JUDGMENT OF THE COURT (FIRST CHAMBER)
OF 12 JUNE 1980 [1]

Lily Schuerer
v Commission of the European Communities

"Invalidity pension"

Case 107/79

Officials — Invalidity — Determination — Criteria
(Staff Regulations of Officials, Arts 73 and 78; Annex VIIII, Article 13)

The existence of an occupational disease causing total or partial permanent invalidity of the official and giving him the right to benefit under Article 73 or Article 78 of the Staff Regulations as the case may be must appear clearly and precisely from the relevant conclusions of the Invalidity Committee referred to in Article 13 of Annex VIIII to the Staff Regulations.

In Case 107/79

LILY SCHUERER, a former official of the Commission of the European Communities, residing at 11 Avenue Ernestine, Brussels, represented by Ernest Arendt, of the Luxembourg Bar, with an address for service in Luxembourg at the Chambers of Mr Arendt, 34/B/IV Rue Philippe II,

applicant,

v

COMMISSION OF THE EUROPEAN COMMUNITIES, represented by Alain Van Solinge, a member of its Legal Department, acting as Agent, assisted by Daniel Jacob, of the Brussels Bar, with an address for service in Luxembourg at the office of its Legal Adviser, Mario Cervino, Jean Monnet Building, Kirchberg,

defendant,

1 — Language of the Case: French.

APPLICATION for reversal of the Commission's decision of 14 August 1978 awarding an invalidity pension to the applicant on the basis of the third paragraph of Article 78 of the Staff Regulations and of the Commission's decision of 3 April 1979 rejecting the administrative complaint submitted by the applicant on 5 October 1978 under Article 90 (2) of the Staff Regulations seeking annulment of the decision of 14 August 1978 and the award of the applicant's pension on the basis of the second paragraph of Article 78 of the Staff Regulations and the appointment of a board of medical experts,

THE COURT (First Chamber)

composed of: A. O'Keeffe, President of Chamber, G. Bosco and T. Koopmans, Judges,

Advocate General: J.-P. Warner
Registrar: H. A. Rühl, Principal Administrator

gives the following

JUDGMENT

Facts and Issues

The facts and the arguments advanced by the parties in the course of the written procedure may be summarized as follows:

I — Facts and written procedure

1. The second and third paragraphs of Article 78 of the Staff Regulations read as follows:

"Where the invalidity arises from an accident in the course of or in connection with the performance of his duties, from an occupational disease, from a public-spirited act or from risking his life to save another human being, the invalidity pension shall be 70% of the basic salary of the official.

Where the invalidity is due to some other cause, the invalidity pension shall be equal to the retirement pension to which

the official would have been entitled at the age of 65 years if he had remained in the service until that age".

2. The applicant entered the service of the Commission on 7 July 1958. She had a post in Grade B 3 in Directorate General XII when, on 1 September 1978, she was retired prematurely on grounds of total invalidity.

On 26 October 1976 the applicant sustained a fall on the stairway in the Commission building. The application states: "... that on the occasion of the fall she struck her chest on the edge of the top step; she immediately felt severe chest pains; she thereafter experienced palpitations and suffered from a severe cardiac malaise, she immediately attended at the medical service of the Commission ...". The medical service detected an auricular fibrillation and ordered her to cease work. The applicant did not report this accident to the administration.

The applicant worked part-time from 3 December 1976. On 30 December 1976 she was again ordered to cease work and the order was renewed regularly for three-monthly periods throughout 1977.

On 25 November 1977 Dr Schußler, the applicant's general medical practitioner since 1959, submitted to the Commission a medical certificate which stated *inter alia:*

"... I never found any cardiac irregularity or other heart disease such as has existed since the accident on 26 October 1976 ... The electrocardiogram (carried out by the medical service of the Commission) showed arythmia, an auricular fibrillation with ventricular tachycardia .... As regards the causes of the illness it should be noted that, according to the patient, since October 1975 she has had continually to inhale dust as a result of the faulty air conditioning in her office .... In my opinion there exists a relationship of cause and effect between the prolonged inhalation of dust, the key factor in the unaccustomed physical effort exerted in order to ascend the stairway and in the stumble, and the patient's illness which has led to her invalidity".

It appears from a study carried out on the applicant's behalf by the Association des Ingénieurs Belges [Association of Belgian Engineers] on 22 August 1977 that a microscopic examination of a sample of the dust in question revealed "the absence of asbestos fibres and the presence of inert dust composed principally of sodium salts and calcium ...".

