AS TO THE ADMISSIBILITY OF

Application No. 31434/96
by Edward CURRAN
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 1 May 1996 by Edward Curran against the United Kingdom and registered on 9 May 1996 under file No. 31434/96;

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 1965 and resident in Oxon. 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 1995 the applicant, who was at the relevant time a sergeant and a non-commissioned officer in the Royal Air Force on detachment to Bahrain, was charged (pursuant to section 70 of the Air Force Act 1955) with two offences of assault occasioning actual bodily harm contrary to the Offences Against the Person Act 1861 and with one offence of common assault contrary to the Criminal Justice Act 1988 (these charges all relating to civilian criminal offences). He was also charged with drunkenness contrary to section 43 of the Air Force Act 1955.

The Convening Officer, by order dated 5 July 1995, convened a district court-martial to try the applicant. On 7 July 1995 the court-martial found the applicant guilty on all charges apart from one of the

charges of assault occasioning actual bodily harm.

By letter dated 23 August 1993 the applicant's representative was informed of the decision taken by the Confirming Officer to mitigate the applicant's sentence. The sentence confirmed was nine months detention and the applicant was to be reduced to the ranks.

On 29 August 1995 the applicant petitioned the Defence Council against conviction and sentence. By letter dated 24 November 1995 the applicant's representative was informed of the decision, taken by the Air Force Board, to reject this petition.

On 24 November 1995 the applicant applied to a single judge of the Courts-Martial Appeal Court for leave to appeal to that court against conviction. On 20 January 1996 this application was rejected by the single judge. On 28 March 1996 the applicant's application, for leave to appeal to the full Courts-Martial Appeal Court, was rejected by that court.

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 1 May 1996 and was registered on 9 May 1996.

On 26 June 1996 the Commission decided to communicate the application and on 2 July 1996 the Commission decided to request observations.

In their letter dated 5 December 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	J. LIDDY
Secretary	President
to the First Chamber	of the First Chamber