

David Kearns was the former chief executive officer of the Xerox Corporation who, during the 1980s, led that corporation to win back the copying market from the Japanese. Along the way, he found time to become America's most effective business leader who was a champion of education reform, especially for pushing new technology into schools. He served as Deputy Education Secretary under the first President Bush while I was the Secretary of Education in 1991, 1992 and 1993.

I remember first meeting David Kearns in 1990, when I was president of the University of Tennessee and had my office in Knoxville. He came into my office, and on the way he said hello to every single person in the outer office, and every single other person he met while I was there. And he remembered every single one of their names. I didn't forget that, and they didn't forget him. When David Kearns left the University of Tennessee from that visit I bought his book about education reform and read it.

Later that year, President Bush called me and asked me to become his Education Secretary. I asked the President if I could put together my own team, subject to his approval, and then if we could put together our own plan, subject to his approval. Those were two of the smartest questions I ever asked, because that meant I didn't have to go through the White House staff to get the team cleared or the policy cleared. I could go directly to the President. And as soon as I had that permission, I called David Kearns and asked him if he would be willing to be the Deputy Secretary of Education in the U.S. Department of Education.

I knew it would be hard to persuade him to do so. He was at the peak of his career. He had just retired as one of America's best known business leaders. His friends said: Why in the world would you go into the government and subject yourself to all that abuse and take a secondary position in a minor department? I asked President Bush to call David Kearns and recruit him, and he did, appealing to his patriotism. They both served in World War II.

David had such a passion for education, he came on board, and it was terrific that he did. It was a privilege to work with such an accomplished executive. Employees in the Department of Education loved having him around. Having him there helped recruit a distinguished team of leaders for the Department and we put together what we thought, over 2 years, was a pretty impressive program working with President Bush.

Some of the ideas sound very familiar today, especially to former Governors. One idea was break-the-mold schools. Today we call them charter schools, or start-from-scratch schools. The thought was to have one in each congressional district—535 of them—funded by \$1 million of seed money from the Federal Government.

To support those schools, we created a new American Schools Development

Corporation, and with David's leadership raised \$70 million in private capital for that. That attracted hundreds of design teams from around the country with ideas for how to create better schools. President Bush hosted a number of America's business leaders at Camp David to help make that happen.

We worked with Diane Ravitch to create an effort to implement standards for the national education goals that President Bush had helped to set in 1987 with the Nation's Governors. These were the goals for math, science, history, English, and geography, and we took important steps toward that. Today, the common standards States are adopting owe some of their beginnings to those efforts.

We established commissions to look at extending the school day. We pushed for technology in the schools. The President proposed in 1992 a GI bill for kids, which would give scholarships to poor kids so they could choose any school, public or private or religious, so they could have more of the same choices of good schools that kids with money had.

By the time we left in 1993, every State in America had their own version of America 2000—it was Tennessee 2000 or New Hampshire 2000 or Kansas 2000—moving toward the educational goals community by community. None of that would have happened without David Kearns' enthusiasm, skill, and leadership.

In 1992, during a riot over Rodney King in Los Angeles, President Bush sent David to represent him. David had a strong background in civil rights. While he was there, he telephoned me and said: This is the hardest phone call I have ever had to make. I have cancer. He had just discovered he had cancer of the sinus. When he came back, he had an operation and the operation gradually destroyed his eyesight.

That was 20 years ago, but it didn't stop David Kearns. During that time, he created the Kearns Center for Leadership at the University of Rochester, where he graduated and served as trustee for many years. Then to help him get around, because he couldn't see, or could barely see, he invited a young man each year to go with him and help him see and do what he needed to do. For those young men—nearly 20 over the last 20 years—that has been a remarkable opportunity to be in the presence of one of America's great mentors at an early stage in their lives.

Everyone who knew David Kearns admired him and loved him. A few days ago, I spoke with Shirley Kearns, David's wife of 56 years, and reminded her of what she already knows: how much David's friendship meant to me. Honey and I will be thinking of them today and tomorrow in Rochester. We will be thinking about Shirley, their 4 daughters, 2 sons, and 18 grandchildren.

