

The Lance



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EDITORIAL

Does Life Have A Dollar Value?

In recent years much has been accomplished in the areas including genetic manipulation and the development of life in a laboratory. In many cases, scientists who make these discoveries have been praised by half of the population and scorned by the other half.

Since each person has a slightly different opinion from the next person, it is pointless to use this space to try and convince you to support any opinion which differs from your own.

However, a startling decision in this field is a recent U.S. Supreme Court decision. In October of this year, the Supreme Court handed down a decision which granted patent rights to any life forms. Therefore, developers now have not only patent rights to the process, but patent rights to the life form, itself. Below is an article reprinted from The Washington Post which summarizes the Court's decision.

By Bill Richards
Washington Post Staff Writer

A federal patent appeals court ruled yesterday that an industry can patent and own certain forms of life it develops. The cautious decision could have sweeping effects on the scientific and business communities.

The ruling by the U.S. Court of Customs and Patent Appeals allows the Upjohn Co., the pharmaceutical manufacturer in Kalamazoo, Mich., to patent a type of microorganism known as streptomyces vellosus that the company uses to produce an antibiotic called lincomycin.

The court's 3-to-2 ruling in favor of Upjohn opens the way for a broad spectrum of food and drug manufacturers who work with microorganisms to claim new forms of life they develop as their own.

The ruling could also affect scientists seeking to develop new types of life in the laboratory by tinkering with DNA (deoxyribonucleic acid), one of the basic building blocks of life. Some scientists and politicians have expressed fears that DNA research may create genetic monstrosities or new diseases, but others see the research as an opportunity to produce new forms of drugs and food plants.

Before yesterday's decision the only forms of life which could be patented were certain plants and seeds which fall under the federal Plant Patent Act of 1930.

All other requests by industries to patent life forms they develop had been rejected by patent officials as not conforming to the patent law categories. The categories are defined in the law as "any new and useful process, machine, manufacture or composition of matter, or any new and useful improvement thereof."

In deciding yesterday, the appeals court rejected the argument of a lower patent board that since microorganisms are alive they cannot conform to the agency's legal categories.

At present Upjohn and other companies place newly developed strains of microorganisms into a "bank" where any other firm can withdraw them and use them if it wishes.

"Microorganisms have come to be important tools in the chemical industry, especially the pharmaceutical branch thereof," said the court. "And when a new and useful tangible industrial tool is invented...we do not see any reason to deprive it or its creator or owner of the protection and advantages of the patent system."

The court called "far-fetched" fears expressed by the lower patent board that its ruling could open up patent attempts for new and useful species of plants, animals and insects created by man. But the ruling did not totally rule out such patents.

Patent law experts here yesterday declined to speculate on just how far the court's ruling throws open the door to private ownership of forms of life until they had a chance to study the ruling.

However, Upjohn officials were exultant, and said the effects of the ruling could be extremely far-reaching. "You are talking about some very big areas like foods and beverages and pharmaceuticals," said John Kekich, an Upjohn patent attorney, in a telephone interview from the firm's headquarters.

"If you can come up with new or different forms of life and they can be used in a manufacturing process, I think you could at least make a claim they fall within the statutory limits," Kekich said.

The Upjohn attorney noted, however, that the court took a deliberately cautious approach to its ruling. "It's a step in a whole new direction," said Kekich, "but I don't think there will be radical changes, at least for the present."

From the Washington Post, Friday, Oct. 7, 1977

Failures Of The System

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CRIME & JUSTICE

COURSES BY NEWSPAPER

When neighbors committed minor offenses, the courts had recourse to fines or to the whip, or, more commonly, to shaming the offender by displaying him in the stocks. The local jails served only the purpose of detaining those charged with a crime until time of trial.

The colonists, as tough-minded Calvinists, did not anticipate the reformation of the criminal or the eradication of crime. And they understood, too, how limited their powers were: if a whipping did not deter the offender, there was little they could do, little, that is, except have recourse to the gallows. The result was an unbalanced system, vacillating between harsh and mild punishments.

Such procedures could not survive the growth of cities, or the rise in the number of immigrants, and the frequency of migrations westward in the early 19th Century. With the insularity of the community destroyed, and with Enlightenment and republican ideology making capital punishment seem a barbaric remnant of a cruder age, some kind of new sanctions would have to be created.

