

# Encouraging Invention and Applied Science in America and the Republic of China

An Address by David Rines  
Attorney

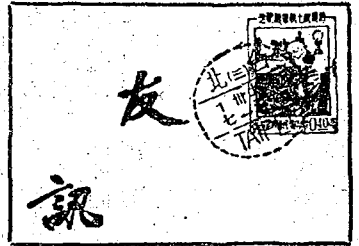
Rines and Rines Boston, Massachusetts  
Chiao Tung University, Taipei June 12th, 1969

本講詞係 Mr. Rines 在交大所講。經渠之請求，本學年度將入交大博士班研究，正由教育部核定中，此為外人申請入中國博士班研究，空前之舉，亦母校之光榮也。

Mr. President, Faculty, Students and Friends of the Chiao Tung University, Ladies and Gentlemen:

By associating their names with the institution and programs of applied research that you and National Taiwan University are inaugurating, you are honoring three individuals: Dr. Lan Jen Chu, who became my valued client a third of a century ago; my son, Robert H. Rines, who, upon his return from the war, a quarter of a century ago, became associated with me in our patent-law practice; and myself. We sincerely appreciate the honor. Dr. Chu and my son believe that I have a message to deliver to you and I have come halfway around the world to deliver it.

As background of my qualifications to deliver this message, you ought to be informed that I was at one time a professional scientist, an astronomer, engaged in research; and, for the last 50 years and more, I have been a patent lawyer. I have had the privilege, as such lawyer, of protecting others in the inventions that they made in the course of their researches. Since you are dedicating this institution to the future of research in your own country, you may perhaps be interested in what I have to say as the result of my experiences.



## 王章清學長返台 榮任交通部政次

王章清學長今年三月，獲美國艾森豪獎學金，半年前偕夫人赴美考察，已定於九月間返臺。並榮任交通部政務次長。  
王學長原任臺灣省公共工程局長兼臺北市改制後首屆工務局長，對公共工程建設，貢獻卓著。

## 歐陽藻學長當仁不讓 義不容辭母校執教

旅美歐陽藻學長今春在子女親

友慶祝中退休，並捐助交大獎學金二千美金，正擬優遊林下，詩書自娛，母校劉院長浩春自友聲獲悉，特飛函美國禮邀歐陽學長返臺執教，經在美趨會晤，楊天一、陳榮淦諸學長多方促駕，歐陽學長衡諸「當仁不讓」明訓，已惠允在母校擔任客座教授一學年。並訂於十月初二日抵臺北。母校教授陣容將更為堅強矣。

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ead to North America; but in this case, the mother country, England, prevailed. There was nothing in the history of my country, therefore, corresponding to your Japanese sovereignty, and the American settlers remained colonists of the mother country. There is, also, however, the further parallel that the American colonists gained their freedom at the end of a long war, the Revolutionary War of 1776 to 1782. And corresponding to the additional immigration that you acquired beginning with the year 1949. America has received many further immigrants from all parts of the world in more recent years.

There are still additional interesting parallels between your country and mine. As one illustration, your first head of state was (and still is) a military leader whose military exploits contributed to the gaining of your freedom from the Japanese. Our own first head of state was similarly a military leader whose military exploits led to the establishment of the United States. As a second illustration, upon your separation from Japan, you set up a Constitution. My country did the same. The Constitution that my country adopted was drafted after some period of debate by the country's leading citizens, persons who were delegated to meet at a Constitutional Convention for the very purpose of performing that task. They have in later years been affectionately described by their descendents and successors as the founding fathers of the new nation.

One of the items that those delegates at the Constitutional Convention considered to be very important for the future welfare of the new country, —so important, indeed, as to cause them to embody it in that fundamental document, the United States Constitution, —was the encouragement of inventors to invent. Different delegates to the Constitutional Convention entertained different ideas as to the manner in which to effect that encouragement. One proposal, for example, was "by proper premiums and provisions". Another proposal,

I regret my inability to speak to you in Chinese, and I trust that you will pardon me, therefore, for talking to you in my own language. I am the more reconciled to this in that I am informed that most of you have acquired a good working knowledge of English. In this respect, you are far superior linguistically to us in America.

Though my interest in the Orient dates back more than sixty years. I have not followed events in your little island of Taiwan as closely as I could have wished had I had more leisure in which to study those events. I recall, however, that your island became settled, several centuries ago, in considerable measure by venturesome spirits from the mainland, who were dissatisfied with conditions at home, and, therefore, sought a better life here. I recall further that these early settlers never regarded themselves, however, as other than members of the Chinese race, kin to those whom they left behind at home; in fact, the mother country regarded this island as a colony. I recall also that, in the 1890's, there was war between the mother country and Japan, which resulted in the Japanese taking over the sovereignty, whereupon Taiwan—then Formosa—became a colony of Japan. This Japanese sovereignty continued until this island regained its freedom at the end of the second world war. I know also that your early settlers acquired fresh blood, but still of the same Chinese race, beginning with the year 1949.

