

*Encl. to: Glover & Russell
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THE UNIVERSITY OF WISCONSIN
COLLEGE OF AGRICULTURE

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MADISON

October 28, 1925.

Dean H. L. Russell,
Hotel de Pekin,
Pekin, China.

Dear Dean Russell:

We are inclosing herewith a letter just received from Mr. Glover. You will note that he seems to have a decidedly different point of view than he did when you talked with him at Fort Atkinson.

In this connection I should mention that since you left, both Hatch and Hart have talked with me, of their own volition, about the same matter. ^{This was about a month ago.} Neither of them had talked with the other, or with Glover, so far as I know, but the points of view of all of these three men are much the same, though differing on some aspects of the matter.

The more I think about this proposition, the more I agree with them. Therefore, I believe that you should be acquainted with our views. Of course in acknowledging the receipt of the letter from Mr. Glover, I have not stated my views or the opinions of Hatch or Hart. I merely said I was forwarding the letter to you and mentioned that I would be glad to talk this matter over with Glover some time.

In considering this whole problem, there are two separate matters which are entirely distinct, it seems to me.

Patenting of experiment station results.

You will note that Glover has apparently come to the point of view that experiment station results should not be patented. Quite possibly he would admit that in certain cases

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a discovery, even made as a result of regular experiment station research, should be patented if a patent were necessary to protect the discovery against unwise or fraudulent^{use} use. However, he does not go into this phase of the matter at all in his letter.

Hatch, Hart and I all feel that, without any question, in certain instances it is undoubtedly wise to patent an experiment station discovery when necessary to protect the results from unwise or fraudulent use. I am also willing to admit that in certain cases it would be proper to license the use of a patent on a royalty basis, as a revenue producer. I believe Hart agrees with this point of view, while Hatch doubts very much the wisdom of the College receiving revenue from the licensing of patents secured upon experiment station research.

All of us feel that it would be unwise for any large part, or even any important part, of our experiment station research results to be patented. We are inclined to agree with Glover "why should the public devote money to discovering new truths only to permit them to be patented and their use determined by some corporation? It seems to me that information discovered by the use of public money belongs to the public....." We feel that the University has, even from a monetary basis, secured much more value from Doctor Babcock's giving his invention freely to the world than would have been secured by the institution had he patented it and turned the patent over to the University, and then licenses granted to commercial concerns on a royalty basis. As you of course will admit, the Babcock Test is still used universally when anyone wants to show the value of University research to

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the State and the monetary saving made possible by such research to our people. If the test had been patented and licensed, little could have been said along this line.

Under such conditions the public would have paid, and paid well, for the use of the Babcock Test. Any patented article will sell at a materially higher price than it would without the monopoly created by the ~~monopoly~~ protection of the patent. The price will be much higher than the income which is added by the royalty, for naturally any corporation will pay a royalty only with the hope of thereby greatly increasing their profits. The effect of a royalty payment on the price, ^{would} it seems to me, be a good deal like the effect of a sales tax.

Doubtless you are saying, "It has never been the idea to encourage the patenting of any considerable portion of experiment station discoveries". Hatch and Hart both feel, however, that if the Agricultural College is definitely committed to the idea of encouraging a research foundation to administer patents assigned to the University, many staff members will be naturally led to wish to patent the results of discoveries they make in their experiment station endeavors, and perhaps even to direct their research along the lines in which patents might be secured. Quite probably this would be the trend, for as I understand the matter, the inventor would, under the general plan, probably receive some share of the royalties earned by the patent.

From an ethical standpoint, I will admit that a man who makes a patentable discovery is as much entitled to a royalty upon it, even if the discovery was made on University time in

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University laboratories, as the man who writes books on University time and at University expense, as many books are written in the University, is entitled to a royalty on such books. However, custom approves the writing of books by educators and scientists and the securing of copyrights upon such productions, even though the author receives a financial reward.

Will our public approve the policy of experiment station workers prosecuting their research at state and federal expense and then the institution and the worker receiving financial reward through the patenting of discoveries in such work? Since we are a state institution, with the funds for our research primarily dependent upon state appropriation, this is an important question.

Irradiation of oleo.

The other problem is entirely different. If patents are secured on the Steenbock irradiation process, should any license be granted to the oleo interests for the irradiation of butter substitutes?

Glover does not touch upon this matter in his letter, though I would be willing to wager that it is important in his mind. Both Hatch and Hart feel very strongly indeed on this matter. They both feel that serious results to the College might follow if such a step was taken.

