

with little export trade in industrial goods and few, if any, inventions for sale have nothing to gain from granting patents on inventions worked and patented abroad except the avoidance of unpleasant foreign retaliation in other directions. In this category are agricultural countries and countries striving to industrialize but exporting primarily raw materials."

The Ilsley Commission noted that:

"The foregoing suggests the observation that the economic advantages, such as they are, of dispensing with the patent system would be at least as great in Canada as elsewhere: Presumably, the research leading to the inventions made in the United States which are patented in Canada would not be diminished or altered in its character by the abolition of the patent system in Canada so long as the United States maintained its patent system. Similar considerations would likely apply to most other foreign inventions. If there were no patent protection in Canada, Canadians could use, royalty free, inventions patented abroad. This, however, might be in fact the sharing in what might be regarded as the fruits of patent systems elsewhere benefitting from the free imitation of technologies developed abroad without sharing the costs of these benefits.

On the whole we have come to the conclusion that even to Canada with its large preponderance of foreign owned Canadian patents the words in the concluding passage of Fritz Machlup's study apply—"if we did not have a patent system it would be irresponsible, on the basis of our present knowledge of its economic consequences, to recommend instituting one. But since we have had a patent system for a long time it would be irresponsible, on the basis of our present knowledge to recommend abolishing it."

The Ilsley Commission then went on to consider whether licences on reasonable terms should be compulsory under all patents. It considered the argument that if this were done it would be impossible for smaller enterprises which form the heart of the nations' industrial strength to maintain themselves. It came to the conclusion that this argument was too broad but that it might be true for some small enterprises.

"As regards such small enterprises as presently rely on exclusive patent rights, much would depend upon the size of the royalty. But the prospect of attempting to build and maintain an enterprise on the basis of a patented invention which competitors, perhaps immensely large and well entrenched, would be entitled as of right to work upon payment of a reasonable royalty, might, we think, in some cases be sufficient to deter either the establishment or the continuance of the enterprise. There would be other possible disadvantages as well. The prosecution of research in Canada would to a certain extent, we think, be discouraged, as fruits of research by others would be available as of right upon payment of a royalty. This possibility we are prepared to contemplate and accept in the case of food, medicines, and surgical and therapeutic devices because in that connection there are other, and, we think, more important considerations but we are not recommending that the principle be applied generally. But it should be possible to compel