THE FACTS

Whereas the facts apparently not in dispute between the Parties may be summarised as follows:

The applicant is a citizen of the United Kingdom, born in 1927 and resident in London.

The applicant owns three houses in the London Borough of B. In June 1961, the Borough Council - then Q Borough Council - gave instructions that a survey should be carried out in an area which was the area where the applicant's houses are situated. This survey was carried out by two Public Health Inspectors between July 1961 and October 1963. The result of that inspection was that the Chief Public Health Inspector made a report to the Council. In November 1963 the Council adopted a recommendation of its Public Health Committee that the offices of the Council be authorised to commence preparing a representation to the Minister of Housing for slum clearance of that area under the Housing Act 1957 (hereinafter referred to as the 1957 Act).

On .. January 1964, the Chief Public Health Inspector to the Q Borough Council represented to the Public Health Committee of that Council that a number of properties in A, including the applicant's houses, were unfit for human habitation and that the most satisfactory method of dealing with the conditions in that area was the demolition of all the buildings.

The Council's committee considered this report and recommended that the Council should pass resolutions declaring that they were satisfied that the dwelling houses in 16 clearance areas referred to, all of which are within the Compulsory Purchase Order area, are unfit for human habitation, and that the most satisfactory method of dealing with the conditions in the area was to demolish all the buildings. The Council adopted this report on .. February,19664 and resolved to purchase the properties under Section 43, paragraph (1) of the 1957 Act.

On .. August, 1964, the Council, acting under Section 43 (3) of the 1957 Act, made the A Redevelopment (Extended Area) Compulsory Purchase Order No. 1 1964, which covered 22 1/2 acres with approximately 450 houses involved of which 266 were declared unfit for human habitation. The Order was deposited for inspection by interested parties on and after .. September, 1964, and the required statutory notices were served on owners, lessees and occupiers. The Order was submitted to the Minister on .. October,1964. The applicant's properties were included in the schedule to the Order as houses unfit for human habitation.

On .. September, 1964, an objection to the Compulsory Purchase Order was made by the applicant. The grounds for objection were stated to be that the houses were not unfit and should not be compulsorily acquired in any event. The applicant also claimed a "well maintained" payment if, by some chance, the circumstances gave rise to compulsory purchase.

On .. June,1965, the Town Clerk of B was informed by the Minister (the area of the Borough of Q having, by that time, become part of the area of the London Borough of B) that a public local enquiry would be held at 10.30 a.m. on .. November,1965 at the Town Hall, W, and a formal notice for publication was sent to him on .. September, 1965.

The notices served on the applicant under paragraph 3 (4) of the Third Schedule to the 1957 Act stated as principal grounds for unfitness in respect of all the applicant's houses deficiencies in repair, stability, freedom from damp, drainage and sanitary conveniences, and facilities for the storage of food.

On .. October, 1965, the applicant wrote to the Ministry asking for the inquiry to be adjourned and the venue changed. On .. October, 1965, the

applicant, as Chairman of the A Property Owners and Residents Association (which Association had become formed two weeks previously), together with many other members of the Association, went to the Ministry of Housing and Local Government to complain that the Association had not had enough time to collect the views of their members and prepare a collective case by .. November, 1965; and that people affected by the Order did not realise its implications. The Association also wished the venue of the inquiry to be changed from W to A.

On .. October, 1965, the Association were informed that the inquiry would be opened, as arranged, on .. November, 1965, but that it would be held at A instead of at W.

At the opening of the inquiry the applicant stated that he had served a writ on the Council claiming that the declaration of the clearance area was null and void, and submitted that the inquiry was therefore also unlawful. The inspector appointed by the Minister to conduct the inquiry announced that this and other objections to the formalities would be reported to the Minister, but he did not consider there to be sufficient reason for adjourning the inquiry or altering the procedure.

The applicant, at the inquiry, called five witnesses; three tenants, a builder an decorator and surveyor and valuer. He argued that the classification of the houses as "fit" and "unfit" was misleading; that the tree houses should not be so classified or included in a clearance area; that if it were decided that the properties were unfit, payment of good maintenance grants should be made; that the Council's statement of case had not been properly served on objectors; and that he had insufficient time to prepare his case. He further alleged that the issue had been prejudiced by previous discussions between the Council and the Ministry. He complained also about the size of the order and the procedure of the inquiry was also questioned.

The inspector made an inspection of the relevant properties and his report noted that the three properties with which this application is concerned had been built ninety to one hundred years earlier. The report confirmed the "unfit" classification as regards two of the applicant's houses on the grounds given by the Council, and also that they did not qualify for "well maintained" payments. With regard to the third, the inspector found that the house had few serious defects and was not unfit. However, he considered that the acquisition by the Council of this was reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions or for the satisfactory development or use of the cleared area.

