THE FACTS (1)

Proceedings before the Commission

Whereas the proceedings before the Commission may be summarised as follows:

By two partial decisions dated 7th October and 16th December, 1966, the Commission while declaring other parts of the present Application inadmissible, decided, in accordance with Rule 45, paragraph 3 (b) of its Rules of Procedure to give notice of the Application to the Government of the United Kingdom and to invite it to submit its observations in writing on the question of admissibility in so far as the Application related to:

- the Applicant's complaints appearing at paragraph V of the Facts, namely, that he has been deprived of access to the courts but only in so far as they were based on the specific allegations set out in paragraphs V (b), (c) and (d) of the Facts, which relate to the stopping by the

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(1) See partial decision of 7th October, 1966, above, page 85.

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prison authorities of five letters sent by the Applicant with a view to taking certain proceedings before the courts;

- the Applicant's complaint set out in paragraph IX of the Facts relating to an alleged decision by the Board of Trade which prevented the Applicant from obtaining certain accounts which he desired to submit to the Commission in connection with his Application.

On 27th February, 1967, the Government submitted its observations on admissibility. The Applicant's reply, consisting of a letter and a typed document dated 3rd March, 1967, together with a number of annexes, was submitted on 30th March, 1967.

Submissions of the Parties

Whereas the submissions of the parties may be summarised as follows:

The Government, after tracing the history of the Applicant's conviction, set out the provisions of Rules 33 and 34, paragraph (8) of the Prisons' Rules 1964, governing communications between prisoners and persons outside the prison. These Rules provide that a prisoner shall not be permitted to communicate with any outside person, or that person with him, without the permission of the Home Secretary. The Government then states the general practice with regard to the grant of facilities for prisoners to institute legal proceedings and if they would be prejudiced by the deferment of such proceedings until their release. They are not, however, given facilities to institute proceedings which would reopen questions in issue at their trial such as, for example, proceedings for perjury against a witness at the trial. But a prisoner who has exhausted his rights of appeal may petition the Home Secretary who will consider whether there are grounds for referring the case to the Criminal Division of the Court of Appeal for reconsideration in accordance with Section 19 of the Criminal Appeal Act, 1907. This will not be done unless the Home Secretary is satisfied that significant new evidence has come to light since the trial. Similar principles govern the grant of facilities to apply for a writ of habeas corpus and as a concession facilities are also granted for only one informal application to the Court on the question of the legality of a prisoner's detention.

The Government then states the facilities actually granted to the Applicant in connection with litigation pending at the time of his conviction and one libel case which he was subsequently permitted to

commence. On 25th September, 1964, detailed instructions based on the above principles were sent to the Prison Governor and communicated to the Applicant (a copy is included as an annex to the Government's observations).

The Government's observations then deal separately with each of the five letters mentioned in sub-paragraphs (b), (c) and (d) of paragraph V of the Facts. The letters are set out in chronological order in Annex E to the observations and numbered for convenience E (i) - (v) as follows:

E (i): Letter of 24th January, 1966, to the Master of the High Court of Rhodesia. This letter concerns a claim which the Applicant wished to pursue in the Rhodesian courts and sought an order to stay the issues "until such time as the Secretary of State for the Home Department has been compelled by the European Commission to cease his unlawful denial of my rights and thereafter the evidence requisite has been established in the [United Kingdom] courts". The Government observes that the Applicant did not seek the Home Secretary's permission to take such a step regarding these proceedings.

E (ii): Letter of 4th February, 1966, to Mr. N. Beach of Messrs. Beach & Beach, Solicitors.

In this letter the Applicant instructed a solicitor to examine evidence with a view to the prosecution for perjury of a witness at his trial and stated "if the Secretary of State should stop this letter and attempt to stifle such proceedings, I shall lay the copy of this before the European Commission." The Government observes that the Applicant did not seek the Home Secretary's permission to write to a solicitor with a view to the institution of proceedings of this kind.

E (iii): Letter of 5th February, 1966, to Messrs. Bull & Bull, Solicitors.

This letter instructed solicitors to institute civil proceedings against certain persons, including the witness referred to in connection with the preceding letter. It was attached to a personal letter to Sir G.B. stating it to be "written in direct defiance of the H.S. [i.e. the Home Secretary] under protection of Articles 5 and 6 of the Convention". The Government observes that the Applicant did not seek the Home Secretary's leave to instruct solicitors to institute proceedings of this kind.

