AS TO THE ADMISSIBILITY OF

Application No. 27760/95
by William Russell YOUNG
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 22 June 1995 by William Russell Young against the United Kingdom and registered on 30 June 1995 under file No. 27760/95;

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 1961 and resident in Moray, Scotland. 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 October 1994 the applicant, who was a non-commissioned officer in the Royal Air Force stationed in Cyprus, was charged (pursuant to section 70 of the Air Force Act 1955) with the civilian criminal offences of common assault and assault occasioning actual bodily harm contrary to the Criminal Justice Act 1988 and the Offences Against The Person Act 1861, respectively. He was also charged with drunkenness contrary to section 43 of the Air Force Act 1955.

The Convening Officer, by order dated 7 October 1994, convened a district court-martial to try the applicant on the charges. On 10 November 1994 the court-martial found the applicant guilty of common

assault and drunkenness. He was fined £900 and given a severe reprimand. The Confirming Officer subsequently confirmed the conviction and sentence.

On 20 December 1994 the applicant petitioned the Defence Council against conviction and sentence. As regards his conviction, he submitted that the Judge Advocate failed to direct the court that evidence in relation to the first and second charges could not be taken as evidence to support the third charge, that there was no or insufficient identification evidence, that the court-martial failed to take account certain facts and that there was no evidence of disorderly behaviour. The applicant also submitted that the sentence was too severe having regard to certain factors. By letter dated 30 March 1995 the applicant's representative was informed of the decision, taken by the Air Force Board, not to vary the conviction or sentence.

On 29 March 1995 the applicant applied to a single judge of the Courts-Martial Appeal Court for leave to appeal to that court against conviction. The applicant raised the same submissions as he raised before the Defence Council. On 30 May 1995 this application was rejected. The single judge found that the Judge Advocate's summing up was fair and that the directions in law were adequate. The single judge specifically noted that the Judge Advocate directed the court to consider each charge separately and that there was ample evidence that the applicant was drunk and disorderly. He also found that there was quite sufficient identification evidence for both charges. Finally, the single judge considered the submission, that the court-martial had not taken into account certain facts, to have no validity.

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 22 June 1995 and was registered on 30 June 1995.

On 18 October 1995 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
to the First Chamber

J. LIDDY
President
of the First Chamber