The Minister's decision on the issues raised was given in a letter issued on .. December, 1966. No. ... P Road was reclassified as "added land", which meant that compensation for that property would be at full market value. Subject to that modification, all three properties were included in the Compulsory Purchase Order as confirmed by the Minister.

The applicant brought a motion in the Queen's Bench Division of the High Court of Justice to quash the Compulsory Purchase Order.

The grounds of this motion were set out as follows:

"Neither the Council nor its officers either on its behalf or in pursuance of their statutory duty in that behalf at any time considered whether any method of dealing with the conditions alleged to exist in the relevant area other than the demolition of all the buildings in that area would be the most satisfactory method of dealing with the alleged conditions but acted throughout in pursuance of a preconceived design to acquire the dwelling houses in the said area and in particular those the property of the applicant's compulsorily on a basis of site value only as houses included in a clearance area as

houses unfit for human habitation.

Neither the Council nor its Officer on whose report it acted were ever satisfied in a bona fide manner or at all that the most satisfactory method of dealing with the conditions in an area declared to be a clearance area was the demolition of all the buildings therein.

After the properties in the area had been classified by the Council as "unfit", the Minister met the representatives of the Council for discussions concerning the Compulsory Purchase Order.

Before the inquiry was held by the Minister, the Minister authorised by letter a programme of building which included part of the building works included in the Council scheme for the redevelopment of the area covered by the Compulsory Purchase Order.

The procedure at the inquiry held by the Minister did not provide sufficient opportunity for applicants and objectors generally to have reasonable knowledge of the case the Council had prepared against them.

The inquiry was held in conditions which placed objectors at an overwhelming disadvantage, covering as it did the compulsory purchase of over four hundred houses in a multiplicity of ownerships.

The Minister, through his inspector appointed to hold the inquiry, indicated that the object of the inquiry was to ascertain whether the properties were unfit or not, whether they were to qualify for "well maintained" payments, whether the Council could discharge its statutory rehousing obligations and whether the Council could carry out its proposals if the Order were confirmed.

The Minister through his inspector indicated that he did not want time spent on evidence concerning the condition of the properties as he would be inspecting these himself, and that no representations would be heard after the inquiry had been closed. The inspector did invite representations during inspection.

The inspector did not inspect the properties, which formed the basis of his findings concerning fitness or unfitness, in a manner which could by any reasonable standard be found acceptable.

The inspector did not report to the Minister on the hardships and injustice involved of which he was informed many times during the inquiry.

The Minister did not take into consideration the many applications for Certificates of Fitness sewed pursuant to Section 69 of the Housing Act 1957.

In the premises the applicants were substantially prejudiced in their interests in property owned by them and rights which might otherwise have been exercisable by them in respect thereof."

The High Court, however, dismissed on .. October, 1967 the motion by Order dated .. November, 1967. In the grounds of the decision the court held that under paragraph 2 of the Fourth Schedule to the Housing Act 1957 its powers on the applicant's motion were limited to a finding only as to whether or not the Compulsory Purchase Order concerned was within the powers of the Act or any requirements of this Act had not been complied with. Subject to these two grounds, the Order could not be questioned in any legal proceedings whatsoever, either before or after the Order has been confirmed. Consequently it was beyond the powers of the court to consider whether the inspectors or the Minister of Housing had been wrong on questions of fact or opinion falling within their powers. In particular, it was not possible for the Court to consider the question as to whether individual properties had been wrongly classified as being unfit for human habitation and should

therefore not have been demolished.

As regards the applicant's separate allegations the Court held that the Council had, in fact, adequately considered the matters referred to in the applicant's motion and that it had not acted in pursuance of a preconceived design. Furthermore, the Minister of Housing had not acted in a manner which was incompatible with his obligation to perform quasi-judicial functions. Referring to the applicant's allegations concerning the inquiry the judge pointed out that he could only interfere on this ground if the defects in the way this inquiry was conducted were so fundamental that there was really nothing that could fairly be called an inquiry at all. As the Council had complied with their statutory obligations and the usual procedure, the failure to produce several documents and plans before the inquiry did not make the inquiry defective to such an extent. The inquiry was not held contrary to the principles of natural justice and consequently the applicant's allegations were to be rejected.

The Court furthermore held that it was beyond its powers to consider the hardships resulting from the rules that only site vile would be paid as compensation for houses which are unfit for human habitation. It pointed out that this was a matter of the policy of Parliament and that it was not competent to mitigate its consequences.