E (iv): Letter of 7th February to Messrs. Beach & Beach, Solicitors.

This letter, which was expressed to be "in further defiance of the H.S. and under the protection of Article 6 (1) of the European Convention", instructed solicitors to institute civil proceedings against certain other persons with a view to establishing the authenticity of evidence that the Applicant had been wrongfully convicted.

The Government again observed that the Applicant did not seek the Home Secretary's leave to instruct solicitors to institute such proceedings.

E (v): Letter of 22nd February, 1966, to the Master of the Crown Office, Royal Courts of Justice, which the Government states appears to be the letter referred to in paragraph V (d) of the Statement of Facts. This letter made application for habeas corpus "by means of informal procedure" so as to enable the Applicant to apply for an injunction requiring, in effect, that the Home Secretary should allow him certain facilities. The Government observes that the Applicant had not sought special permission from the Home Secretary to make this further informal application, since only one such application is permitted by way of concession without such special permission.

The Government observes with regard to all five letters that the

Applicant, having failed to seek the permission of the Home Secretary to pursue the proceeding contemplated in each case, has failed to exhaust the available domestic remedies. Further, in respect of the letters of 4th, 5th and 7th February, 1966, (E (ii), E (iii) and E (iv)), the Applicant's obvious intention was to reopen questions in issue at his trial, and he had already been informed that he would not be permitted to institute proceedings of this kind.

The Government further emphatically deny the Applicant's allegations in the first two sentences of paragraph V of the Facts that he has been "shut out by the Home Secretary from every Court in the United Kingdom", that he has been "wholly deprived of all access to any courts whatsoever"; and that there has been a decision or directive to that effect.

The Government further submits that the actions complained of in sub-paragraphs (b), (c) and (d) of paragraph V of the Facts do not constitute a violation of any right guaranteed by the Convention. In particular, Article 5 invoked by the Applicant, is irrelevant in this context because the actions here complained of in no way affected the rights to liberty and security of the person secured to the Applicant under that Article. Furthermore, the Government argues that the first sentence of paragraph (1) of Article 6 (which is the only provision of that Article which might be considered relevant) does not make it necessary for a Party to the Convention to secure everyone within its jurisdiction an unrestricted right to institute or pursue proceedings in its courts. The first sentence of Article 6 (1) is concerned essentially to ensure that the conduct of proceedings to determine civil rights or obligations or criminal charges, once they have been instituted, conforms to certain prescribed requirements. The Article does not apply to a person who has been finally convicted and is seeking a retrial nor does it (unless the proceedings in question, though criminal in form, amount in substance to a determination of civil rights) apply even to the conduct of proceedings in the case of a person bringing a criminal charge.

Further, Article 6 in no way prohibits the imposition of restrictions or the institution of proceedings by certain classes of persons such as persons of unsound mind, bankrupts, vexatious litigants and convicted prisoners.

Such restrictions are, for various reasons, considered essential in the general interest.

The limitations imposed on convicted prisoners in England in this respect, are no more restrictive than is necessary in the general interest. Even in the case of proceedings to reopen questions in issue at the trial, the restrictions imposed (which are concerned to guard against a multiplication of limitation on facts already considered by the courts) are not intended wholly to exclude the examination of such questions by the courts and do not, in fact, do so.

The Government, therefore, submitted that Article 6 could not be regarded as requiring it to permit the Applicant to institute or pursue the proceedings contemplated in the five letters concerned or to allow him to send these letters. The Government maintains that this submission is valid irrespective of the nature of the proceedings. Further, in respect of the letters of 4th, 5th and 7th February, 1966, (E (ii), E (iii) and E (iv)) the Applicant was in substance seeking a review of his conviction which the Government was clearly under no obligation to accord to him. The Government therefore submitted further and, in the alternative, to its submission concerning non-exhaustion of domestic remedies, that the actions complained of in sub-paragraphs (b), (c) and (d) of paragraph V of the Facts clearly did not constitute a violation of any right guaranteed in Articles 5 or 6 and that the Applicant's complaints on these matters should be considered incompatible with the provisions of the Convention or, in the

alternative, manifestly ill-founded.

