the impression from the main drift of the patent testimony that this rather naive contention is not advanced merely as a straw man, but that this consideration alone was enough to close the minds of patent attorneys regarding S. 1552. A further observation by Jackson leads one to wonder why his group should have debated even as long as an hour and a half on their resolutions: "There was only one man of the whole group who had anything good to say about the law . . . he said it might not be politically expedient to show the full extent of our disapproval." [25]

Had the ABA group referred to the Subcommittee's *Report* on the drug industry, they would have discovered that it is not at all unusual for nations to make exceptions of their drug industries in regard to patent privileges. Of some 77 nations with patent laws, 49 absolutely prohibit drug product patents on grounds of public policy, and 25 others have provisions for compulsory licensing. Only Panama, Belgium, and the United States allow unrestricted drug product patent privileges.[26] Indeed, to judge by a comparison of drug discoveries by drug firms in countries with and without product patents, it is by no means clear that the patent incentive is necessary to elicit productive drug research. The patent privilege restrictions embodied in S. 1552, although more liberal, are closely related to those of Germany, long one of the world leaders in drug research. German patent law denies drug product patents, but drug processes may be patented, and such patents cover the products made by those processes. If, however, alternative processes are devised to produce the same drug, the drug in question then fails to retain its effective protection. Germany permits unrestricted drug process patents for a period of three years. After that, compulsory licensing is required, with royalties of between 5 and 10 percent, as determined by the decision of a special tribunal.[27] Professor Machlup of Princeton University testified that not only has the existence of such a patent law in Germany failed to halt productive drug research, but that its expediency and equity is not even questioned.[28]

One ominous tendency which came to light at the patent hearings concerns certain evidence that pressure groups are attempting to weaken the protection which drug buyers currently enjoy under the patent laws of many nations of the world. Professor Machlup testified that in recent years several countries, in consequence of pressure by industrial groups, have made their patent laws more favorable to such industries.[29] It is ironic that at the time when efforts are being made to bring United States drug patent policy into line with the more enlightened practices of other industrial countries, some of these very countries are experiencing a retrograde tendency. In 1949, England amended its patent law to allow drug products to be patented, but required compulsory licensing. France adopted a largely similar law in 1960.[30]

Drug and other chemical interests appear to have been active in connection with a certain diplomatic conference held in Lisbon in 1958 for the purpose of revising the International Convention for the Protection of Industrial Property. Prominent among the United States delegation were Roland Libonati, a Representative from New Jersey (where many drug firms have plants) and P. J. Federico, examiner in chief of the United States Patent Office, who testified at the hearings and was at pains to take issue with the Subcommittee's contentions on the relative strength of patent protection in countries with and without product patents. The Lisbon convention agenda contained an item proposing to require all countries adhering to the Convention to grant patents for chemical products, including pharmaceuticals. The United States delegation sponsored this resolution, and it fell to Mr. Federico's lot to expedite the proceedings. The resolution did not pass—12 nations voted against it—but observers were somewhat surprised to find that those voting in favor included the delegations from eight countries which prohibited drug product patents. After the resolution failed, Germany introduced a resolution to recommend that member countries study the question with a view toward revising their patent laws. This resolution passed. Such efforts at "study" may be bearing fruit: France, one of the countries opposing the original resolution in 1958, adopted its own drug product patent law in 1960, and the Scandinavian countries and Finland are trying to work out a common patent law which will extend to drug products.

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[25] *Ibid.*, Part 3, p. 1480.
[26] *Study of Administered Prices, op. cit.*, p. 106.
[27] *Hearings on S. 1552, op. cit.*, p. 1385.
[28] *Ibid.*, p. 1385.
[29] *Ibid.*, Part 3, p. 1371.
[30] *Ibid.*, Part 3, pp. 1201, 1216.