The applicant did not lodge an appeal with the Court of Appeal. He complains that any further remedy would have been ineffective, the Court having no power to act where the correct procedure had been followed; if procedures were duly observed it could furthermore not be said that the authorities acted contrary to natural justice.

The applicant alleges violation of Article 6 of the Convention and of Article 1 of the First Protocol.

As to the violation of Article 6 of the Convention he points out as follows:

The procedures of the Council of B were carried out in a grossly unfair manner. The decision was based on a report from the Public Health Inspector but the buildings were classified without inspection. The result was that many houses were classified unfit that were not unfit. Moreover, no opportunity was given by the Council for owners to be heard before houses were classified or before the Clearance Order was made.

He complains also that the Council of the London Borough of B, in determining this matter, had not acted impartially nor was the Council an impartial tribunal.

As far as the Minister's procedure was concerned the applicant states that the Minister's decision was takin in an unfair and partial manner. The unfairness began, as the applicant alleges, with the Minister's approval of the B Building Scheme in authorising a programme of building which included part of the clearance area. This authorization was given after the objections to the Compulsory Purchase Order had been sent to the Minister. The inquiry held by the Minister, in particular, contradicted the principles of natural justice and was unfair and biased in favour of the Council insofar as a vast volume of documentation was produced at the inquiry which was not made available to objectors beforehand.

As to the violation of Article 1 of the First Protocol the applicant sets out as follows:

The Council makes a Compulsory Purchase Order and the Minister of Housing confirms the Order. The owner has his property taken from him and is given compensation. The amount of compensation given for houses which are fit for human habitation is based on the market value of the

property. If the property concerned was classified as unfit for habitation, the amount of compensation is based on the site value only. An objection made to the Minister may be disregarded if the Minister is satisfied that the objections relate to the question of compensation. This may be the subject of determination by the Lands Tribunal, which, however, may not alter the basis of compensation, i.e. site value.

The applicant alleges that he was expropriated without adequate compensation. He states that, due to the arbitrary classification of his houses as unfit for human habitation, he is only entitled to a compensation under Section 59 of the Housing Act, which means site value instead of market value. He alleges that there was no domestic remedy of any kind available to prevent confiscation of an unfit house if the procedure laid down by the 1957 Act was observed, because the Court cannot alter the basis of compensation which was decreed by Parliament.

PROCEEDINGS BEFORE THE COMMISSION

The application was lodged with the Secretariat of the Commission on 22nd December, 1967, and entered in the special register provided for by Rule 13 of the Commission's Rules of Procedure on 17th June, 1968.

On 31st May, 1969, the case was submitted to a group of three members for a preliminary examination in accordance with Rule 34 of the Rules of Procedure. On 17th July, 1969, the Commission examined the application and decided to give notice to the United Kingdom Government in accordance with Rule 45, paragraph (3) (b) of its Rules of Procedure of this application and to invite it to submit their observations on the question of admissibility.

The United Kingdom Government submitted its observations on 23rd September, 1969, and the applicant submitted his observations in reply on 3rd November, 1969.

SUBMISSIONS OF THE PARTIES

The submissions of the parties may be summarised as follows:

1. The principal issues of the law governing the compulsory acquisition of land under Part III of the Housing Act 1957

(a) Government's observations

Background of the Housing Act 1957:

During the period from 1800 until 1975 (when the Public Health Act of that year gave local Government authorities wide powers in relation to drainage and water supply, the cleansing of houses, and the conditions of streets and buildings), over three million houses were built in England and Wales. There were no restrictions on the erection of houses, nor was there any provision for ensuring adequate standards of sanitation. Many houses were built cheaply and at a hight density. The period since 1866 has been marked by a continuously increasing effort to deal with the problems of dwelling houses unfit for human habitation erected during that earlier period and later. Later scale programmes for the clearance of unfit dwellings, or "slum clearance", and their replacement by houses erected according to adequate standards of building and sanitation did not, however, get under way until after the adoption, after the first Great War, of the "site value" principle, that is to say the payment of compensation for lands acquired for slum clearance on the basis of the value of the cleared site with no element for the buildings thereof or their materials. The financial burden on local government authorities (and hence on the community) of clearing slums and rehousing their inhabitants at rents which do not show an economic return on the capital costs of new housing was, and remains,

considerable, and it was concluded that effective measures on any scale could be attempted only if the cost of clearance were commensurate with the value of the land and no public moneys were paid for structures or material which, by definition, had come to the end of their useful lives and were acquired, simply in the process of clearance, to be cleared away. Apart from the question of the financial burden to the community, the "site value" basis of compensation is logically justifiable since a structure unfit for human habitation should have no rental value as a house and thus no capital value as one.