On the complaint in paragraph X of the Facts in which the Applicant states that the Board of Trade had instructed Y. Bank Limited not to disclose certain accounts which were alleged to be required for the purposes of his Application to the Commission, the Government makes the following observations in order to refute the suggestion that there may have been any action on their part which might have hindered the effective exercise of the right of petition contrary to the undertaking contained in the last sentence of Article 25, paragraph (1), of the Convention.

The Government explains that the accounts in question are those of a company, the Z. Limited, which is subject to a court order of 28th January, 1963, for compulsory liquidation.

The right to inspect the books of a company in this position by a creditor or contributory as claimed by the Applicant is governed by Section 266 (1) of the Companies Act, 1948, which provides as follows:

"The Court may, at any time after making a winding-up order, make such order for inspection of the books and papers of the company by creditors and contributories as the court thinks just, and any books and papers in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise".

The Government supplied copies of the Applicant's correspondence relating to his request for disclosure to him of the company's accounts which shows clearly that it had been pointed out to the Applicant and to persons acting on his behalf or in his interest that, in view of the terms of Section 266 of the Companies Act, 1948, it would not be proper for the Senior Official Receiver to allow Y. Bank Limited to permit inspection of the company's accounts without an order of the court. It was, therefore, suggested that such an application to the court should be made by the Applicant or on his behalf. The Government was not, however, aware of any such application having been made. Although as appears from the later correspondence the Applicant had disputed the Senior Official Receiver's view of his powers and duties with regard to the disclosure of the accounts he had not at any stage, as far as the Government was aware, disputed that the points at issue were ones on which the courts were competent to pronounce. The Applicant had not sought to apply to the court either under Section 266 of the Companies Act, 1948, or under Section 246 (5) of that Act which provides that "if any person is aggrieved by any act or decision of the liquidator, that person may apply to the court; and the court may confirm, reverse or modify the act or decision complained of, and make such other order in the premises as it thinks just". The Applicant's failure to obtain the accounts was thus due to his own failure to apply to the courts which, so far from being impeded by the United Kingdom authorities, was actually suggested by them. No complaint of prevention from having access to the courts can arise in respect of this matter, and there has clearly been no decision which could justify a complaint of hindrance of the effective exercise of the right of petition contrary to the last sentence of Article 25, paragraph (1), of the Convention.

The Applicant in his reply states that the Government's observations relating to the history of his trial in the courts is tendacious and sets out his own account of the proceedings remarking particularly on the incompletences and inaccuracy of the evidence for the prosecution. He states that the Government is mistaken in including convicted prisoners in the same category as persons of unsound mind and bankrupts as persons whose access to the courts may be restricted in the public interest on the ground that these two classes are "constitutionally excluded save through their appointed representatives". Moreover, Parliament had expressly conferred the right of access upon convicted persons and in no way subordinated such rights to any previses connected with Prison Rules or excluded litigation on now evidence

which might challenge previous convictions.

The Applicant maintains that the use of the controls provided by the Prison Rules in order to stop letters concerned with litigation is an abuse of the Home Secretary's powers, unconstitutional and contrary to the Convention: or alternatively, that the Prison Rules, 1964, were superseded by the Convention on 13th January, 1966, (the date of the United Kingdom Government's declaration recognising the right of the Commission to receive individual applications) and therefore could not lawfully be employed by the Home Secretary contrary to the provisions of Article 5, paragraph (4), and Article 6, paragraph (1), of the Convention.

The Applicant considers that the Government's standing practice with regard to access to the courts by convicted prisoners as set out in paragraph 5 of its observations is in contravention of the Convention. He states:

"In fact, no access is given to the Courts in respect of a prisoner's claims to his lawful rights of personal property or damages in tort if that access should risk a resulting challenge to convictions even if such proceedings should originate from wholly new facts in no way disclosed or known at the time of conviction or final appeal".

Since nearly all such new evidence in some way reflects upon the Prosecution for whom the Home Secretary must answer in Parliament, it is not proper that the Home Secretary, who is an interested party, should be the person who decides whether such new facts should, or should not, be adduced in a court of law. Such a situation is contrary to substantial justice and at complete variance with Article 5, paragraph (4), and Article 6, paragraph (1), of the Convention which expressly state that the prisoner must have access to courts of law if he considers any of his civil rights arise or if he considers himself to be wrongfully in prison.