For me, one story sums up David Kearns' life better than others. I think back to 1995, when I was in Utah. I was

trying to persuade Republicans that I was their natural nominee for President of the United States. I wasn't successful in that, but I was enthusiastic about it. I had made to a Republican group what I thought was an especially good speech. During the speech, I talked about my work in the U.S. Department of Education and I talked about David Kearns—about his leadership and about how he helped do all the things I have just mentioned. After the speech, an enthusiastic Republican lady came up to me and said: That was a wonderful speech. Thank you very much, I said. Now I know who should be President, she said. Well, thank you, I said. She smiled and said: David Kearns. That was the opinion that she and I and almost everyone who met him had of David Kearns, whose 80 years in this country have been very special.

I thank the Presiding Officer, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. BURR. Madam President, are we in morning business?

The ACTING PRESIDENT pro tempore. We are.

Mr. BURR. I thank the Presiding Officer.

REMEMBERING FRANK BUCKLES

Mr. BURR. Madam President, I wish to take a moment in this Chamber to honor the passing of the last doughboy, Mr. Frank Buckles, the last of those World War I veterans. Mr. Buckles was America's last living World War I veteran and he died Sunday in West Virginia. His death came 1 month after his 110th birthday, which he celebrated on February 1 with his family.

Frank Buckles was dedicated to serving his country at all cost. He enlisted in the U.S. Army when he was only 16 years old. Throughout the Great War, Mr. Buckles proved himself to be a brave soldier. He served on the RMS *Carpathia*, drove ambulances and motorcycles in France and England, and escorted prisoners of war back to Germany.

Mr. Buckles lived to see our country at war several more times in his life. He even survived as a prisoner of war during World War II. He had been captured while working for a shipping company in the Philippines.

As a soldier and as a civilian, Mr. Buckles lived a life defined by hard work, love of country, and a sense of duty to his fellow citizens. His passing marks the loss of a generation that shared those same values, a generation that built America into the country it is today. My thoughts go out to his family.

It is also important we recognize that Mr. Buckles' death is an important moment for all of America. Our country should come together to honor Mr. Buckles and an entire generation that has done so much to build a world where democracy and freedom are celebrated values. This is the reason that I

cosponsor, with my colleague from West Virginia, Senator ROCKEFELLER, a resolution I hope our colleagues will support unanimously, to allow this last in a generation of heroes to be recognized by the Congress of the United States, either in a service or by lying in honor in the Rotunda, a privilege that is held for very few but one that I think rises to the occasion of the last hero of a generation, an individual and a generation that played such a part in the values of this country. We will have an opportunity to celebrate the life of this man, but, more importantly, to cherish the fruits of his commitment to those freedoms and those liberties that are protected still today.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

PATENT REFORM ACT OF 2011

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 23, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (S. 23) to amend title 35, United States Code, to provide for patent reform.

Pending:

Leahy amendment No. 114, to improve the bill.

Vitter/Toomey amendment No. 112, to require that the government prioritize all obligations on the debt held by the public in the event that the debt limit is reached.

Bennet amendment No. 116, to reduce the fee amounts paid by small entities requesting prioritized examination under Three-Track Examination.

Bennet amendment No. 117, to establish additional USPTO satellite offices.

Lee amendment No. 115, to express the sense of the Senate in support of a balanced budget amendment to the Constitution.

Mr. LEAHY. Madam President, yesterday the Senate began debating the America Invents Act. We adopted the committee amendments, and we proceeded to have five additional amendments offered to the bill. This morning I will be offering a managers' amendment, along with the distinguished Senator from Iowa, Mr. GRASSLEY, that incorporates additional improvements being made at the suggestions of Senator COBURN, Senator SCHUMER, Senator COONS, Senator BENNET, and others.

When we adopt this managers' amendment, I believe we will move

very close to a consensus bill the Senate can and should pass to help create good jobs, encourage innovation, and strengthen our recovery and economy.

I ask unanimous consent to have printed in the RECORD the Statement of Administration Policy from the Obama administration and the Edward Wyatt article.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY

S. 23—PATENT REFORM ACT OF 2011

(Sen. Leahy, D-Vermont, and 11 cosponsors, Feb. 28, 2011)

The Administration supports Senate passage of S. 23. As a whole, this bill represents a fair, balanced, and necessary effort to improve patent quality, enable greater work sharing between the United States Patent and Trademark Office (USPTO) and other countries, improve service to patent applicants and the public at the USPTO, and offer productive alternatives to costly and complex litigation.

