

Relatively very little of this type of property is now owned by Canadians. Accordingly most of the royalties paid by Canadians for using the intangible property protected by our legislation is paid to non-residents. Perhaps more important, since our present legislation makes no provision for compulsory licencing on reasonable terms (except for food products and drugs, or where the intangible property rights are being abused by the owner) our present laws may restrict the development in Canada of certain industries, particularly the industries dependent upon high technology. Alternatively, they may impose a high degree of dependency on Canada in negotiating with foreign owners for the use of patents and other intangible technological property owned by non-residents but protected from use in Canada by Canadian laws.

The Royal Commission on Patents, Copyright and Industrial Design (the "Ilsley Commission") investigated this situation and reported in 1960.

In its report the Ilsley Commission referred to paragraph nine of the Second Interim Report prepared by the Swan Committee, appointed by the president of the Board of Trade to the United Kingdom in 1944:

"The theory upon which the patent system is based is that the opportunity of acquiring exclusive rights in an invention stimulates technical progress, mainly in four ways; first, that it encourages research and invention; second, that it induces an inventor to disclose his discoveries instead of keeping them as a trade secret; third, that it offers a reward for the expense of developing inventions to the stage at which they are commercially practicable; fourth, that it provides an inducement to invest capital in new lines of production which might not appear profitable if many competing producers embarked on them simultaneously. The history of industrial development seems on the whole to have justified this theory. Patent systems similar to our own [the English system] have been adopted and are in operation in almost all industrial countries, and the general principles are embodied in the International Convention for the Protection of Industrial Property, to which every European country, except the Soviet Union, has subscribed and to which many non-European countries, including the British Dominions, the United States of America, Brazil, and Japan, also belong".

Then after referring to the Soviet method of encouraging and rewarding inventors the Swan Committee came to the conclusion that the existing system should be retained in Great Britain.

The Ilsley Commission also quoted evidence given by Professor Melman, a member of the Department of Industrial Engineering, Columbia University, who was reported to have had a long standing, active and down-to-earth interest and experience in the subject of industrial productivity and research:

"The patent system in the contemporary scene has not, as a rule, promoted conditions which facilitate research and science or the industrial arts. On the contrary, in universities the effect of patenting pressure has been to interpose managerial controls and commercial pressures where free, uninhibited inquiry is needed to promote the flow of science. In industrial laboratories research in the useful arts has been expanded rapidly, without a parallel growth in patenting activities. Moreover, the experience of a few firms whose patent privileges have been recently abridged, indicates that these managements maintain and ex-