The Applicant admits that he was granted facilities, in 1964, to continue litigation pending at the time of his imprisonment, but states that these facilities were largely withdrawn in January 1967. With respect to the Government's observation relating to the instructions as to access to the courts given to the prison governor with respect to the Applicant on 25th September, 1964 (Annex D of the Government's observations) the Applicant re-states his position to the effect that "regardless of rights of property or damage, the home Secretary will not permit access to the courts if it should undermine convictions and this would embarrass the prosecution".

In view of this, the Applicant states that he does not understand the argument in paragraph 15 of the Government's observations that if the issues had again been submitted on petition, the matter would have been carefully considered. He states that he has made a petition to the Lord Chancellor which was ignored, which was an action contrary to Article 6, paragraph (1) and that on 27th February, 1967, he was once again informed by the Home Office that civil proceedings would not be allowed.

The Applicant then proceeds to deal with his complaint that he had been deprived of access to the courts by the stopping of the five letters (E (i) - (v) above) which was the first matter referred by the Commission for the respondent Government's observations as to admissibility. He writes:
"The respondent Government is in error. The letters were both stopped and confiscated ... . It is repeated that the Applicant had no further grounds of petition to the Home Secretary because ... the Home Secretary had categorically stated (and repeated) (on stoppage of the letters), that such proceedings would not be allowed. The memorandum of the Home Office states that fact. It is little short of incredible that the United Kingdom Government now puts forward a defence to the

effect that I should have petitioned the Home Secretary when, in fact, a decision had been taken and had been conveyed to me, leaving no room for a further petition to the Home Secretary. As stated I petitioned the Lord Chancellor without relief and thereby exhausted all remedies save application to the Commission. Moreover, all the letters were written subsequent to the Petition dated 24th January, 1966, which is the proviso the respondent Government itself now stipulates. That petition was refusal on 23rd March, 1966 .. .It is clear from the text of all the letters that such proceedings would not be allowed and indeed, they expressly say so, and are written in full knowledge thereof in reliance on the guarantee of Article 6, paragraph (1). The Home Secretary's decision not to allow such proceedings (25th September, 1964) was a decision prior to 13th January, 1966, and is not, therefore, the subject of complaint to the Commission. The Home Secretary's actions in stopping the letters after express warning that the Applicant now properly relied upon the Convention to which the Home Secretary was then subject, was subsequent to 13th January, 1966, and, therefore, constitutes a violation. This action was one in face of my expressly stated reliance on the Convention. The failure of the Lord Chancellor to enforce access was both an action and a decision subsequent to 13th January, 1966. It is to trifle with substantial justice to pretend that there was room for yet another petition to the Home Secretary and that no further petition having been submitted, my domestic remedies were not exhausted. They were held by all my legal advisers to have been exhausted but the United Kingdom had voluntarily subjected itself to the guarantees of the Convention which I correctly invoked ... .In the first place it is suggested [in paragraph 18 of the Government's observations] that if the civil proceedings required in February, 1966, had the purpose of dealing with the convictions I should have petitioned under Section 19 A of the Criminal Appeal Act, 1907, but that I omitted to do so. That allegation is false. In fact, I did petition on 24th January, 1966, for that specific purpose. The petition was refused on 23rd March, 1964. My statement of claim to the Commission is dated 30th March, 1966, and was signed in the light of the refusal dated 23rd March, 1966.

It is almost incredible of belief that a responsible Government in observations addressed to the European Commission should omit what in any view must be regarded as the cardinal factor in this Application and attempt to persuade the Commission that there was no such petition. Copies of the petition dated 24th January, 1946, and the refusal therefore (sic) dated 23rd March, 1966, were submitted to the Commission. I therefore firmly submit that, in fact, the United Kingdom Government has failed to answer the Commission".

With reference to the last letter stopped (E (v)) the Applicant writes: "... the application for habeas corpus dated 22nd February, 1966, by way of informal letter to the Crown Office was in connection with the right of access to the Civil Courts for the protection of rights to property and damages (Article 6, paragraph (1)) and as the text of that letter clearly evidences, was in no way at all related to the issues of 2nd April, 1965, in respect of a writ of habeas corpus. The repondent Government is taking refuge in a patent misrepresentation. It was for the Crown Office to determine whether I was entitled to access by informal letter or on a new and wholly different subject from that exhausted in 1965. Applications for habeas corpus are not limited to one. I am entitled to apply on new or different issues, or on new evidence in respect of a previous application. I expressly petitioned for that purpose, which petition was refused and the letter to the court stopped. In fact, the letter to the Crown Office, therefore, never reached the court at all, so that the court could not determine whether or not an application in such form was, in fact, admissible. No facilities were given or suggested for application under the Rules in this matter. I was entitled to seek informal application and it was for the court to determine that issue. The Home Secretary stopped that, and the court never knew about it at all, and was not allowed to know. The United Kingdom had no possible defence to this complaint. No other