In January 1978 the Commission, on its own initiative, commenced the invalidity procedure. The Invalidity Committee, which thereafter met and which was composed of Dr Callebaut, appointed by the Commission, Professor S'Jongers, appointed by the applicant and Professor Verniory, appointed by the agreement between the first two doctors, decided on 3 August 1978 that:

"Mrs Schuerer's permanent invalidity, which is regarded as total ..., may arise from an accident in the course of the performance of her duties but does not arise from an occupational disease, from a public-spirited act or from having risked her life to save another human being".

By decision of 14 August 1978 the Commission officially declared the applicant to be retired and awarded her a pension on the basis of the third paragraph of Article 89 of the Staff Regulations.

On 5 October 1978 the applicant submitted a complaint under Article 90 (2) of the Staff Regulations against the Commission's decision in which she sought the annulment of the decision in question and payment of her pension on the basis of the second paragraph of Article 78 of the Staff Regulations.

On 8 January 1979 the Invalidity Committee sent to the Commission a supplementary memorandum from which it appears that:

"The principal feature of the pathological picture presented by Mrs Schuerer is an illness of long standing and without any relationship of cause and effect to the patient's way of life and official duties. Against that background of chronic illness there occurred a paroxysmal attack on 26 October 1976. That paroxysmal attack, which has contributed to the patient's present state of invalidity, occurred (according to the patient), following the ascent of a stairway at her place of work and following a stumble on the top step. Although an uncertain hypothesis, both of those facts together could at best be regarded as the event possibly triggering off the paroxysmal attack ... which could have occurred fortuitously or coincidentally at the time of ascending the stairway ... In medicine it is often difficult to reject theoretically the hypothesis of some link between an accident claimed by the patient and the pathology of which he complains. These last-mentioned considerations were the reason for the use of the word 'may' in the earlier report of the Invalidity Committee".

On 22 February 1979 the applicant's lawyer suggested to the Commission the appointment of a board of "medical super-experts" whose task would be to reach a decision on the problem of the causal relationship between the applicant's invalidity and the accident on 26 October 1976 and the insanitary working conditions in which she had worked for 14 months.

On 3 April 1979 the Commission adopted a decision rejecting the applicant's complaint through official channels, confirmed its previous decision awarding the applicant entitlement to pension on the basis of the third paragraph of Article 78 of the Staff Regulations and rejected the proposal for the setting-up of a board of "medical super-experts".

The present action was brought on 2 July 1979.

The written procedure followed a normal course.

On 12 October 1979 Professor Lequime, a cardiologist at the Université Libre de Bruxelles [Free University of Brussels] signed a medical report in which he declared himself

"surprised by the fact that a decision could be taken on the basis of (the) reports (of the Invalidity Committee). In fact, they lack precision and themselves express doubts ... it would be appropriate for the complete medical records of the patient and the patient herself to be the subject of a medical award made by a board of professors of cardiology of international and undisputed repute. I, personally, am prepared to be a member of that board ..."

On 17 October 1979 the applicant's general medical practitioner, Dr Schußler, signed a fresh medical certificate according to which there was

"... a relationship of cause and effect between the stumble (of the applicant), the bruising of the chest as a result of the fall, the chest pain, and the heart attack which led to (her) invalidity".

Those two certificates are to be found in the annex to the reply.

On hearing the report of the Judge-Rapporteur and the views of the Advocate General, the Court (First Chamber) decided to open the oral procedure without any preparatory inquiry.

II — Conclusions of the parties

The *applicant* claims that the Court should:

— Declare this application admissible;

— Declare it justified as to its substance;

Consequently:

Primarily:

— Reverse the decisions in dispute, dated 14 August 1978 and 3 April 1979;

— Declare that the applicant's pension rights are to be awarded on the basis of the second paragraph of Article 78 of the Staff Regulations;

Alternatively:

— Appoint a board of medical experts, entirely independent of the parties, for the purpose of deciding whether there is a causal relationship between the applicant's present state of invalidity and

  (a) the accident at work on 26 October 1976;

  (b) inflammation of the bronchi caused by the inhalation over a period of 14 months of dust injurious to the health in an insanitary office;

In any event:

— Order the defendant to pay the costs;

— Declare that the applicant retains all her rights and causes of action for reparation of the corporal and material damage suffered by her.

