Senator NELSON. So you cut the size of the formulary and you remove that element of decisionmaking by this particular physician unless he has a strongly held view about some particular brand name?

Mr. SQUIBB. That is right.

Senator NELSON. The same would be true in the State formulary for the welfare program, would it not, except in the case where a doctor may decide that he will not select a drug from that formulary although the State will only reimburse for the cost of the particular drug on the formulary, and the patient will have to pay the difference, if there is a difference?

Mr. SQUIBB. That is right. I think we should not let consideration of the exception cloud over the real purpose of the formulary. You still put in an opening like that because the practice of medicine is the uncertain thing that it is, or the nonspecific thing that it is; I think is obviously is essential to leave a loophole like that.

While these two bodies of drug regulation are now generally separate in the States, they must become parts of the same problem because sheer economic necessity has made it so. Under title XIX of the social security law State welfare and medical programs have been made a most important part of the administration of public medical care in the future. Each State is required to set up its own program in this area for HEW approval before Federal funds are allocated to share the cost. States should take this opportunity right now to review all their pharmacy laws to make them suitable for maximum utilization of funds available without lessening of the quality of medical care afforded insofar as use of drug products is concerned.

At the Federal level patent laws can be restudied with realistic and dispassionate attention to the proposals made in the Kefauver report several years ago. Time limitations on drug patents, systems of compulsory licensing at uniform royalties, and the pace of Government-paid-for-research in patient procedure all need specific study now for the pharmaceutical industry alone, without relation to other industries who may read into such efforts a threat to their own patent protection laws. Consideration of the importance of medical care from both a social and economic standpoint would seem to set apart the patent rules for prescription medicines from those for other commercial operations. Patents can provide an umbrella for high prices and to that extent at least their value for medicines should be questioned.

Senator NELSON. Once a patent is granted, the company that secures it has the exclusive right in this country to manufacture and sell that drug for 17 years; is that not correct?

Mr. SQUIBB. That is right.

Senator NELSON. At the end of the 17 years, there is only one company in America, unless they license somebody else, which has developed complete knowledge of how their particular drug is formulated. So there is one expert in the whole United States.

Now the patent runs out and the company has had the benefit of the umbrella, so to speak, protection that the law intended apparently to give them in order to recoup their research costs and to reward the company or the individual for some creative contributions to society.