PARTIAL
AS TO THE ADMISSIBILITY OF

Application No. 18949/91
by Peter MAXWELL
against the United Kingdom

The European Commission of Human Rights (First Chamber) sitting in private on 2 April 1992, the following members being present:

MM. J.A. FROWEIN, President of the First Chamber
F. ERMACORA
E. BUSUTTIL
A.S. GÖZÜBÜYÜK
Sir Basil HALL
Mr. C.L. ROZAKIS
Mrs. J. LIDDY
MM. M. PELLONPÄÄ
B. MARXER

Mr. M. de SALVIA, Secretary to the First 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 25 March 1991 by Peter Maxwell against the United Kingdom and registered on 15 October 1991 under file No. 18949/91;

Having regard to the report provided for in Rule 47 of the Rules of Procedure of the Commission;

Having deliberated;

Decides as follows:

THE FACTS

The applicant is a British citizen. He was born in 1944. He is currently detained at H.M. Prison Perth, Scotland, where he is serving a sentence of 5 years' imprisonment.

The facts, as submitted by the applicant and as may be deduced from the documents lodged with the application, may be summarised as follows.

On 29 May 1990 the applicant, along with a co-accused, was convicted in the High Court of assault to the severe injury and permanent disfigurement of A.. The applicant was represented at trial by a solicitor and counsel.

On 23 January 1991 the Scottish Legal Aid Board rejected the applicant's application for legal aid for an appeal against conviction. It did so because it did not consider that there were substantial grounds for such an appeal. Counsel had earlier advised that the applicant had no grounds of appeal against conviction. The applicant prepared and submitted his own grounds of appeal against conviction.

On 21 March 1991 the applicant addressed the High Court of Justiciary on his grounds of appeal.

The grounds of appeal were, inter alia, as follows:

1. He could not substantiate his contention that a crucial witness was giving false evidence against him because to do so

would have involved revealing to the jury a previous conviction.

2. A number of witnesses were not called by the Crown or Defence.

3. Crucial evidence was fabricated.

4. The verdict of the jury was not supported by the evidence.

5. His legal advisers disregarded instructions which he gave them and did not defend him in accordance with his instructions.

On the same date the Court refused the applicant's appeal against conviction. It found that none of the grounds of appeal supported the suggestion that there was any miscarriage of justice in the case.

COMPLAINTS

The applicant complains that crucial evidence was fabricated. He also complains about the conduct of his defence by his legal representatives, in particular, that they failed to call certain witnesses or to challenge the evidence of other witnesses. He further complains of the behaviour of the trial judge, of the advocates appearing for the Crown and of the police. He also complains of being denied legal aid for his appeal.

He invokes Article 6 paras. 1 and 3 (c) and (d) and Article 13 of the Convention.

THE LAW

1. The applicant complains that he was refused legal aid for his appeal. He invokes Article 6 paras. 1 and 3 (c) (Art. 6-1, 6-3-c) in this respect.

Article 6 para. 1 (Art. 6-1) provides in its first sentence :

"In the determination of.....any criminal charge against him, everyone is entitled to a fair and public hearing..."

Article 6 para. 3 (c) (Art. 6-3-c) provides :

"(3) Everyone charged with a criminal offence has the following minimum rights:...

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;..."

The Commission notes that the applicant was refused legal aid for representation in his appeal against his conviction for assault and his sentence of 5 years imprisonment. The Commission considers that these complaints raise issues of fact and law requiring further examination. It therefore adjourns examination of this part of the application.

2. The applicant complains also of the conduct of his defence by his legal representatives, in particular, that they did not call certain witnesses or question other witnesses properly.

However, under Article 25 para. 1 (Art. 25-1) of the Convention, the Commission may only receive an application from a person, non-governmental organisation or group of individuals where the applicant alleges a violation by one of the Contracting Parties of the rights and freedoms set out in the Convention and where that Party has recognised

this competence of the Commission. The Commmission may not, therefore, receive applications directed against private individuals. In this respect the Commission refers to its established case-law (see e.g. No. 172/56, Dec. 20.12.57, Yearbook 1 pp. 211, 215; No. 852/60, Dec. 19.9.61, Yearbook 4 pp. 346, 352; No. 3925/69, Collection 32 pp. 56, 58; No. 4072/69, Dec. 3.2.70, Yearbook 13 pp. 708, 716; No. 9022/80, Dec. 13.7.83, D.R. 33 pp. 21, 36).

The Commission recalls that the applicant complains of the alleged conduct of his legal representatives.

It follows that this part of the application is incompatible ratione personae with the provisions of the Convention within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

3. The applicant also complains of a number of other matters arising out of his trial, inter alia, of the conduct of the trial judge , the advocates for the Crown and the police. The applicant further complains under Article 13 (Art. 13) of the Convention.

The Commission has examined these complaints as they have been submitted by the applicant but finds that they fail to disclose any appearance of a violation of the provisions of the Convention.

It follows that these complaints are manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

For these reasons, the Commission unanimously

DECIDES TO ADJOURN the complaints concerning the refusal of legal aid;

DECLARES INADMISSIBLE the remainder of the application.

Secretary to the First Chamber — President of the First Chamber

(M. de SALVIA) — (J. A. FROWEIN)