

fathomable to me how the Government can go ahead and do all this work and not at the very least get a use patent that protects the Government in purchases in behalf of its own people. So I don't expect you to comment on the current status of what the Government's position is, if any, but we will have hearings on it. We would hope that you would be prepared to explain what the policy is, if you have one, and whether there is an intention to change it.

Dr. EDWARDS. We certainly will.

Dr. NOVITCH. The general policy, the patent policy of the Department as I last understood it, was that only limited patent rights are granted to a manufacturer for a product that was developed with substantial Government support. Whether this drug was patented prior to any Government work on it would have a definite bearing on why they have an exclusive patent. But if it had been patented after Government contributions as I last understood the policy—I am not familiar with it today—they would only have a limited patent.

Dr. EDWARDS. The specific product you are talking about as I understand it was actually produced by Merck Company and that the NHI did a lot of the clinical work involved. So that there is a little different light on it. I don't think our policy would apply at all in this particular case.

Senator NELSON. As I previously stated, Merck had synthesized the compound and secured a patent on it. According to testimony by NHI before the House and Senate Appropriations Committees the National Heart Institute experimented with it and discovered the use for it as an antihypertensive—not the company. The Department of HEW could have secured a use patent to protect the interests of the public and to prevent a private company from gouging the public with monopoly prices that would have been prevented if the Government had retained the patent.

Dr. EDWARDS. You well could be right.

Senator NELSON. It seems to me that at the very least there ought to have been some protection for the Government itself. But we shall raise this question at a later date.

Dr. EDWARDS. I think it would be certainly a worthwhile subject to talk about.

Senator NELSON. Well, thank you very much, gentlemen, for your presentation. We appreciate your taking the time to come before us.

(Whereupon, at 11 a.m., the committee recessed, subject to call of the Chair.)