The *defendant* contends that the Court should:

— Dismiss the application as unfounded;

— Subject to due reservations, order the applicant to pay the costs.

III — Submissions and arguments of the parties

1. Submission based upon the absence of a statement of reasons in the decisions in question and wrong reasons for the decision rejecting the complaint

The *applicant* contends that the decision of 14 August 1978 gives no reasons for applying the third paragraph of Article 78 or for refusing to apply the second paragraph. The reference to that part of the opinion of the Invalidity Committee in which the applicant is stated to be suffering from permanent invalidity which may be regarded as total cannot take the place of a statement of reasons. Indeed, that part of the opinion says nothing as to the origin of the invalidity. As for that part of the opinion to which no reference is made, it does not rule out the invalidity's being the result of "an accident in the course of the performance of her duties".

The applicant submits that the decision of 3 April 1979 is based on mistaken reasons. The Commission's search for possible causes was neither methodical nor in earnest, no reference having been made to the applicant's working conditions, for a period of 14 months, in

an office rendered insanitary by the faulty air conditioning and the inhalation of dust injurious to health. The decision rejecting the complaint says nothing concerning the origin of the applicant's invalidity. Moreover, it erroneously states that after the period of sick leave following her accident at work the applicant was able to resume her duties until March 1977.

The *Commission* replies by citing the judgment in Case 61/76 *Geist* 1977 ECR 1419 which states that "for the purpose of deciding whether the requirements of Article 25 have or have not been fulfilled, it is necessary to consider not only the . . . decision in itself but the staff memoranda on which it is based which were duly brought to the knowledge of the applicant and which clearly informed him of the reasons upon which that decision was based". In the present case the decision of 14 August 1978, being based upon the report of the Invalidity Committee, itself given greater specification by a supplementary report, both of which were communicated to the applicant, satisfies the requirement to give a statement of reasons.

The Commission considers that, in so far as it is directed against the decision of 3 April 1979, the application ought to be declared inadmissible. That decision simply confirms that of 14 August 1978, is not capable of directly affecting the applicant's position and accordingly does not constitute an act adversely affecting the applicant and capable of judicial review (cf. the judgment in Case 58/69 *Elz* [1970] ECR 507).

In regard to the fact that the reply to the complaint does not mention that the applicant worked in an office described by her as insanitary, the Commission argues that that complaint only alleged against the appointing authority that it did not decide that Mrs Schuerer's invalidity was due to an accident and it did not raise the issue of her working conditions. Accordingly, the decision in question may not be regarded as being based on a mistaken reason.

The Commission concedes that it was mistaken in stating that, after the accident, the applicant resumed work from 16 November 1976 until March 1977. But the only matter which is material is the opinion of the Invalidity Committee and there is nothing to suggest that the opinion was influenced by the applicant's assumed return to work during the period in question.

The Commission stresses, finally, that the disputed decision, together with the reports upon which it is based, state clearly that the invalidity does not result from an accident in the course of the performance of her duties, or from an occupational disease, or from a public-spirited act. The invalidity accordingly necessarily results from "another cause" and therefore leads to an award of the invalidity pension provided for by the third paragraph of Article 78 of the Staff Regulations. The disputed decision and the above-mentioned reports thus give sufficient reasons and there is no requirement at all that they should indicate the origin of the invalidity.

The *applicant* replies that in the *Geist* case the staff memoranda in question had all been brought to the knowledge of the person concerned before the disputed decision to transfer him had

been taken. That case is not in point here since certain essential facts upon which the Commission claims to have based its decision were disclosed after that decision had been taken. The fact that the defendant requested a supplementary report from the Invalidity Committee proves exactly that it did not have available, at the time of taking the decision in question, all the necessary facts.

The decision of 3 April 1979, although it confirms that of 14 August, was however taken after the file had been reopened and supplementary information obtained. It would be unfair to permit the defendant to rely upon new facts without the applicant's being able to present a proper defence.

The applicant recalls that in her letter of 22 February 1979, that is, six weeks before the decision in dispute, she informed the Commission of the relationship of cause and effect between her insanitary working conditions and her invalidity.

The defendant's mistake as to the date on which the applicant resumed work did go to influence the tenor of the reply to the complaint, which is thus based on mistaken reasons.

In regard to the absence of a statement of reasons for the decision in dispute the applicant repeats what is said in the application and adds that indicating the cause of the invalidity does not constitute a breach of medical confidentiality which can be relied upon as against the patient herself.

