monopoly will be substantially co-extensive with the patent protection, and appropriate investigation under an Act similar to the said British Act would appear to provide a much better avenue for an exhaustive examination than the Patents Act.

(*b*) We also think that any report or finding made by a Commission or other Tribunal under any New Zealand Act equivalent to such British Act should be effective under the requisite provisions of the Patents Act without the necessity for having it laid before Parliament. The findings in the report should, in our view, be available for the purpose of the Patents Act immediately after issue by the Commission or Tribunal.

(*c*) We do not think that any New Zealand Act which may be adopted with a view to effecting objects similar to those of the said British Act should in any sense give power to the Commission or Tribunal to fix the basis of royalty or any other terms of a licence except with the consent of all parties involved before the inquiry. We think that if, in fact, a Commission or Tribunal finds that there is an undesirable monopoly involving patents as a material factor in the maintenance of such monopoly, the appropriate Government Departments should take the necessary steps to obtain an order for compulsory licences. In other words, if it is found that an undesirable monopoly exists, then we think that the rectification of the position is one for the Crown and not for any particular individual, trade, or industry, and is to be obtained within the framework of the Patents Act.

(*d*) It is probably unlikely in New Zealand that many monopolies involving patents will require investigation under the Act which we have suggested. We think, however, that the requisite power should be there.

II. (*a*) We think that when an application for a compulsory licence has been made to the Commissioner the Court should be given a discretionary power to defer the issue of an injunction against a defendant until his application has been finally disposed of. If the application is finally successful, no injunction should issue. If the application fails, then the patentee should not be deprived of his right to an injunction and the other relief normally open to him. It is clear that any such provision as has been suggested should give the Judge complete discretion as to whether or not an injunction should be refused in any particular case, because it is easy to envisage circumstances in which a defendant in an action for infringement might seek to take advantage of the proposed provision with a view to avoiding the consequences of his own clearly unlawful acts. It would thus be necessary for the Court to have the power to accelerate as well as to defer the issue of an injunction so as to ensure that any application for a compulsory licence will be prosecuted by the applicant with all due speed.

(*b*) Where, however, application by a Government Department for (i) an endorsement of "licences of right" or (ii) the grant of a compulsory licence to a person specified in the application is pending, then we are of opinion that provision should be made that in the former case an injunction shall not be granted at all, and in the latter case it shall not be granted against a person so specified, unless in either case the plaintiff can show special circumstances justifying the issue of an injunction.

(*c*) Similarly, while an inquiry is in progress under the proposed New Zealand enactment having the same general purposes as the British Monopoly and Restrictive Practices (Inquiry and Control) Act, 1948, the production to the Court of a certificate issued by the Commission or Tribunal investigating the matter that certain patents were directly in issue should be sufficient justification for the Court not to issue an injunction until the finding or report of the Commission or Tribunal has been issued. If the report, so far as the patents are concerned, holds that there is no undesirable monopoly, then the injunction could issue on a further application to the Court. If, on the other hand, the report shows that the circumstances are such as to necessitate the Government Department most directly involved taking proceedings under the Patents Act, then the Court should have no power to issue an injunction unless and until those proceedings and in favour of the patentee.