The effectiveness of the site value principle was demonstrated when, following the introduction of the concept of "clearance areas" in the Housing Act 1930, it became the duty of local Government authorities which instituted clearance programmes either to acquire slum houses and to demolish them themselves or to order the houses to be demolished by the owners.
In the twenty-eight years preceding 1919, only 32 clearance schemes were completed in the whole country. But from 1931 to 1939, about 300,000 houses were cleared or closed, the rate of clearance rising from 1,784 in 1931 to 71,747 in 1938. During the second Great War and for some years afterwards the clearance programme was suspended. It was resumed in 1955, and since then more than 820,000 houses have been demolished or closed under slum clearance programmes in England and Wales; yet, following a survey carried out in 1967, it is estimated that there are still some 1,800,000 unfit houses remaining, about 1,000,000 of which are in potential clearance areas.

The Housing Act 1957 is the principal Housing Act for England and Wales and consolidates previous enactments. Parts II and III contain the law dealing with the clearance of unfit houses. Certain changes have been effected by later Acts, in particular by the Housing Act 1969, but the changes, even if they had applied at the material time, would not have affected the treatment of any of the three properties in question. Accordingly the legislation will be described as it existed at the material time.

Part III (sections 42 to 75) of the 1957 Act contains powers, similar to those introduced in earlier legislation, for dealing with any area containing unfit houses where the most satisfactory method of dealing with the conditions in the area is the demolition of all the buildings in it, with the object of doing away with the social evil of bad housing and enabling the local government authorities to secure the proper redevelopment of the land.

The criteria by which the unfitness of a house for human habitation is to be judged for the purposes of the 1957 Act are set out in section 4 of that Act. The section does not attempt to define a specific test but requires regard to be had to the condition of the house in respect of repair, stability, freedom from damp, natural lighting, ventilation, water supply, drainage and sanitary conveniences, and facilities for the storage, preparation and cooking of food and for the disposal of waste water. A house is deemed to be unfit for human habitation if, and only if, it is so far defective in one or more of those matters that it is not reasonably suitable for occupation in that condition.

Various duties are imposed on local Government authorities under the 1957 Act to take action in respect of unfit houses. Section 3 required local Government authorities to cause their districts to be inspected from time to time to ascertain whether any houses are unfit for human habitation. In particular, Part III, section 42, provides that a local Government authority, where they are satisfied that the houses in an area unfit for human habitation and that the most satisfactory method of dealing with these conditions is the demolition of all the buildings, shall declare the area to be a clearance area. The clearance area is to be defined on a map in such a manner as to exclude buildings that are not unfit. The section also provides that before a local Government authority declare a clearance area, t hey shall satisfy

themselves that, insofar as suitable accommodation for persons who will be displaced is not available, the authority can provide or secure the provision of such accommodation - a provision which places a considerable financial burden on the community. The Minister of Housing and Local Government is required to be informed of the declaration and of the number of the occupants of the buildings in the area.

When an order has been made under section 42 declaring an area to be a clearance area, section 43 (1) of the 1957 Act provides that the local government authority shall secure the clearance of the area in either of the following ways, or by a combination of both of them;

- by making a clearance order requiring owners to demolish the buildings (but leaving the ownership of the land unaffected); or

- by purchasing the land, and themselves carrying out or arranging for the carrying out of demolition.

In the latter case, the local government authority may make a compulsory purchase order, authorising them to purchase compulsorily land in the clearance area and any necessary "added land" (section 43 (3)). Such an order does not take effect unless confirmed by the Minister. A local government authority which have so acquired land compulsorily are under a duty (section 47) to cause the buildings to be vacated so soon as may be, and to demolish the buildings within six weeks of their being vacated or such longer period as may, in the circumstances, be reasonable (or, alternatively, to sell or let the land subject to a condition requiring demolition).

Procedure regulating compulsory purchase

The procedure for authorising compulsory purchase under Part III of the 1957 Act is set forth in Part I of the Third Schedule to the Act. All owners, lessees, and occupiers (except tenants for a month or less have a right to object to the order, and are required to be served with notice to that effect before the order is submitted to the Minister. If objections are made, a public local inquiry or hearings held by an inspector appointed by the Minister, and the inspector reports thereof to the Minister, before a decision on confirmation is reached. In the case of objectors who allege that their houses are not unfit, paragraph 3 (4) of the Third Schedule to the Act requires the local government authority to serve separate individual notices stating what facts they allege as their principle grounds for being satisfied that the houses are unfit. After considering the inspector's report and the objections, the Minister may, if he thinks fit, confirm the order. Where the Minister confirms the order, he may do so with or without modification and, in particular, he may modify the order in respect of houses which he considers are not unfit, either to exclude them from the order absolutely or to authorise their purchase as "added lands. "Added land" is "land which is surrounded by the clearance area ... the acquisition of which is reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions, and any adjoining land the acquisition of which is reasonably necessary for the satisfactory development or use of the cleared area"; see section 43 (2) of the 1957 Act. Compensation paid for "added land" which is compulsorily acquired is assessed on a basis different from that applicable to unfit houses.

