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JOSHUA LEDERBERG
PRESIDENT

November 3, 1986

Dr. Gary Ellis
Congress of the United States
Office of Technology Assessment
Washington, D.C. 20510

Dear Dr. Ellis:

I appreciated the opportunity to serve with the panel on new developments in biotechnology on October 30th.

On the issue options following page 27 there is one other alternative that might be helpful in reconciling many divergent concerns. I am quite fearful of the murkiness of a concept of title that would flow to the progeny of cells and make it necessary to have an audit trail of certificates of ownership to legitimize continued experimentation on derivative cell lines.

So an option for further consideration is that any cell line be presumed to be in the public domain unless it had been formally registered at the time the tissue was extracted or was placed into culture. That presumption would bar anyone else from claiming property rights on the cell line. The patent and similar systems could still apply for further inventions made in developing applications of that material. While this would not directly compensate the donor, it would relieve any sense of invidious exploitation that someone else has taken over that original property right.

It may or may not prove to be necessary to recommend specific legislation toward this end. If consent forms were encouraged to include a phrase that tissues taken for research purposes would be presumed to be in the public domain that might be enough to set a common standard of behavior.

The doctrine suggested is hardly a revolutionary one: it is the same that underlies our patent system, that an act of regis-

tration is necessary to secure orderly protection of intellectual property. The act of donating a tissue specimen would be akin to that of publication, i.e. dedication for common use.

Yours sincerely,

Joshua Lederberg

bc: W.H. Griesar