AS TO THE ADMISSIBILITY OF

Application No. 30460/96
by Steven Douglas GRAHAM
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 29 February 1996 by Steven Douglas Graham against the United Kingdom and registered on 15 March 1996 under file No. 30460/96;

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 1973 and resident in Durham. 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 1995 the applicant, who was a senior aircraftman and a non-commissioned officer in the Royal Air Force, was charged together with another aircraftman (pursuant to section 70 of the Air Force Act 1955) with the civilian criminal offence of assault occasioning actual bodily harm contrary to the Offences Against the Person Act 1861.

The Convening Officer, by order dated 17 May 1995, convened a district court-martial to try the applicant. On 21 June 1995 the court-martial found the applicant guilty. He was fined £1200.00 and severely reprimanded.

The Confirming Officer subsequently confirmed the applicant's

conviction and sentence.

On 24 July 1995 the applicant petitioned the Defence Council against conviction. He amended his petition on 14 August 1995. The applicant submitted, inter alia, that the finding was unsafe and unsatisfactory because it was against the weight of the evidence and because there was considerable doubt as to whether the victim had suffered any bodily harm attributable to an assault. By letter dated 18 October 1995 the applicant's representative was informed of the decision, taken by the Air Force Board, to reject this petition.

On 18 October 1995 the applicant applied to a single judge of the Courts-Martial Appeal Court for leave to appeal to that court against conviction raising the same grounds as before the Defence Council. On 26 January 1996 this application was rejected. The single judge found that the evidence of the victim was confirmed by an independent witness and that it was a matter for the court-martial to assess the weight of the evidence in the light of the clear and fair directions it had received from the Judge Advocate. He also found, inter alia, that the victim had alleged that he had sustained facial injuries during the assault upon him and that that evidence had been confirmed by a medical doctor who examined the victim at hospital the morning of the relevant incident.

The applicant's co-accused has also introduced an application before the Commission (No. 30461/96).

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 29 February 1996 and was registered on 15 March 1996.

On 15 May 1996 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	J. LIDDY
Secretary	President
to the First Chamber	of the First Chamber