Compensation

Subject to certain exceptions, to which reference is made below, compensation is paid for land compulsorily acquired under Part III of the 1957 Act on the basis of site value.

Exceptions to the provision that payment of compensation is to be on the basis of site value, when property is compulsorily acquired under Part III of the 1957 Act, are made in the following cases:

- "added land" (see above), where compensation is paid on the basis of the market value of the land and buildings;

- where inspection has shown a house to have been "well maintained", a supplementary grant is paid to the person responsible for such maintenance;

- when the slum clearance drive was resumed in 1956, temporary provision (intended to expire in 1965, but subsequently extended) was made for supplementary payments to owner-occupiers who had bought their houses between 1939 and 1955, while slum clearance was in abeyance, to bring their compensation up to the market value of their houses as if they had not been found unfit.

Judicial review

Paragraph 2 of the Fourth Schedule to the 1957 Act provides that any person aggrieved by a clearance order or a compulsory purchase order may question its validity, on the ground that it is not within the powers of the Act or that any requirement of the act has not been complied with, by making an application for the purpose to the High Court, which has power to quash the order, either generally or in so far as it affects any property of the applicant, if satisfied that the order is ultra vires the Actor that the interests of the applicant have been substantially prejudiced by non-compliance with any provision of the Act. Paragraph 3 of that Schedule provides that such an order shall not be questioned in any other legal proceedings.

(b) Applicant's observations

The United Kingdom Government indicate that there would be financial burden on local government authorities if the market value had to be paid for houses on land deemed unfit by local government.

According to the applicant there can be no justification for confiscation of buildings by local government.

The fallacy of the arguments used by the United Kingdom Government seeking to support the confiscation of property as being in the public interest is illustrated by a brief perusal of the very figures the United Kingdom Government produces.

Reference is made to a survey carried out in 1967 which refers to an estimate that there are still 1,800,000 houses remaining, of which 1,000,000 are in potential clearance areas. This "survey" was the basis of a Government publication "Old Houses into New Homes", and published in April 1968.

The full title of this survey reads "A National Sample Survey on the Condition of Houses". Some 6,000 houses were surveyed to give a report on the condition of 15,000,000 houses, i.e. one house in every 2,500.

With regard to the survey carried out by local authorities in 1956, and which was mentioned by the Government, the applicant points out that this was a very complete survey carrying no element of "sampling" and was carried out by 1,467 local government authorities, i.e. those actually charged with the responsibility of the classification of unfitness. It is shown that the total number of unfit houses revealed by this complete survey was about 850,000. The Minister's Annual Report published in 1957 referred to this survey as "a detailed examination".

It will be seen that since 1955 some 820,000 houses have been demolished or closed underslum clearance programmes. The year 1955 provided demolition etc. of 25,229 houses. It will be seen therefore that the total number demolished etc. since 1956, i.e. the year of the detailed examination, was about 800,000. According to these figures all unfit houses had been demolished etc. by 1967.

Following the sample survey, it is alleged that there are a further 1,800,000 unfit houses. In addition between the years 1955 and 1967 some 1,174,027 Improvement Grants were made covering houses which as a result cannot be labelled unfit.

The applicant therefore supports that these figures illustrate the unreliability of both argument and figures submitted by the respondent Government.

2. Government's observations on the admissibility of the application

(a) As regards the complaints under Article 1 of the First Additional Protocol:

The applicant alleges that he was deprived of two houses without compensation in accordance with the provisions under Housing Act 1957, Section 59. The applicant's silence as to the third house for which compensation was payable on the basis of market value, taken together with the applicant's statement concerning the alleged violation of Article 1 of the First Protocol, make it clear that this complaint is in substance a complaint about the basis of compensation as prescribed by Section 59 (2) of the 1957 Act.