By moving the United States to a first-to-file system, the bill simplifies the process of acquiring rights. This essential provision will reduce legal costs, improve fairness, and support U.S. innovators seeking to market their products and services in a global marketplace. Further, by providing authority for the USPTO to establish and adjust its fees to reflect changes in costs, demand, and workload, the bill would enhance productivity—reducing delay in the patent application process—and ensure full cost recovery at no taxpayer expense. Senate passage of this bill is consistent with the Administration's commitment to support and encourage innovation that leads to improved competitiveness, economic prosperity, and job growth—without adding a penny to the deficit.

Finally, the Administration understands that several stakeholders have suggested that the provisions on damages and venue are no longer needed in the legislation in light of recent court decisions in these areas. The Administration would not object to removal of these provisions from the final version of the legislation.

The Administration looks forward to continuing to work with the Congress to craft patent reform legislation that reflects sound policy and meets the needs of the Nation's innovators.

U.S. SETS 21ST-CENTURY GOAL: BUILDING A BETTER PATENT OFFICE

(By Edward Wyatt, Feb. 20, 2011)

WASHINGTON.—President Obama, who emphasizes American innovation, says modernizing the federal Patent and Trademark Office is crucial to "winning the future." So at a time when a quarter of patent applications come from California, and many of those from Silicon Valley, the patent office is opening its first satellite office—in Detroit.

That is only one of the signs that have many critics saying that the office has its head firmly in the 20th century, if not the 19th.

Only in the last three years has the office begun to accept a majority of its applications in digital form. Mr. Obama astonished a group of technology executives last year when he described how the office has to print some applications filed by computer and scan them into another, incompatible computer system.

"There is no company I know of that would have permitted its information technology to get into the state we're in," David J. Kappos, who 18 months ago became director

of the Patent and Trademark Office and undersecretary of commerce for intellectual property, said in a recent interview. "If it had, the C.E.O. would have been fired, the board would have been thrown out, and you would have had shareholder lawsuits."

Once patent applications are in the system, they sit—for years. The patent office's pipeline is so clogged it takes two years for an inventor to get an initial ruling, and an additional year or more before a patent is finally issued.

The delays and inefficiencies are more than a nuisance for inventors. Patentable ideas are the basis for many start-up companies and small businesses. Venture capitalists often require start-ups to have a patent before offering financing. That means that patent delays cost jobs, slow the economy and threaten the ability of American companies to compete with foreign businesses.

Much of the patent office's decline has occurred in the last 13 years, as the Internet age created a surge in applications. In 1997, 2.25 patents were pending for every one issued. By 2008, that rate had nearly tripled, to 6.6 patents pending for every one issued. The figure fell below six last year.

Though the office's ranks of patent examiners and its budget have increased by about 25 percent in the last five years, that has not been enough to keep up with a flood of applications—which grew to more than 2,000 a day last year, for a total of 509,000, from 950 a day in 1997.

The office, like a few other corners of the government, has long paid its way, thanks to application and maintenance fees. That income—\$2.1 billion last year—has made it an inviting target for Congress, which over the last 20 years has diverted a total of \$800 million to other uses, rather than letting the office invest the money in its operations.

Applications have also become far more complex, said Douglas K. Norman, president of the Intellectual Property Owners Association, a trade group mainly of large technology and manufacturing companies.

"When I was a young patent lawyer, a patent application would be 20 to 25 pages and have 10 to 15 claims," Mr. Norman said. A claim is the part of the patent that defines what is protected. "Now they run hundreds of pages, with hundreds, and sometimes thousands, of claims."

Lost in the scrutiny of the office's logjam, however, was the fact that the number of patents issued reached a record last year—more than 209,000, or 29 percent more than the average of 162,000 a year over the previous four years. Rejections also hit a high of 258,000—not a measure of quality, Mr. Kappos said, but a sign of greater efficiency.

Between the backlog of 700,000 patents awaiting their first action by an examiner and the 500,000 patents that are in process, a total of 1.2 million applications are pending.

Sitting in his suburban Virginia office, not far from a model of the light bulb Edison presented for patent in November 1879 (which was approved two and a half months later), Mr. Kappos proudly ticked off figures that he said proved the agency was heading in the right direction.

The backlog has actually declined about 10 percent from a peak of 770,000 at the end of 2008.

"We were able to work a 13-month year last year," he said, referring to the productivity increase in 2010 over 2009. "We are processing a far larger workload with the same number of examiners."

Still, Mr. Kappos wants to add more than 1,000 examiners in each of the next two years, a 30 percent increase. Mr. Obama's 2012 budget calls for a 28 percent increase in spending, to \$2.7 billion, over 2010. In two consecutive sessions, Congress has defeated a