

Patent Act

The 1985 Report of the Commission of Inquiry on the Pharmaceutical Industry... estimated that savings to Canadians as a consequence of compulsory licensing amount to a minimum of \$211 million annually.

That is a significant sum of money. He went on to state:

Total employment in the industry rose by 29 per cent in Canada between 1967 and 1982, compared with an increase of only 23 per cent in the drug industry in the United States for the same period.

I wish to read some of the author's conclusions into the record because I am sure Hon. Members would like to reflect upon them. The author states:

The legal grounds for compulsory licensing are straightforward enough. In the first place, the compulsory licensing provisions of the Patent Act are not in contravention of the international Patent Convention to which Canada is a signatory. That Convention principally requires that the advantages extended to Canadians by the Patent Act, also be given to the nationals of other countries that are likewise signatories. The Convention does not require that an unqualified monopoly be conferred on the patent owner.

I wish to make these points because I will be coming to arguments, particularly one on intellectual property in the convention which established that particular matter, in order to refute the Government's claim that somehow Canada is in breach of that particular aspect. The author went on to state:

In the second place, the idea that compulsory licensing infringes the Canadian Bill of Rights has already been rejected by the courts. The Federal Court has held that title to a Canadian patent for medicinal products is granted subject to the compulsory licensing provisions of the Act. Compulsory licensing, the Court said, does not therefore constitute subsequent interference with title. It is a qualification of the title as and when granted.

The notion that inventors are entitled as a matter of natural justice, not just to monetary rewards, but to complete control over the use of their inventions, is nowhere accepted in practice.

I think Hon. Members should take particular note of the following:

Various countries have identified particular fields where patents are not granted at all. Some countries give products themselves patent protection, while other countries give patent protection only to the processes by which products are made. Other countries besides Canada make provision for compulsory licensing, but the grounds on which compulsory licences may be granted vary.

He went on in the article to note:

The United States and Canada grant patents for a period of 17 years from the date of issue. Most member countries in the European Economic Community grant patents for a period of 20 years from the date of filing. So does Japan. The term of patent protection in India is only seven years.

Further in the article he states:

—South American countries do not generally grant any patent protection at all to drugs, and neither did Italy until quite recently. Japan requires foreign firms to co-venture with domestic firms to market new drug products. Britain and Norway rely on the centralized purchasing power of the state to regulate both price and industrial benefits.

France and Belgium impose price controls on pharmaceutical products. Many countries establish selective or negative lists of drug products as the basis for determining eligibility for reimbursement under government pharmacare plans.

In refuting the Minister's claim that Canada has to keep up with the rest of the world the point has to be made that there are countries that are presently operating pharmaceutical

industries which are quite different. Canada was one of the countries which had a unique system which benefited Canadian consumers. I believe, as I think has been confirmed by Eastman in his report, that it has saved us millions of dollars. It has also addressed in a very fundamental way the Canadian pharmaceutical industry and the development of a Canadian pharmaceutical industry.

We should not be apologizing for the behaviour that was set in motion in 1969 with regard to the Patent Act because it has been a great success. It is not in contravention of any international statutes to which Canada is a signatory. It is not in breach of any of the federal statutes here in Canada, whether it be the Bill of Rights or the Charter of Rights and Freedoms. We do have a law which is on the books which is working, and working to the benefit of Canadians.

Yet what has the Government chosen to do? Change the law to benefit whom? Multinational corporations.

Finally, the author of this article concludes by saying:

In summary, the reasons so far given by the Government for changing existing policy on compulsory licensing of patented drugs are not persuasive. The proposed policy cannot be justified by a naive appeal to inalienable property rights that don't in fact exist. The proposed policy is likely to be a costly and relatively ineffective industrial development strategy. The proposed policy weakens, rather than strengthens, Canada's bargaining position in trade negotiations.

The author of this article, Mr. Davidson, is a reputable Canadian. He was educated at the Universities of Alberta and Toronto. He has made his findings after examining quite thoroughly, I would assume, the legislation, as well as the reports that have been written on the pharmaceutical industry. He concludes that this policy that we will adopt by the will of the majority of 211 Conservative Members of Parliament is not in the best interests of Canadians.

● (1610)

Another group to appear before the committee was the Manitoba Coalition on Health and Higher Education. That organization was formed in late 1985 and consists of 34 member groups. The coalition represents 250,000 Manitobans who are committed to ensuring that high quality health care and higher education services are available to all Manitobans, indeed all Canadians. The coalition maintains that these amendments to Bill C-22 will give multinational drug companies a 10-year monopoly on any new drugs developed, and cost the Canadian consumer millions of dollars a year. They will seriously jeopardize the ability of certain segments of the population to purchase medication. They believe that if passed, the amendments will have a serious effect on Canada's ability to provide its people with the quality health care they deserve. For that and other reasons the coalition strongly opposes Bill C-22.