The first paragraph of Article 1 of the First Protocol excepts from the right secured by that Article a deprivation of property "in the public interest and subject to the conditions provided for by law and by the general principles of international law". The United Kingdom Government submit that it is well established in the jurisprudence of the Commission that Article 1 does not require that measures taken by a State with respect to its own national are to be subject to the general principles of international law and, in particular, does not require, as a separate condition, that compensation shall be paid when the property of a State's own nationals are acquired in the public interest and subject to the conditions provided for by law. In this connection, the respondent Government refer to the Commission's decision in Application No. 1870/63, Yearbook, Vol. 8, p. 218. It follows from this that Article 1 does not in such cases require any particular standard of compensation.

The applicant does not raise any question in respect of the public interest or compliance with the conditions of domestic law. It is apparent from this statement in respect of Article 1 of the Protocol and from the application form itself (in which the applicant explains why he did not prefer a further appeal, a step which Article 26 of the Convention would require if this aspect of the acquisition of the properties were in issue) that it is not disputed that the applicant was deprived of the properties "subject to the conditions provided for by law". The United Kingdom Government wish to draw the Commission's attention to the determination to that effect in the judgment of the High Court on the applicant's motion.

With regard to the question whether the compulsory acquisition of the applicant's property was in the public interest, it is submitted that measures taken pursuant to the legislation evolved in the United Kingdom to deal with the problem and social evils of slum housing conditions, involving the clearance of areas of such housing with a view to their redevelopment to provide housing of a satisfactory standard, are plainly measures taken in the public interest; and that the compulsory acquisition of this property was such a measure. In this connection, the United Kingdom Government wish to refer the Commission to its decision in Application No. 3039/67, Collection of Decisions, Vol. 23, p. 66.

The United Kingdom Government therefore submit that, for these reasons the applicant's complaint of the violation of his rights under Article 1 of the First Protocol is incompatible with the provisions of the

Convention or, in the alternative, manifestly ill-founded and should be considered inadmissible under Article 27 (2) of the Convention.

(b) Submissions regarding alleged violation of Article 6 of the Convention

The applicant alleges that in the determination of his civil rights he was not afforded a fair hearing by na independent and impartial tribunal, and in his statement in respect of Article 6 (1) of the Convention specifies two matters as constituting a violation of the rights guaranteed by that paragraph, namely the action taken by the former Q Borough Council in declaring a clearance area (which he refers to as the "B determination") and the action taken by the Minister in confirming the compulsory purchase order made by the Commission (which he refers to as the "Minister's determination"). The applicant's criticism of the latter determination also extends to the conduct of the proceedings before the inspector appointed by the Minister to hold the public local inquiry, and the United Kingdom Government would refer the Commission to the High Court's findings on the inquiry which are set out in the judgment at Annex C.

Although the applicant criticises the "B determination" and the "Minister's determination" on the grounds that the proceedings of the Council in the one case, and of the inspector and the Minister in the other case, did not satisfy the requirements of paragraph (1) of Article 6, it is by no means clear from the application what is the nature of the civil right or rights which the applicant alleges to have been the subject of a determination on either occasion. It is the submission of the United Kingdom Government that no matter which fell to be determined, or was determined, by the Council or the Minister constituted a civil right within the meaning of Article 6 (1).

It has been, and remains, the contention of the United Kingdom Government that on the true construction of Article 6 (1) (in both the English and French texts), only something which is justiciable in the courts of the State concerned can properly be regarded as a civil right within the meaning of that Article. Paragraph (1) of Article 6 deals with the determination of civil rights and obligations and of criminal charges; paragraph (2) deals further with the determination of criminal liability; and it is submitted that, when Article 6 is considered as a whole, it is clear that the Article is intended to regulate only he determination by courts and tribunals of such rights and liabilities as are accorded by national law. Moreover, in the French text, the words "cause" and "contestations" necessarily imply that the paragraph is intended to regulate the conduct of proceedings for the determination of issues which are justiciable in the courts or tribunals of the country concerned. In support of this proposition, the United Kingdom Government rely on the decision of the Commission, in Application No. 1329/62, Collection of Decisions, Vol. 9, p. 28, that this Article applies only to proceedings before courts of law and that the right to have a purely administrative decision based upon proceedings in court is not as such included among the rights and freedoms guaranteed by the Convention.

In the submission of the United Kingdom Government, the proposition is not inconsistent with the decision of the Commission in Application No. 1931/63, Yearbook, Vol. 7, p. 212, in which it is said that the term "civil rights and obligations", employed in Article 6 (1) of the Convention, cannot be construed as a mere reference to the domestic law of the High Contracting Party concerned, but on the contrary, relates to an autonomous concept which must be interpreted independently of the rights existing in the law of the High Contracting Parties, even though the general principles of the domestic law of the High Contracting Parties must necessarily be taken into consideration in any such interpretation. The Commission has not, to the knowledge of the United Kingdom Government, in any of its decisions concluded that something which is not recognised as a right or obligation in the domestic law

of the country concerned is to be regarded as a civil right or obligations within the meaning of Article 6 (1).