Based upon my knowledge of your history, meagre though it is, however, I have found a number of remarkable parallels between your country and mine.

My country, the United States, too, was settled, several centuries ago, and about the very same time that your own settlers came here from the mainland, and very largely by emigrants from their mother, country, Great Britain. These early emigrants, too, considered themselves to be part of the same people as those whom they left behind, in Great Britain. Your Japanese war finds something of a parallel in the European wars between the English and the French, which spr-

France during our Revolutionary War. At a later time, he became the third President of the United States. But he was considerably more than merely a statesman. He was one of a group of men of so exceptional qualifications that without them it is doubtful whether the new nation could have become even launched. Besides his statesmanship, he was also a competent scientist, a naturalist, and also even an inventor (though, like Benjamin Franklin, another extraordinary person of that group, he refused to patent his own inventions).

It was under the guidance of this remarkable individual, Thomas Jefferson, therefore, that the patent system of the United States had its beginnings.

It should be clearly understood, however, that Jefferson was decidedly not a monopolist. Quite the contrary. His aim, as was also that of his contemporaries, was, not to encourage monopoly, but to encourage invention. He and they did not, however, regard a patent for a true invention as, in any proper sense of the term, a monopoly. And so it has many times since been held by the United States Supreme Court. A monopoly takes away from the public what it has previously possessed. But an inventor does not take away from the public anything that it had previously possessed. On the contrary, the true inventor gives the public something that it had never previously possessed.

And the patent grant is for a limited time only, at the end of which the public becomes endowed with the right to use the invention freely forever thereafter, without restrictions of any kind whatsoever.

In Jefferson's own words,

"Certainly an inventor ought to be allowed a right to the benefit of his invention for some certain time."

That "certain time" is necessary to enable the inventor to recoup the expenses that he was subjected to during his

which, in fact, was the proposal that was ultimately written into the Constitution itself, was that

"Congress shall have power to promote the progress of science and useful arts by securing for limited times to..... inventors the exclusive right to their..... discoveries."

It should be noted that, though the delegates to the Constitutional Convention had varying ideas as to the manner in which to bring about the encouragement of invention, there was no difference whatever among them as to the desirability of that encouragement. Of that desirability they were all agreed; there was not even any debate as to that matter.

Here, too, there is a parallel. Your laws embody a similar provision as to the encouragement of invention.

How important the new nation, the United States, considered to be the task of encouraging invention may be gathered from the fact that a patent law was enacted, under the authority conferred upon it by the new Constitution, by the very first Congress. Not only that, but also the duty to administer that first patent law was entrusted to a patent board constituted of three of the highest officials of the new government: the Secretary of State, the Secretary of War, and the Attorney General. As further indication of the importance that was placed upon this task of encouraging invention, the patents the grant of which the patent board approved, were signed by the President of the United States, George Washington, and also by the Secretary of State. It was also the duty of the highest court in the land, the United States Supreme Court, to pass finally, in an infringement suit, upon the validity of the patents that were thus granted.

The first Secretary of State was a very famous man, by name of Thomas Jefferson. Before assuming the office of the Secretaryship of State, he had authored our Declaration of Independence, and he had also served as our Ambassador to

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experimentation and development of the invention, to sustain him in his unsuccessful experiments along the route to successful invention, and to encourage persons with capital to invest in the invention, in order to exploit it commercially. In the case of the United States, that certain limited time is seventeen years from the date of the patent grant; and here, in Taiwan, it is presently fifteen years from the date of the patent application.

The purpose of the founding fathers of the United States, in laying down this provision for encouraging invention, was decidedly not in order to enrich inventors. It was rather to enhance the public good, in order, using the language of the Constitution, "to promote the progress of science and useful arts." Such enrichment, if any, as inventors may happen to derive from their patents is merely incidental, the main object, however, being to enable the public to enjoy the benefits of inventions which it otherwise would not have.

Two of these benefits may be mentioned here: first, the inventions contribute to the prosperity of the country; and, secondly, they provide advantages in coping with the enemy in war. With respect to the first of these two benefits, your industries, at the present time, are made competitive with those of other nations by reason of low labor costs. By means of inventions, however, you may become enabled to increase your payments to labor without sacrificing your competitive position. As to the second of those two benefits, it is sufficient to invite attention to a prediction, on June 18th, 1943, of the National Patent Planning Commission, appointed by President Franklin D. Roosevelt of the United States, that

"the outcome of this war, more than any previous war, will depend upon continuous superiority in science and invention."

How well this prophecy was later fulfilled!

(未完下期續刊)