In discussing this matter with me you have used the argument, "We must follow where truth leads." I cannot see that this argument is a vital one in this connection. I might reply "Truth is free," and not sold on a royalty basis. I

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do not maintain that this quotation is an argument in the matter, but I believe it is about as good an argument as the first quotation.

We feel that it would be entirely ethical and moral to license the irradiation of other food stuffs or therapeutic agents, and yet withhold a license to concerns desiring to irradiate butter substitutes.

The entire principle of our protective ^{tariff} means that from the standpoint of national economy we are committed to the policy of placing a tariff wall against the competition of certain other countries or sections of the world, merely to protect our people in their present standard of living. In many cases the tariff wall is undoubtedly a virtual embargo on importation.

From a similar standpoint we believe that we would be justified in withholding any license for the irradiation of oleomargarine, simply as a protection to Wisconsin's main agricultural industry.

The prosperity of our farmers is so vitally connected with the success of dairying, that any act of ours which might injure dairying, or even apparently injure it would, we believe, be most serious for us. For such results it would not be necessary that an actual serious harm resulted to the dairy industry. If our constituency gained the idea that we had "sold out" to the oleo interests, I wonder what the result would be. Personally I feel that the College would be in a more serious situation than it has ever been before. Hart and Hatch also feel that this would be an extremely serious matter.

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If human suffering could be alleviated only by licensing the irradiation of oleomargarine, then I will agree that we would be remiss in our duty if we opposed it, even though it might be detrimental to the financial welfare of the College. However, it is not necessary for people to secure the anti-rachitic property in oleomargarine. When they use dairy products in reasonable abundance, there is usually little or no lack of the anti-rachitic properties, where there is a lack of this property, as in case of infants, the anti-rachitic "vitamine" can be supplied by the use of other irradiated food stuffs, such as irradiated cereals, or irradiated oils, used as a substitute for cod-liver oil. Therefore, it seems clear to me that a refusal to license the irradiation of oleomargarine will not be detrimental to human welfare,

I am writing very frankly concerning this matter, because I feel it would be unwise for the patents to be turned over to an independent alumni organization, with no possibility of the College having anything to say as to the disposition of such patents. In other words, the licensing of concerns to operate under these patents would, as I understand it, be entirely in the hands of the Board of Directors of this corporation. These men would be capitalists and they would naturally have the capitalistic point of view, instead of the viewpoint of the farmer, and especially of the Wisconsin farmer.

It would be natural to suppose that they would be actuated by high business motives, on account of the character of the men who would be interested in this sort of a proposition.

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However, it is also a reasonable inference that a group of "big business men" may be primarily interested in securing as large revenues as possible from the patents, of course at all times keeping within general limits of good business ethics.

Sommer's discovery.

I intended to mention in connection with the report on the Regent meeting, and especially the ice cream hardening equipment matter, that Sommer has made an ingenious discovery in ice cream manufacture.

He has found that by adding a trace of sodium citrate to the mix, the amount of time required to whip the mix to the proper bulk in the freezing process can be cut nearly in half. In the past it has been possible to freeze the mixture much more rapidly than it could be whipped to the proper bulk. Consequently, the capacity of the freezing machines has been much less than would have been possible if they were as efficient at increasing the bulk as they were at freezing the mix.

By means of this addition of sodium citrate, Sommer believes that the time of freezing ice cream in the batch freezers which are now commonly used can be cut nearly in two, with a consequent saving of labor and some saving in operating expenses. It may also be possible to develop a continuous ice cream machine which will produce sufficient bulk in the ice cream. The continuous machines which were formerly used quite widely have now largely been given up, because they did not produce enough "swell" in the finished product, and of course ice cream is sold by measure instead of by weight in most states.

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I talked over with Professor Farrington, Professor Hart, and Professor Hatch, all independently, the question as to whether we had better have Sommer make out patent application on this change in the process. All of them felt that, first of all, it would be a very difficult patent to enforce. Sodium citrate is a common chemical and only a trace of it is used. Therefore, the securing of any royalty by licensing ice cream plants would be difficult, quite probably. Furthermore, all of them felt that on such a minor invention or discovery as this, it was certainly much better for us to give it freely to the public than to attempt to patent it.

Therefore, I talked the matter over again with Sommer and he concurred with us in the matter. He is getting a statement in shape for publication in a scientific journal, so as to spike down the priority in the process.

Perhaps I should have used my influence along the line of attempting to secure a patent on this discovery, to be assigned to the foundation to be created. However, since my own point of view coincided with that of the three men I have mentioned, (and I did not try and influence them in their opinions) I took the action I did.

I thought I would write you frankly about these matters since they have been on my mind quite a bit.

Yours sincerely,

J. B. Morrison