licence was issued during the period of the new drug application. Thus the Harley committee made its recommendation for amendments to section 41(3) of the Patent Act on the questionable assumption that it is highly unlikely a compulsory licence would be issued while the compound is classified as a new drug. Despite the minister's recognition of this assumption inherent in his remarks of October 17, a proviso governing compulsory licences does not appear in either the present law or in the amendment proposed in Bill C-102. Therefore, the inventor does not actually have this implied protection.

The danger resulting from this situation, and this was not pointed out by the Harley committee or by the minister, is that until a patent issues there is presently nothing to prevent a competitor from manufacturing the new drug, completing the food and drug requirements and proceeding to market. It is conceivable that he could even reach the market in advance of the originator by taking advantage of the following circumstances.

Canada is a member of the international convention on patents. When the applicant for a Canadian patent wishes to protect his patent in foreign countries, he must file such application within one year from the date of filing his Canadian application. His foreign patent application would then carry the Canadian priority date. That is, it would be regarded as if it had been filed on the same day as the original patent application. In the case of Holland or Belgium, the contents of patent applications are publicly disclosed six months after the date of such application. Hence, the inventor in absolute terms has at most 1½ years maximum lead time, not four or five years as members of this house have been led to believe.

Once the invention is made public, it is quite conceivable that a competing firm could proceed with the utmost speed and utilize all its facilities in developing a new compound. This firm might even market it before the inventor, after having met all the food and drug requirements. Since the patent has not been issued, there is no contravention of industrial property rights. At the time the patent issues the competing firm could then apply for a compulsory licence with the result that, having met the food and drug requirements, this firm could market its product either prior to the inventor, concurrently or shortly thereafter.

As indicated at the beginning of my remarks, an area of economic consequences which I feel should be considered by the committee is the effect which the proposed legislation will have on investment in manufacturing and research facilities in Canada. It is common knowledge, and the minister himself has underlined this, that the drug industry is international in scope and the larger Canadian drug companies are all subsidiaries of international companies.

It must be remembered, however, that whether a drug company carrying on operations in Canada is a foreign subsidiary or not, the local management has a vested interest in increasing the scope of that company's activities. Quite simply, the local management gets paid more if its activities are larger. Fortunately for Canada, local management has until recently been successful in convincing head offices that expansion should take place in Canada both in manufacturing and research facilities. The recent incentives afforded to research by the minister of industry have undoubtedly helped local management in their arguments with their head offices, for purposes of installing research facilities in Canada.

Unfortunately, since the advent of Bill C-190 and the present Bill C-102, the capital investment picture in the drug industry has not been quite as rosy. I know as a fact that one large pharmaceutical firm based in the province of Quebec recently expanded its research facilities in the United States instead of Canada with a substantial capital investment. An even more serious loss to Canada and the province of Quebec resulted from a decision by another large pharmaceutical firm to expand both manufacturing and research facilities in the United States rather than Canada. The amount involved in this second decision was considerably in excess of $25 million. This story is fact, not rumour, and I recently confirmed this with the company. To be fair, in the latter case I do not think that the climate of uncertainty created by Bill C-102 and its predecessor Bill C-190, should bear the exclusive blame for the decision. However, it was a major contributing factor in the decision which cost the province of Quebec a multi-million dollar capital investment.

It is very easy to say that this climate of uncertainty was and is unjustified, but unfortunately this uncertainty is a fact. I wish, therefore, to suggest one measure for the committee's consideration which I feel would mitigate the climate of unease and uncertainty which Bill C-102 has created in the drug