

elitism versus populism. Lawyer Anthony Z. Roisman, for example, took the populist tack, saying he thought the system works fine the way it is. He said it is important for community values to influence the weighing of scientific evidence and that a judge should never override the jury's prerogative—"a jury vote for one outlier," even when opposed by the overwhelming majority of scientific opinion, "should be upheld."

John H. Langbein of the University of Chicago took an opposite tack, decrying "the cult of the amateur" in American law. "We're purporting to talk of the problem of expertise but what we are really talking about is having ignorant laymen [juries] making multibillion dollar decisions." He said Americans should consider emulating the legal systems in Northern Europe, where judges themselves often have expertise in particular areas of science.

A number of proposals have been put forward to raise the quality of science in court, including science panels, pretrial peer reviews of testimony, and specialized training and resource centers for judges.

Most of those concerned seem to agree that the most desirable immediate step would be to encourage courts to use the tools already available to them and expand their use of court-appointed experts. Workshop participants said their purpose should be for "information enhancement" and to aid the judge in assessing the claims of the adversaries' experts. They agreed that suitable candidates might be identified through consultation with professional societies.

The arrangement, as envisioned, would leave the adversary process intact while improving the quality of information delivered to the jury. And, according to several workshop participants, it would make the role of "expert witness" considerably less unattractive to scientists. Colorado Judge Sherman Finesilver, who has used experts in several cases involving swine flu vaccine, said he has never been refused when he has asked a scientist to serve as witness for the court.

Such arrangements do not necessarily guarantee the victory of rationality, as Judge Jackson related. Several years ago he had a case of a man who was seeking a patent for what was, in effect, a perpetual motion machine. The Patent Office had filed for summary judgment against him. The man had the support of an "expert" with a Ph.D. Jackson looked around for a suitable expert to appoint: he found someone who "seemed perfect"—a former patent commissioner, electrical engineer, and lawyer. The court's expert came up with a report recommending a summary judgment in favor of the inventor, and left the court with a bill for \$13,000.

■ CONSTANCE HOLDEN

## Election Turmoil at Soviet Academy

A new round of elections is to be held next month by the U.S.S.R. Academy of Sciences for its representatives to the Congress of People's Deputies, following last week's rejection by academy members of almost two-thirds of the officially endorsed candidates.

Those who have already been renominated as candidates for the allotted 20 seats include physicist Andrei Sakharov, planetary scientist Roald Sagdeyev, and economist Nikolai Shmelev.

The unprecedented rejection of official candidates by rank-and-file members was the result of a deliberate protest over the fact that, out of 130 names which had been put forward by research institutes belonging to the academy, only 23 were approved at a special "expanded presidium meeting" held in January. Almost all were top-level scientific officials.

Many complaints—in particular about the rejection of Sakharov—came from individual scientists attending a special 3-day meeting held in Moscow last week which was meant to decide which of the 23 candidates should fill the 20 available seats.

Sakharov himself told the meeting that "we must carry out what I would call a surgical operation," adding that "I believe it is up to us to hold new elections"—a demand which had previously been rejected by academy president Guri Marchuk.

Apparently following Sakharov's advice, a significant number of the 1280 academy members attending the meeting are reported to have deleted almost all 23 names on their ballot paper.

After a count that lasted 7 hours—over twice as long as the vote itself—it was announced that only 8 out of the 23 candidates had received the support of at least half of those casting votes, a necessary requirement for election. Ironically, it was this same rule that led to the previous exclusion from the election of 107 out of 130 potential candidates.

As a result, the news agency Tass has reported that, in line with the country's new electoral laws, a further round of nominations will take place in the next 2 weeks for the 12 seats that remain unfilled.

■ DAVID DICKSON

## Fate of R&D Tax Credit Uncertain

Legislation to make permanent the research and development and basic research tax credits was introduced into the House and Senate last week with the endorsement of a majority of members of the House Ways and Means Committee and the Senate Finance Committee. President Bush has also said he favors making the credits permanent. Yet in spite of this support, passage of the legislation this year is far from guaranteed.

The measure is unlikely to be approved on its own, but rather as part of a broader tax package. The problem, however, is that in view of President Bush's oft-repeated opposition to any new taxes, a broad tax bill is unlikely to emerge this year.

The R&D tax credit came into being in 1981 and has permitted companies to claim a tax credit for incremental spending for research and development above a base level. The law expired in 1985 and was renewed again in 1986, but the credit was cut from 25% to 20%. Restrictions also were added to the types of research that qualify for the credit. At the same time, a 20% credit was created for industry-supported research conducted at universities and other academic institutions.

The credits were to expire again in 1988 (*Science*, 19 February 1988, p. 858) but

Congress moved last year to extend them through 1989. The cost to the government was again trimmed, however. Companies can still receive a 20% credit, but they must reduce the R&D expenses they deduct on their tax returns by an amount equal to half of the earned credit.

The new House and Senate bills (H.R. 1416, S. 570) continue this provision, but the Bush Administration wants companies to subtract 100% of the tax credits' value from their declared R&D expenses.

The bills also contain a clause, which is supported by the Administration, that would allow start-up companies to carry earned credits forward for 15 years. Such companies have not benefited from the R&D credit in the past because they generally do not make any taxable profits in their early years.

If Congress defers action on the R&D tax credit until next year, says Kenneth R. Kay, executive director of the Council on Research and Technology (CORETECH), it will continue to erode the faith in the tax credit as a public policy tool. "I think we want to make people realize that the tax credit has got to be something that business can count on," he says.

■ MARK CRAWFORD