The only justiciable issues in relation to actions taken under the relevant provisions of the 1957 Act are whether a clearance order or a compulsory order are within the powers of the Act, or whether the interests of the applicant are substantially prejudiced by any non-compliance with the requirements of the Act. These questions were not in issue in, and the subject of, the "B determination" of the "Minister's determination".

The United Kingdom Government are, however, mindful of the Commission's decisions on Applications Nos. 3435, 3436, 3437 and 3438/67, (Collection of Decisions, Vol. 28, P. 109); they therefore submit that the matters which fell to be determined, and were determined, by the Council and the Minister did not constitute a civil right within the meaning of Article 6, paragraph (1), of the Convention on the following alternative ground.

In its consideration of the "autonomous concept" of civil rights within the meaning of Article 6, paragraph (1), of the Convention, the Commission has concluded, as appears from the quotation set out in paragraph 37 above, that the issue of what is and what is not a civil right is to be decided solely by an analysis of the claim itself. It has also, in two lines of cases, isolated the two following criteria:

(a) First the United Kingdom Government refer to Applications Nos. 2991 and 2992/66 (Collection of Decisions, Vol. 24, p. 116). From these decisions, it would appear to follow that a "right" which is not a right protected by the Convention is not a civil right within the meaning of Article 6, paragraph (1), of the Convention. (The United Kingdom Government wish to emphasise that this is a negative, not a positive proposition).

(b) In a second line of cases the Commission has decided that a distinction is to be drawn between matters falling under public law and matters falling under private law, and that Article 6 (1) does not apply to matters falling under the former. In this connection reference is made to Application No. 2145/64, Yearbook, Vol. 8, p. 282.

The applicant's claim appears to be essentially a claim to be accorded a particular standard of compensation on the acquisition of his property. Such a claim does not, it is submitted, satisfy either of the criteria referred to above.

As the United Kingdom Government have sought to establish in the above paragraphs, Article 1 of the First Protocol to the Convention (and there is no other relevant provision) does not accord to nationals any right to compensation or, a fortiori, to compensation of particular standard. Therefore, such a claim, not being a right accorded by the Convention, is not a civil right within the meaning of Article 6, paragraph (1), of the Convention.

Secondly, whilst rights and obligations are not formally characterised as "public" or "private" in the domestic law of the United Kingdom, they may be so characterised for the purposes of the Convention, and indeed such a characterisation was made by the Commission in its decision on a previous complaint against the United Kingdom Government (decision in Application No. 3325/67, Collection of Decisions, Vol. 25, p. 117).

The United Kingdom Government submit that the exercise by a local government authority and by a Minister of the powers conferred upon them by Part III of the 1957 Act are acts of public administration, governed by public law and, accordingly, that the decisions complained of by the applicant did not involve the determination of any civil rights within the meaning of Article 6, paragraph (1), of the

Convention.

As a further alternative, the United Kingdom Government submit that there can be no place for the application of an autonomous concept, so as to require a determination in accordance with the provisions of Article 6, paragraph (1), of the Convention, in a field where the Convention or Protocol itself makes it clear that a discretion is left to the State concerned. Article 1 of the First Protocol provides, so far as material, that deprivation of possessions is to be regulated by the "conditions provided for by law". There would appear to be no justification for applying, in relation to the deprivation of possessions, criteria external to those adopted in the law concerned.

Moreover, since the "B decision" and the "Minister's decision" were (notwithstanding that the Minister was under a duty to exercise his functions in a judicial or quasi-judicial manner) administrative acts, not acts of a judicial-tribunal, the United Kingdom Government submit that such decisions are, irrespective of the nature of the right claimed by the applicant, not governed by the provisions of Article 6 (1). In this connection they refer again to the decision of the Commission in Application No. 1329/62 (Collection of Decisions, Vol. 9, p. 28):

The United Kingdom Government therefore submit that for the reasons set out above, the applicant's complaint of the violation of his rights under Article 6 (1) of the Convention is incompatible with the provisions of the Convention or, in the alternative, manifestly ill-founded and should be considered inadmissible under Article 27, paragraph (2), of the Convention.