The *defendant* replies that the fact that the disputed decision refers to only a part of the opinion of the Invalidity Committee is wholly devoid of relevance, the applicant having been given the full text of that opinion. The fact that the further details provided by the Invalidity Committee following upon the applicant's complaint are later in time than the disputed decision is not of such a nature as to prevent the exercise of judicial review.

The question whether the original decision was the subject of a complaint and then an appeal within the time-limits laid down by the Staff Regulations concerns the admissibility of the application in so far as it is directed against that decision and not in so far as it is directed against the confirmatory act of 3 April 1979. Likewise, the question whether that act was or was not preceded by the reopening of the file or the obtaining of further information is of no consequence as from the time when it confirmed the original decision.

In giving a reply to a complaint the Commission is not bound to take into consideration facts other than the complaint itself and which were, in the main, communicated after the relevant periods had expired.

At all events, the fact that the Commission's reply does not mention the issue of any possible insanitary conditions in the office occupied by the applicant does not mean that the matter was not considered by the Invalidity Committee which had before it the medical reports produced by the applicant and bearing on that question.

It may not be disputed that both the decision to retire the applicant on grounds of invalidity and the reply to the

complaint are based on the opinion of the Invalidity Committee and not on the date of the applicant's resumption of work.

The Commission states that the duty to give reasons must be reconciled with the requirements of medical confidentiality (cf. the judgment in Case 75/77 *Mollet* [1978] ECR 897) and that the applicant was able to obtain from the doctor who represented her on the Invalidity Committee all appropriate information about her illness.

2. *Submission on the infringement of Article 78 of the Staff Regulations in so far as the defendant awarded the applicant a pension on the basis of the third paragraph of that provision instead of the second paragraph*

The *applicant* submits that the accident on 26 October 1976 took place on the defendant's premises and therefore arose "in the course of or in connexion with the performance of [her] duties", as required by the second paragraph of Article 78.

The opinion of the Invalidity Committee did not rule out a causal link between the accident and the invalidity. The applicant considers that the doubt should be resolved in her favour since the second paragraph does not require that the invalid supply conclusive proof of a link of cause and effect.

The Commission omitted to examine whether the invalidity was not due to an occupational disease brought about by the inhalation of dust injurious to health.

The *defendant* replies that the said accident was not reported to the appropriate department and appears to have been no more than a stumble. Moreover, the application of the second paragraph assumes that the invalidity arises from an accident in the course of the performance of duties, which is a fact not found by the Invalidity Committee.

That committee's supplementary report indicated only that the existence of a link of cause and effect between the accident and the invalidity cannot theoretically be totally rejected; this is frequently the situation in medical matters. But, as is shown by the case-law of the Court (judgment in Case 29/71 *Vellozzi* [1972] ECR 513), the application of the second paragraph implies that the existence of a direct link of cause and effect has been established.

It appears from the reports of the Invalidity Committee that the invalidity in no way results from an occupational disease, which necessarily excludes any effect deriving from the applicant's working conditions.

The *applicant* replies that the duty to report any accident only arises from rules which entered into force on 1 January 1977, that is to say, after the accident in question, and which were brought to the knowledge of the staff on 25 February 1977, at which date the applicant was on sick leave. The defendant may not claim to have had no knowledge of that accident since, immediately after her fall, the applicant reported to the medical service of the Commission. In the accident the applicant did not simply stumble but also fell and struck her chest against the top step of the stairway (Dr Schußler's certificate of 17 October 1979).

The applicant claims that the *Vellozzi* case cited above is distinguishable from the present case since the applicant there was asking the Court to declare that he was suffering from invalidity, a conclusion to which the Invalidity Committee had not come.

The *defendant* replies that it appears clear that there was no accident on 26 October 1976 but an indisposition and that, *a fortiori,* the invalidity cannot have its origin in the said "accident". The points made in the *Vellozzi* judgment are clearly applicable to the present case since it may be taken from that judgment that the existence of an occupational disease or an acccident at work and, *a fortiori,* the link of cause and effect between the disease or the accident and the invalidity must be established in the opinion of the Invalidity Committee.