issue is in any way relevant since all other issues were ones for the Court to determine. No civil rights exceeds in importance habeas corpus and Article 6, paragraph (1) was therefore violated". Commenting on a passage in the Government's observations (paragraph 18), which reads: "... and on 7th February, 1967, the Applicant sent to the Secretary of State a number of documents and a further statement in support of his petition. These are now being examined, and no final decision on this petition has yet been taken", the Applicant writes: "In the second place the respondent Government astonishingly argues that only on 7th February was a petition submitted which is still under consideration, so that, in fact, I have therefore never exhausted my domestic remedies". The Applicant then proceeds to give a detailed history of his petitions to the Home Secretary, directed towards obtaining a reopening of his case in view of the new evidence which had come to light, and makes the point that his communications to the Home Secretary dated 26th July, 20th September, 6th, 7th and 23rd December, 1966, 2nd (mistakenly referred to in the Government's observations as 7th) February, and 17th February, 1967, were not fresh petitions but merely reminders.

He also makes certain submissions in this connection. In answer to the Government's argument that Article 6, paragraph (1) was concerned essentially with the conduct of proceedings and not with access to the courts he submits: "Article 6 (1) does not merely provide for the conduct of proceedings. It essentially guarantees access to the courts. It would be derisory if only conduct but not access were intended since without access conduct cannot arise at all. The prime requisite is access. As to civil rights, it is fundamental that issues of property, damages and wrongful conviction ... all involve separate and basic civil rights. If excluded the Article would be almost meaningless since scarcely any other rights arise. It is also submitted that criminal convictions procured unlawfully by fraud, perjury or falsification of evidence and accounts, are ipso facto unlawful convictions unless and until confirmed by a court in despite of such disclosures. This must ipso facto raise both Article 5, paragraph (4) and Article 6, paragraph (1)". The Applicant argues that a convicted person retains a right to property and damages and has a civil right guaranteed by the Convention (Article 6 (1)) to establish the same, notwithstanding that the result may be to undermine decisions taken in earlier proceedings at which certain facts and evidence were not known. He states that it is wrong to argue that proceedings for perjury against the principal prosecution witness would not involve the civil rights of the Applicant. If the Applicant was convicted on perjured evidence and a court found that evidence to have been perjured, it clearly would affect the Applicant's rights.

With regard to the second question on which the Commission had requested observations from the respondent Government and which concerned the Applicant's complaint of a decision of the Board of Trade, which prevented him from obtaining certain accounts which he desired to submit to the Commission, the Applicant writes: "... the Applicant is aware that he should apply to the courts. But the Home Secretary has repeatedly stated that save in the actions permitted on 2nd January, 1964, the Applicant will not be given such access. It is wholly remarkable that the respondent Government now suggests that such access is open when it has repeatedly been refused in writing. The Respondent fails to explain this".

The Applicant also makes a number of further submissions which extend beyond the matters on which the respondent Government was invited to submit its observations and which have, therefore, not been included in this summary.

THE LAW

Whereas, in regard to the Applicant's complaint that he is improperly detained in prison, it is clear that the Applicant has been convicted

by the judgment of a competent court, which has become res judicata, and is therefore properly detained in accordance with the provisions of Article 5, paragraph (1) (a) (Art. 5-1-a); whereas accordingly an examination of the case as it has been submitted, including an examination made ex officio, does not disclose any appearance of a violation of the rights and freedoms set forth in the Convention and in particular in Article 5, paragraph (4) (Art. 5-4); whereas it follows that this part of the Application is manifestly ill-founded within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Whereas, in so far as the Applicant complains that the stopping of his letters of 4th, 5th and 7th February, 1966, prevented him from obtaining access to the Courts, it is clear that the Applicant's purpose was thereby to obtain by retrial or otherwise, a reopening of the proceedings against him; whereas the same applies to his letter of 22nd July, 1966, to the Master of the Crown Office; whereas it is to be observed that the Convention, under the terms of Article 1 (Art. 1), guarantees only the rights and freedoms set forth in Section I of the Convention; and whereas, under Article 25, paragraph (1) (Art. 25-1), only the alleged violation of one of those rights and freedoms by a Contracting Party can be the subject of an application presented by a person, non-governmental organisation or group of individuals;