THE LAW

Whereas the applicant complains that the proceedings under the Housing Act 1957 concerning the expropriation of his property were carried out in a grossly unfair manner ; whereas he alleges, in particular, that the Council of the London Borough of B failed to act impartially and that the Minister of Housing took his decision in an unfair and partial manner and was biased against the applicant; whereas the applicant alleges that he was consequently denied the right to a fair and public hearing by an independent and impartial tribunal within the meaning of Article 6, paragraph (1) (Art. 6-1), of the Convention;

Whereas it is true that Article 6, paragraph (1) (Art. 6-1), of the Convention, provides that "in the determination of his civil rights and obligations .... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law";

Whereas, even assuming that the decision to expropriate the applicant's houses under the Housing Act involved the determination of such civil right and that consequently the above-mentioned provision was applicable in the proceedings concerning that decision, it must first be examined whether the applicant has exhausted the domestic remedies available to him under English law, and thus satisfied the conditions of Articles 26 and 27 (Art. 26, 27) of the Convention; whereas the Commission notes in this respect that the 4th Schedule of the Housing Act, paragraph 2, provides as follows:

"If any person aggrieved by such an order as aforesaid, or by the Minister's approval of a redevelopment plan or of a new plan, desires to question the validity thereof on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may, within six weeks after the publication of the notice of confirmation of the order, or of the approval of the plan, make an application for the purpose to the High Court, and where any such application is duly made the court

(i) may by interim order suspend the operation of the order, or the approval of the plan, either generally or insofar as it affects any property of the applicant until the final determination of the proceedings; and

(ii) If satisfied upon hearing of the application that the order, or the approval of the plan is not within the powers of this Act, or that the requirement of this Act not having been complied with, may quash the order or the approval of the plan, either generally or insofar as it affects any property of the applicant".

Whereas, paragraph 4 of the said Schedule implies that an appeal could be made to the Court of Appeal against the decision of the High Court; and whereas it follows that the Court of Appeal was, in general, competent to give judgment on the question whether or not the procedural provisions of the Housing Act were duly observed in these proceedings and was thus competent to deal with exactly those issues of which the applicant complained in his application; whereas the Judges' Chamber in its judgment of 25th October, 1967, stated that its powers on the applicant's motion were extremely limited and that it had no possibility to consider whether the Inspector or the Minister was right or wrong on questions of fact of opinion falling within their powers; and whereas the Court further held, with respect to the applicant's allegations concerning the shortcomings of the inquiry, that it could only interfere on these grounds if the defects in the way this inquiry was conducted were so fundamental that there was really nothing t hat could fairly be called an inquiry at all; whereas the Commission consequently admits that there might arise doubts as regards the effectiveness of an appeal to the Court of Appeal because of the restricted powers of that Court;

Whereas the Commission in an number of decisions [see 3.g. decision as to the admissibility of Application No. 788/60 (Austria v. Italy), Yearbook, Vol. IV, p. 168] has decided that "the exhaustion of a given domestic remedy does not normally cease to be necessary, according to the generally recognised rules of international law, unless the applicant can show that, in these particular circumstances, this remedy was unlikely to be effective"; whereas, furthermore, it is established under international law that "if there is any doubt as to whether a given remedy is or is not intrinsically able to offer a real chance of success, that is a point which must be submitted to the domestic courts themselves before any appeal can be made to the international court" (Panevezys Saldutiskis Railways Case P.C.I.J. Series A/B No. 76); whereas the Commission refers to its previous jurisprudence concerning this question (see decision of Applications No.s 712/60, Yearbook, Vol. IV, p. 400 and 1661/62, Yearbook, Vol. VI, p. 365):

Whereas the applicant does not deny that he failed to appeal against the judgment of the Queen's Bench Division of the High Court of 25th October, 1967, but alleges that an appeal to the Court of Appeal would have been ineffective because of its limited powers; whereas, however, the applicant has not shown that having regard to the generally recognised rules of international law and the Commission's jurisprudence relating thereto, such appeal to the Court of Appeal was an ineffective remedy which might absolve him from the obligation to exhaust the remedy concerned;

Whereas, therefore, the condition as to the exhaustion of domestic remedies laid down in Article 26 and 27, paragraph (3) (Art. 26, 27-3), of the Convention, has not been complied with by the applicant;

Whereas the applicant further complains that his property was expropriated without adequate compensation since he was paid only site value for those of his houses which had been declared unfit for human habitation;

Whereas he alleges that this constitutes a violation of the right to

the peaceful enjoyment of his possessions as guaranteed under Article 1 of the Protocol (P1-1); whereas the Commission is of the opinion that a basis of site value in respect of compensation for houses found unfit for human habitation constitutes an adequate compensation, since such houses have no value for their proper purpose as dwelling-houses;

Whereas the compensation paid to the applicant on this basis was in the circumstances adequate; whereas it follows that this part of the application is manifestly ill-founded within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention.

Now therefore the Commission DECLARES THIS APPLICATION INADMISSIBLE