

Letter to the Prime Minister regarding the "Oncomouse"

September 19, 2000

The Right Hon. Jean Chrétien,
Prime Minister of Canada,
House of Commons,
Ottawa K1A 0A6

Dear Prime Minister,

Concerned members of our network of churches and church-based agencies have been contacting the Canadian Council of Churches' Commission on Justice and Peace, which I have the honour to chair. They have pointed out that unless your government chooses to appeal the recent decision of the Federal Court of Appeal by October 2, Canada will be thrust into an era when institutions can claim patent protection as "inventors" (and in that sense "owners") of living organisms whose genetic make-up they have modified to some degree.

I refer, of course, to the decision on August 3 of the Federal Court of Appeal when it ruled in favour of the President and Fellows of Harvard University in the case of the so called "oncomouse." As you know, the genetic inheritance of the mouse has been modified for research purposes to make its offspring more likely to develop cancer in a predictable, measurable way. This decision of the Federal Court of Appeal represents an unprecedented expansion, in Canada, of the concept of what can be patented.

Some of our colleagues worry that this move towards claiming intellectual property rights over aspects of the natural world constitutes a dangerous form of arrogance which gives too much control over the human future - and indeed, over the future of the biosphere - to those groups which dominate the field of technology and access to capital markets. They believe that this is a threshold that should not be crossed.

Other members of our network recognize that the principle of patent-based "ownership" of higher life forms provides an advantage in securing funds for ongoing research. Nevertheless, they are clear about the need for setting limits to this form of privatization in any change to Canada's patent laws.

Our Commission's conclusion, at this time, is that serious public discussion is needed before laws are amended, or developed, to make room for the patenting of higher life forms. This is

equally true whether one approaches these developments with alarm or with cautious optimism. Government has an obligation to initiate public discussion of how far, and in what direction, this new "enclosure movement" should be allowed to go. Therefore we add our voice to those who are requesting that your government appeal the August 3 decision for the purpose of structuring a broadly based debate, linked with the Parliament of Canada, on this new question of justice and stewardship.

On behalf of the Commission on Justice and Peace of the Canadian Council of Churches, may I ask what your government intends with respect to following up the decision of the Federal Court of Appeal? I look forward to your reply.

Yours sincerely,

(Rev. Dr.) David Pfrimmer,
Chair, Commission on Justice and Peace

cc. John Manley, Minister of Industry; David Anderson, Minister of the Environment; Pierre Pettigrew, Minister of International Trade; Ralph Goodale, Minister of Natural Resources; Lyle Vanclief, Minister of Agriculture and Agri-Food; Herb Dhaliwal, Minister of Fisheries and Oceans; Allan Rock, Minister of Health

The Reply by the Prime Minister

From the Office of the Prime Minister

Dr. David Pfrimmer
Chair, Commission on Justice and Peace
The Canadian Council of Churches
3250 Bloor Street West, 2nd Floor
Toronto, ON M8X 2Y4

Dear Dr. Pfrimmer

Thank you for your letter of September 19, 2000, in which you draw my attention to some of the important issues associated with the granting of intellectual property rights over higher life forms.

You will note that on October 2, 2000, the Government of Canada served and filed an application to seek leave to appeal the Federal Court of Appeal's decision on the Harvard "oncomouse" matter to the Supreme Court of Canada. Furthermore, the Canadian Biotechnology Advisory Committee will begin to engage Canadians in a public debate on this subject in the coming months with a view to advising the Government on issues related to the patenting of higher life forms.

I am forwarding to the Minister of Industry a copy of our exchange of correspondence.

Yours sincerely,
Jean Chrétien