3. Alternative submission: appointment of a board of medical experts

In the event of the Court's not being prepared to accede at this stage to her request, *the applicant* claims alternatively that there should be appointed a new board of medical experts, entirely independent of the parties, for the purpose of deciding whether there is a relationship of cause and effect between the applicant's present state of invalidity and, on the one hand, her accident of 26 October 1976 and, on the other hand, the inflammation of the bronchi caused by the inhalation in her office, over a period of 14 months, of dust injurious to health.

The *defendant* points out that consideration of this alternative request assumes that the preceding arguments have been rejected. It follows however from that rejection that the disputed decisions give an adequate statement of reasons, are not based on mistaken reasons and have been taken in accordance with what is prescribed by Article 78 of the Staff Regulations. On that assumption, the appointment of a new medical committee is inconceivable. Furthermore, no legal authority has been cited in support of an argument which in fact amounts to a request for a review of the substance of the Invalidity Committee's work. From the case-law of the Court it appears that, where there is no longer any dispute concerning an official's state of health because that has been settled by the Invalidity Committee, the official has no right to ask for judicial review of the committee's findings (cf. Joined Cases 42 and 62/74 *Vellozzi* [1975] ECR 871; *a fortiori* he may not ask the Court to appoint a board of medical practitioners.

The *applicant* replies that the Court may perfectly well consider itself not to be sufficiently informed about the nature of the link between the disease or accident and the invalidity and that in those circumstances the judicial appointment of a new medical committee is perfectly conceivable. A request for expert medical advice is a measure of inquiry which does not require any particular legal "authority". The applicant refers to the report by Professor Lequime of 12 October 1979 and to that of Dr Schußler, her general medical practitioner, of 17 October 1979 for the view that doubts and ambiguities are raised by the reports of the Invalidity Committee.

The *Commission* replies that at the meeting of the Invalidity Committee the doctor chosen by the applicant was able to put before his colleagues all relevant

medical documents. That committee's report was drawn up after the applicant's medical records had been consulted and after she had been an in-patient for four days in a teaching hospital. Professor Lequime's report is not persuasive in so far as he himself considered that he was unable to form an opinion on the case without making a thorough examination of the patient and without having seen the complete records. By way of an alternative submission, the defendant observes that, were the opinion of the Invalidity Committee to be considered ambiguous, nothing prevents additional information being requested from it.

At the sitting on 20 March 1980 the applicant, represented by Ernest Arendt, of the Luxembourg Bar, and the Commission of the European Communities, represented by Daniel Jacob, of the Brussels Bar, presented oral argument.

The Advocate General delivered his opinion immediately after the oral argument.

Decision

1 This application, dated 2 July 1979, has been brought by a former official of the Commission who was retired on 1 September 1978 on grounds of total invalidity.

2 The applicant claims that the Court should reverse the Commission's decision of 14 August 1978 awarding her invalidity pension under the third paragraph of Article 78 of the Staff Regulations and the Commission's decision of 3 April 1979 rejecting the complaint through official channels brought by the applicant on 5 October 1978 under Article 90 (2) of the Staff Regulations seeking annulment of the decision of 14 August 1978 and the award of her pension on the basis of the second paragraph of Article 78 of the Staff Regulations. The application also seeks the appointment of a board of medical experts.

3 The second and third paragraphs of Article 78 of the Staff Regulations of Officials provide as follows:

"Where the invalidity arises from an accident in the course of or in connexion with the performance of his duties, from an occupational disease, from a public-spirited act or from risking his life to save another human being, the invalidity pension shall be 70% of the basic salary of the official.

Where the invalidity is due to some other cause, the invalidity pension shall be equal to the retirement pension to which the official would have been entitled at the age of 65 years if he had remained in the service until that age".

4 On 26 October 1976 the applicant sustained a fall on a stairway at the Commission in Brussels. The application states that:

"... on the occasion of the fall she struck her chest on the edge of the top step; she immediately felt severe chest pains; she thereafter experienced palpitations and suffered from a severe cardiac malaise, she immediately attended at the medical service of the Commission ..."

The medical service detected an auricular fibrillation and ordered her to cease work. The applicant concedes that she did not report this accident to the administration.

5 On 3 August 1978 the Invalidity Committee which was convened on the initiative of the defendant and was composed of Dr Callebaut, appointed by the Commission, Dr S'Jongers, appointed by the applicant, and Dr Veniory, appointed by the first two doctors, concluded:

"Mrs Schuerer's permanent invalidity, which is regarded as total, may arise from an accident in the course of the performance of her duties but does not arise from an occupational disease, from a public-spirited act or from having risked her life to save another human being".