Whereas otherwise its examination is outside the competence of the Commission ratione materiae; whereas no right of retrial or appeal is as such included among the rights and freedoms guaranteed by the Convention; whereas in this respect the Commission refers to its previous decisions concerning applications for retrial, Nos. 864/60, M. v. Austria - Collection of Decisions Volume 9, page 17 and 1237/61 - Yearbook V, page 96;

Whereas it follows that this part of the Application is incompatible with the provisions of the Convention within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Whereas, in so far as the Applicant complains that the stopping of the said letters prevented him from obtaining access to the courts for the determination of his civil rights or obligations whether these rights and obligations were or were not connected with facts or events on which the Applicant's trial and conviction were based, it is to be observed that, under Article 26 (Art. 26) of the Convention, the Commission may only deal with a matter after all domestic remedies have been exhausted according to the generally recognised rules of international law; and whereas the Applicant failed to apply in accordance with the Prison Rules to the Home Secretary for permission to send these letters; whereas, therefore, he has not exhausted the remedies available to him under English law; whereas, moreover, an examination of the case as it has been submitted, including an examination made ex officio, does not disclose the existence of any special circumstances which might have absolved the Applicant, according to the generally recognised rules of international law, from exhausting the domestic remedies at his disposal; whereas, in particular, the Applicant's contention that an application to the Home Secretary would have been useless in view of the Home Secretary's instructions of 25th September, 1964, is based on his misinterpretation of those instructions; whereas the Applicant failed to satisfy, or attempt to satisfy, the Home Secretary that these letters complied with the express conditions on which permission for their dispatch would have been granted under the instructions, namely that they were intended to obtain access to the Courts for the determination of the Applicant's civil rights and obligations and not with a view to obtaining a review of his conviction; whereas, therefore, the condition as to the exhaustion of domestic remedies laid down in Articles 26 and 27, paragraph (3) (Art. 26, 27-3), of the Convention has not been complied with by the Applicant;

Whereas the Commission has taken into consideration the declaration made by the United Kingdom Government under Article 25 (Art. 25) of the Convention by which the United Kingdom recognised the competence of the Commission to receive applications from individuals in relation to acts or decisions, facts or events occurring or arising subsequently to 13th January, 1966;

Whereas, however, in the circumstances of the case it is not necessary to consider whether complaints relating to proceedings arising out of facts and events prior to that date are in any event outside the competence of the Commission ratione temporis;

Whereas, in regard to the Applicant's complaint concerning the stopping of his letter of 24th January, 1966, to the High Court of Rhodesia, an examination of the case shows that the High Court of Rhodesia in fact received and acted upon a letter to the same effect written by the Applicant on 21st January, 1966; whereas, therefore, there is no appearance of a violation of the rights and freedoms set forth in the Convention and in particular in Article 8 (Art. 8); whereas as regards the Applicant's further complaints relating to the control and stopping of his letters in general, such measures were designed, inter alia, to limit the number of letters to be written by him and were imposed under the provisions established by law, namely Rules 33 and 34, paragraph (8) of the Prison Rules, 1964; whereas these provisions are consistent with the Convention since the limitation of the right of a detained person to conduct correspondence is a necessary part of his deprivation of liberty which is inherent in the punishment of imprisonment; whereas similarly an examination of the complaint does not disclose any violation of Article 8, paragraph (1) (Art. 8-1), or of any of the other rights and freedoms guaranteed by the Convention;

Whereas with regard to the Applicant's complaint that he was prevented by the Board of Trade from obtaining certain accounts which he desired to submit to the Commission in connection with the present Application, the Applicant himself admits that he did not petition the Home Secretary for leave to apply to the Court under Sections 246 (5) or 266 of the Companies Act, 1948; whereas accordingly it does not appear that there was any denial of facilities by the respondent Government contrary to its undertaking under Article 25 (Art. 25) of the Convention;

Now therefore the Commission declares this Application inadmissible.