~

does not respond to the problem.

TP. MOREOVER,

(A)

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2)

3)

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