6 In a supplementary memorandum sent to the defendant on 8 January 1979 the Invalidity Committee stated that:

"The principal feature of the pathological picture presented by Mrs Schuerer is an illness of long standing and without any relationship of cause and effect to the patient's way of life and official duties. Against that background of chronic illness there occurred a paroxysmal attack on 26 October 1976. That paroxysmal attack, which has contributed to the patient's present state of

invalidity, occurred (according to the patient), following the ascent of a stairway at her place of work and following a stumble on the top step. Although an uncertain hypothesis, both of those facts together could at best be regarded as the event possibly triggering off the paroxysmal attack ... which could have occurred fortuitously or coincidentally at the time of ascending the stairway ... In medicine it is often difficult to reject theoretically the hypothesis of some link between an accident claimed by the patient and the pathology of which he complains. These last-mentioned considerations were the reason for the use of the word 'may' in the earlier report of the Invalidity Committee".

7 As the Court has already stated in its judgment of 13 July 1972 in Case 29/71 *Vellozzi* [1972] ECR 513, the existence of an occupational disease causing total or partial permanent invalidity of the official and giving him the right to benefit under Article 73 or Article 78 of the Staff Regulations as the case may be must appear clearly and precisely from the relevant conclusions of the Invalidity Committee referred to in Article 13 of Annex VIII to the Staff Regulations.

8 It appears from the Invalidity Committee's first report, upon which the disputed decision of 14 August 1978 is based, that the applicant's invalidity results neither from an occupational disease nor from a public-spirited act nor from having risked her life to save another human being, which are the several conditions for the application of the second paragraph of Article 78 of the Staff Regulations. As for the other condition for the application of that provision — an accident in the course of or in connexion with the performance of an official's duties — the report does not rule out the invalidity's being possibly the result of such an accident. The somewhat ambiguous wording used in that regard was clarified by the supplementary memorandum of 8 January 1979.

9 Accordingly, the defendant may not be criticized for having inferred from the first invalidity report that a relationship of cause and effect between the alleged accident and the invalidity had not been established and for having understood the phrase "the invalidity ... may arise from an accident in the course of the performance of her duties" as explained in the supplementary

memorandum, namely, that "in medicine it is often difficult to reject theoretically the hypothesis of some link between an accident claimed by the patient and the pathology of which he complains." Thus, the Commission was justified in taking its decision to award the applicant's pension on the basis of the third paragraph of Article 78 of the Staff Regulations relying on the opinion of the Invalidity Committee, since that committee had not found that the applicant's invalidity satisfied any one of the conditions for the application of the second paragraph of Article 78 of the Staff Regulations.

10 It does not appear from the file in the case that the composition of the Invalidity Committee or its working methods have been called in question by the applicant. The said committee validly reached a decision in the light of the various medical reports submitted by the applicant and after her having been an in-patient for four days in a teaching hospital. In these circumstances its conclusions must be regarded as final and may not be disputed in the absence of any new matter of fact arising.

11 That new matter of fact may not consist in the production by the applicant of medical certificates calling in question the conclusions of the Invalidity Committee but putting forward no ground which would suggest that that committee did not have knowledge of the principal facts contained in the applicant's medical records.

12 The appointment of a board of medical experts should therefore not be ordered and the application must be dismissed.

Costs

13 Under Article 69 (2) of the Rules of Procedure, the unsuccessful party shall be ordered to pay the costs.

14 The applicant has failed in her submissions.

15 However, under Article 70 of the Rules of Procedure, in proceedings by servants of the Communities, institutions shall bear their own costs.

On those grounds,

THE COURT (First Chamber)

hereby:

1. **Dismisses the application.**

2. **Orders the parties to bear their own costs.**

O'Keeffe Bosco Koopmans

Delivered in open court in Luxembourg on 12 June 1980.

J. A. Pompe
Deputy Registrar

A. O'Keeffe
President of the First Chamber

OPINION OF MR ADVOCATE GENERAL WARNER DELIVERED ON 20 MARCH 1980

My Lords,

I do not think it necessary in this case to take time to consider my opinion.

Your Lordships have the facts of the case well in mind, so that I need not rehearse them.

I propose to leave aside for the moment the issues raised as to the adequacy of the reasons given by the Director of Personnel of the Commission for his decision of 14 August 1978; as to the admissibility of the action in so far as it relates to the decision of 3 April 1979;