APPENDIX I—COMMISSION TO INQUIRE INTO AND REPORT UPON PATENT LAW AND PROCEDURE

QUESTIONNAIRE FOR THE GUIDANCE OF WITNESSES

1. If you consider that New Zealand patents are used to the detriment of the public interest in the way of suppressing and retarding competitive developments in industry or otherwise for monopolistic purposes contrary to the public interest, give examples of the way in which patents are or have been to your own knowledge thus misused, and indicate your views as to how such misuse of patents can be checked or prevented.

Do you consider that section 26 (licences of right), section 29 (compulsory licences), or section 44 (2) (food and medicines) of the Patents, Designs, and Trade-marks Act, 1921–22 (as amended), requires amendment ?

If so, indicate the nature of the amendment you recommend.

2. Do you consider that all patents should be endorsed "licences of right." What is your view as to the effect it would have—

(*a*) On the flow of invention ;
(*b*) On the commercial exploitation of inventions ; and
(*c*) On the retention of inventions as secret processes ?

3. Do you consider that the existing procedure for applying for a compulsory licence is satisfactory—*i.e.*, an initial application to the Commissioner with an appeal to a Judge of the Supreme Court ?

4. Do you think that the onus of proof at present placed upon the applicant for a compulsory licence should be relaxed ?

5. Do you consider the present allocation of judicial functions in regard to patents as between the Commissioner and his assistants on the one hand and the Supreme Court on the other hand satisfactory—

In regard to (*a*) Grant of patents ;
(*b*) Oppositions to grant ;
(*c*) Revocation of patents ;
(*d*) Applications for licences ;
(*e*) Amendment of specifications ;
(*f*) Restoration of lapsed patents ;
(*g*) Dispute as to ownership of patents ?

6. Under the present Patents Acts there is doubt as to the right of the Commissione to refuse a patent which he considers is lacking in inventive merit or in novelty in view of prior user, or in utility—*i.e.*, fails to achieve the result promised by the applicant.

Do you consider that the inquiry before him should be enlarged to enable him to refuse patents on these grounds ?

7. Do you consider that the present method of trying patent actions in New Zealand is capable of improvement, particularly in the direction of simplification of procedure and of reduction of costs ? If so, what suggestions can you make for the improvement of the present practice ?

8. Do you consider any alteration desirable in the character of the tribunal which tries patent actions—namely, trial in the first instance by one of the Supreme Court Judges, with right of appeal to the Court of Appeal, and a further appeal by right or by leave to the Judicial Committee of the Privy Council ?

If so, what suggestions have you to make as to the nature of the tribunal, and the right of appeal ?

9. Do you think any alteration is desirable in the form of relief which is normally given when a patent is found to be infringed—namely, an injunction and an inquiry as to damages ?