AS TO THE ADMISSIBILITY OF

Application No. 24436/94
by Nicholas Robert CABLE
against the United Kingdom

The European Commission of Human Rights (First Chamber) sitting in private on 9 April 1997, the following members being present:

Mrs. J. LIDDY, President
MM. M.P. PELLONPÄÄ
E. BUSUTTIL
A. WEITZEL
C.L. ROZAKIS
L. LOUCAIDES
B. MARXER
B. CONFORTI
I. BÉKÉS
G. RESS
A. PERENIC
C. BÎRSAN
K. HERNDL
M. VILA AMIGÓ
Mrs. M. HION
Mr. R. NICOLINI

Mrs. M.F. BUQUICCHIO, Secretary to the Chamber

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 6 June 1994 by Nicholas Robert Cable against the United Kingdom and registered on 20 June 1994 under file No. 24436/94;

Having regard to the reports provided for in Rule 47 of the Rules of Procedure of the Commission and the respondent Government's indication that they have no observations on the admissibility of the applicant's complaints;

Having deliberated;

Decides as follows:

THE FACTS

The applicant is a British citizen, born in 1968 and resident in Stamford. He is represented before the Commission by Mr. Gilbert Blades a solicitor practising in Lincoln. The facts as submitted by the applicant may be summarised as follows.

A. Particular circumstances of the case.

In May 1993 the applicant, then a corporal in the Royal Air Force, was charged pursuant to section 70(1) of the Air Force Act 1955 with the civilian criminal offence of indecent assault contrary to the Sexual Offences Act 1956.

The Convening Officer, by order dated 8 June 1993, convened a district court-martial to try the applicant on the charge.

The court-martial took place on 5-7 July 1993. On 7 July 1993 the applicant was found guilty and the court-martial sentenced him to dismissal from the air force, to be detained for nine months and to be

reduced to the ranks.

The conviction and sentence of the court-martial were subsequently confirmed by the Confirming Officer.

The applicant then presented an appeal petition to the Defence Council. By letter dated 27 October 1993 the decision on this petition, taken by the Air Force Board, was communicated to the applicant's representative. The applicant's conviction and sentence were upheld by the Air Force Board except the period of detention was reduced to six months.

On 20 December 1993 the applicant's application to a single judge of the Courts-Martial Appeal Court, for leave to appeal to that court against conviction, was rejected.

The subsequent application to the full Courts-Martial Appeal Court for leave to appeal against conviction was rejected on 28 April 1994.

B. Relevant domestic law and practice.

The Commission refers to the "Relevant domestic law and practice" contained in its report on the Coyne application (No. 25942/94, Comm. Report 25.6.96, unpublished).

COMPLAINTS

The applicant complains under Article 6 of the Convention that he was denied a fair and public hearing by an independent and impartial tribunal established by law.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 6 June 1994 and was registered on 20 June 1994.

On 7 December 1994 the Commission decided to communicate and adjourn the application.

On 2 July 1996 the Commission decided to request the Government's observations. In their letter received on 7 November 1996 the Government stated that they have no observations on the admissibility of the application.

THE LAW

The applicant complains under Article 6 (Art. 6) of the Convention that he was denied a fair and public hearing by an independent and impartial tribunal established by law. The Government have no observations on the admissibility of the applicant's complaints.

The Commission considers that the application raises complex and serious issues under Article 6 (Art. 6) of the Convention which require determination on the merits. It follows that these complaints of the applicant cannot be dismissed as manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention. No other ground for declaring them inadmissible has been established.

For these reasons, the Commission, unanimously

DECLARES THE APPLICATION ADMISSIBLE, without prejudging the merits.

M.F. BUQUICCHIO
Secretary

J. LIDDY
President

to the First Chamber of the First Chamber