

explanation, the internal structural difference seems unduly lopsided to the retail druggist.

Is it essential in the structure of your business that there be this lopsided relationship? Isn't the retail druggist, and, therefore, the retail buyer, being asked to pay far too much of these costs, and an equitable share not being assessed, as it were, upon other buyers, to wit, city, county, State and Federal agencies? That is my question.

Mr. BURROWS. I don't know that I can provide an answer for that. I have to assume that we used our best judgments under the circumstances when we made those bids. It is conceivable that for one reason or another we wanted the Parke, Davis label represented in these institutions. We knew from previous experience and previous bids what the bid prices were liable to be, and if we wanted to have our name represented in the institutions by our product, we knew that we would have to bid at or near the past prices in order to accomplish that end.

Senator JAVITS. Senator Nelson, I have an urgent summons to the Education Subcommittee. May I ask the Chair's indulgence to excuse me. May I ask also if the Chair would be kind enough to give me notice before the next witness is through, so I may come back and ask some questions.

Senator NELSON. Thank you, Senator. I want to pursue a couple of questions raised by Senator Javits of New York. As to your observations about the necessity for making certain charges and making a certain profit in order to carry on research, isn't that whole question settled by the fact that under our law, if you discover a product, you have an exclusive patent for 17 years, and may charge any price that the manufacturer of the new product wishes to charge, and isn't it sufficient to make the necessary profit to do the research in that 17-year period?

Mr. BURROWS. I don't know that I could speculate on that. By whatever fair means we can, we at Parke, Davis want to, as I say, create that atmosphere and climate in which we are encouraged to continue to do research and encouraged to earn profits that will justify an extensive and we hope effective research program.

After a patent has expired, anyone who has the competence to make an item can come in and sell in competition, and it is normal to expect that the price structure would, by the very nature of that competition, be adjusted downward.

Senator NELSON. Well, I still want to get at the question that we build into the law a 17-year exclusive right to the discoverer of a new drug. He may charge whatever price he wishes. He may license or not license anybody else. He may charge a royalty. And then once the 17 years have gone by, his drug is well established in the retail market, and I am sure you are aware that there are a number of drugs on the market on which the patent has run out, and yet the original owner of the patent is charging a price far higher than the competition, but the competition can't get on to the market because the prescribing physician is only familiar with the drug he has been prescribing for 17 years.

Mr. BURROWS. I think you use your own best business judgment as to what you do under those circumstances, and act accordingly.

Senator NELSON. Isn't it really the fact that when the drug companies bid on an offer from the Defense Supply Agency or the city