

Patent Act

to all at reasonable prices. Moreover, when it became common practice to reimburse the costs of medicine through public health insurance plans, the need to maintain reasonable prices for drugs became a major concern of the various Governments and the general public. We know that 60 per cent of total spending for medicine is taken on by the provinces through Medicare.

When pharmaceutical companies compete for the production and marketing of similar therapeutic products, the competition is not at the level of prices but mostly in the differentiation of their products. This is due in part to the fact that the Canadian patents legislation grant patents on the process used to make the drugs and not on the drugs themselves. This could result in research and development expenses which are hardly productive socially since they often result in production of drugs which are essentially identical. These drugs are sold at prices which are by and large the same, in view of the fact that companies compete only at the marketing level. To grant a patent on a process rather than on a product, as is the situation in the pharmaceutical industry in Canada, Mr. Speaker, and which the Eastman Commission wanted to change, at least in its recommendations, is largely useless in an industry where new processes do not translate into lower prices. The lack of competition in the Canadian pharmaceutical industry results also from structural characteristics of the prescription drug market. First of all, for a number of reasons the demand for drugs does not fluctuate along with prices. When a physician writes a prescription he does not take the price into account since he is not the one who will buy the prescribed drug. In addition, the consumer, patient or beneficiary—to be quite clear, let us say the person who is sick—who is buying the prescribed drug does so under relatively urgent circumstances which make prices almost irrelevant in the sense that it is a matter of health. On top of this we developed private and/or public health insurance plans which freed the consumer from undue concern about the price of drugs since they were covered under such plans.

Mr. Speaker, this is the general characteristic of the drug industry which I have just mentioned.

As we have pointed out, Bill C-22 would amend the Patent Act, more specifically section 41(4) of the Act.

Section 41(4) allows generic drug manufacturers to market copies of patent drugs provided they pay a 4 per cent royalty to the manufacturer of the registered brand. This is a major exception to the Patent Act. As you know, the patentee usually benefits from a 17-year exclusivity period. Since 1969 when the Patent Act was amended, the multinational drug manufacturing industry has been protesting—and continues to protest—against what it considers as being outright injustice, discrimination and property seizure.

The multinational corporations, Mr. Speaker, claim that the protection of new drugs over a given period time is essential to recoup the large investments needed for research and development—the figure could well be up to \$100 million. However, before 1969, the Patent Act was applied without question. Did

the drug companies do more research than they are doing now? Perhaps, but it did not amount to much, and for that reason indeed the then Government was forced, following the findings of the Harley Commission, to enact certain recommendations of the Parliamentary Committee to avoid an excessive increase in the price of drugs.

Because of this objection, the Bill now before us wants to grant the patentee an exclusivity period of 10 years or 7 years, as the case may be, but this provision is being opposed by generic drug manufacturers and consumer organizations who feel that it gives multinationals an opportunity to maintain the price of drugs at artificially high levels because of that monopoly situation. That is self-evident.

Generally speaking, generic drugs currently sell for half the price of the equivalent patented drugs. Last week, in Washington I think, Ayerst-McKenna published the findings of a \$50,000 study it had commissioned on whether generic and patented drugs actually sold at comparable prices. It was found that, indeed, occasionally, generic drugs sold for about the same price as the equivalent patented medicine. But the basic explanation is that the manufacturer's price was much lower for generic drugs than for patented medicines, except that some drug stores took advantage of that situation by increasing their prices to a level somewhat equivalent to that of patented medicines.

Needless to say, Mr. Speaker, multinational corporations strongly support those amendments. On the other hand, they are committed to invest \$1.4 billion more by 1995 in research and development of new drugs. Mr. Speaker, you know as well as I do that research and development, especially in the medical field, is not done by the drug companies but mainly by the universities and foundations. We all know the example of the University of Toronto and the Connaught Institute which, I believe, was created in 1914 and which gave us insulin, one of the great discoveries of the century.

So when we hear this talk about spending a lot of money, I think that what the drug companies mean is that they mainly want to spend a lot of money on clinical research, Mr. Speaker.

It is important to understand why we radically changed the legislation in 1969. Today, the Government, against the advice of the Eastman Commission, intends to restore what was considered to be excessive pricing around the middle of the sixties. The Canadian Restrictive Trade Practices Commission recommended abolishing all patents on pharmaceutical products. There was the Hall Report on medical services which recommended a compulsory licensing system under which Canadian companies would be able to produce and market generic drugs, provided they pay a royalty to the original manufacturer.

The system also received the support of the Harley Committee of the House of Commons which examined this question, and I may point out to the House that in the course of its investigations, the Harley Committee found that Canadians