REFORM AND REHABILITATION

That the alternative became the penitentiary reflects the very special outlook of its founders, the Jacksonian reformers of the 1820s and 1830s. These innovators shared grandiose ambitions. They would not merely deter but eliminate crime; they would not punish but reform the criminal. The Jacksonians were the first to announce the theme that would persist to our own day: prisons should be places of rehabilitation.

These reformers were at once optimistic about the perfectability of man and pessimistic about the ability of a democratic society to cohere. Criminal behavior, they reasoned, reflected the faulty organization of society. Judging their own cities by exaggerated notions of the stability of colonial towns, they saw the easy morals of the theaters and saloons replacing the authority of the family and the church.

To counter what they took to be this rampant disorder, they invented the penitentiary. It was to be a model, almost utopian community that would both inspire the society and, at the same time, instill habits of obedience and regularity in its inmates.

From these notions the

penitentiary took its first form. To isolate the inmate from all contaminating influences, prisons were not only located at a distance from the cities, with visits and mail discouraged, but prisoners, living one to a cell, were under strict rules of silence. A bell-ringing punctuality prevailed. At the sound of a gong, inmates marched in lock step to work, then to eat, and then returned to their isolation.

As acute an observer as Alexis de Tocqueville concluded: "The regularity of a uniform life...produces a deep impression on his mind." If the inmate was not released an honest man, at the least "he has contracted honest habits."

FAILURE OF THE SYSTEM

It did not take long, however, for the good order of the prisons to degenerate. By the 1850s, even more clearly by the 1880s, the institutions became overcrowded, brutal, and corrupting places. State investigations uncovered countless examples of inhumane treatment - prisoners hung by their thumbs or stretched out on the rack. Clearly, incarceration was not reforming the deviant, let alone eradicating crime.

And yet, the system persisted. Part of the reason may reflect the seeming practicality of confinement; at least for a time the incapacitation of the offender protected society. Further, the prisons were filled with immigrants (first with Irish, later Eastern Europeans, still later the blacks). The confinement of a group that was both "alien" and "deviant" seemed appropriate, no matter how unsatisfactory prison conditions were.

NEW REFORMS

But such functional considerations were not as central to the continuing legitimacy of incarceration as the persistence of reformers' hopes that prisons could rehabilitate the offender. Each successive generation of well-intentioned citizens set out to upgrade the penitentiary. The problem was not with the idea of incarceration but with its implementation.

Thus, the Progressives in the period 1900-1920 tried to

"normalize" the prison environment. They abolished the rules of silence, the lock step, and the striped uniforms and looked instead to freedom of the yard, prison orchestras, schools, and vocational education to rehabilitate the deviant.

In the 1920s and 1930s psychologists urged the adoption of more sophisticated systems of classification so that prisoners could be counseled on an individual basis. New modalities of therapy would readjust the deviant to his environment.

Both groups of reformers welcomed the indeterminate sentence and parole. Rather than have a judge pass a sentence at time of trial, the offender should enter a program as a patient would enter a hospital. When he was cured, not before and not later, he would be released.

Again and again, the translation of these programs into practice was disappointing. No matter how hard the effort, prisons could not become normal communities. Classification schemes were not well implemented; parole became a guessing game; anything but scientific order in its decisions.

Nevertheless, each time a prison riot occurred or another example of brutality was uncovered, reformers insisted that the fault lay with the poor administration of the system, not with the system itself. Eager to do something determined to rehabilitate the deviant, they continued to try to transform the prison into a place of reformation.

NEW GOALS

Beginning in the mid-1960s a new generation of reformers began to question the very idea of incarceration. For the first time, well-intentioned observers began to wonder whether the basic concept of the prison was faulty. The reformers were frank about their inability to understand the roots of deviancy or how to rehabilitate the deviant.

Armed with so few answers and suspicious of inherited truths, they contended that punishment should aim, not to do good, but to reduce harm. That a system of sanctions should abandon grandiose goals and try to avoid mischief. Perhaps fixed sentences of short duration to the average goal of punishing the criminal would create a more just

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Calendar

Building, all day; Student Union Lounge reserved by ARA; Thursday Nite Poetry Series (this week only): Presents: Dr. Warren Carrier, 7:30 p.m., Granville; Election Day.

WEDNESDAY - Navy Recruiters on Campus: Student Union Building, all day; CCC: Lunch Forum, 12-1:30 p.m.; CCC: Workshop Services

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