23 ta' Mejju, 1962.

Imħallef:—

Onor. Dr. J. Flores, B.L.Can., LL.D.

Thomas Hedley

versus

Dr. Anthony Butigieg

Libell — Komment.

Il-fatt li wieħed jattribwixxi lil persuna oħra skop speċifiku li joħroġ minn artikolu f'ġurnal ma jikkostitwix komment; u jekk dak il-fatt ma jiġix pruvat, u l-attribuzzjoni tkun inġurjuża, hemm ir-reat ta' nġurja li jinċidi fuq ir-riputazzjoni ta' dik il-persuna l-oħra.

Xejn ma jiswa lill-awtur tal-artikolu nkriminat illi huwa ma kellux intenzjoni jirriferixxi għal dik il-persuna, u li anzi fl-opinjoni tiegħu dik il-persuna l-oħra ma hix tat-tip deskritt fl-artikolu; dak li jimporta hu li l-qarrej jifhem li l-attribuzzjoni magħmula fl-artikolu nkriminat tolqot ukoll lil dik il-persuna.

Il-Qorti:— Rat ir-rikors li bih il-kwerelat appella missentenza tal-Qorti tal-Maġistrati ta' Malta tat-18 ta' Jannar

1962, u talab li hu jiġi liberat minn kull imputazzjoni u piena;

Rat l-imsemmija sentenza, li biha l-appellant ġie misjub ħati illi, per mezz ta' artikolu publikat fil-"Voice of Malta" tas-26 ta' Novembru 1961, huwa llibella lill-kwerelant b'fatti speċifiċi, u ġie kundannat għall-multa ta' £20 u l-ispejjeż tal-kawża; u b'liema sentenza ġie ordnat li f'ħarġa ta' dik il-gazzetta, mhux iżjed tard mit-tieni waħda wara s-sentenza, il-kwerelat jippublika l-istess sentenza jew sunt komprensiv tagħha;

Trattat l-appell;

Ikkunsidrat;

Fil-ħarġa tat-"Times of Malta", editur il-kwerelant, tat-22 ta' Novembru 1961, ġiet publikata din in-notizzja:— "Delegation Visit — The three visiting international socialists, Ludwig Metzger from Germany, Peretz Gordon from Israel, and Ake Fors from Sweden, representing the Socialist International on a fact finding mission here under the auspices of the Malta Labour Party, spent yesterday morning in Valletta. Accompanied by Dr. A. Buttigieg, the M.L.P. President, they visited the National Museum in Kingsway, where they stayed for some time. They were then driven off down Kingsway in two cars, a pale green Volkswagen No. 27625 and a cream-and-red Singer Gazelle No. 28254. They were dropped in Old Bakery Street and taken on a tour of the Union Press in Mayfair House. The visitors are to go to the Bailey's Dockyard this morning";

Irriżulta illi fl-24 ta' Novembru 1961, fil-għaxija, waqt li l-karrozza Volkswagen No. 27625, li fiha kien hemm id-delegat Herr Metzger, kienet riesqa lejn Wied iż-Żurrieq, bi truck u karrozza "Prefect" quddiemha u diversi karrozzi warajha, ġie sparat senter, u l-karrozza ġiet danneġġjata fuq il-lemin tagħha bil-pritkuni, u d-driver Joseph Gravina sofra offiża ħafifa f'sebgħu ż-żgħir tal-lemin;

Fil-ħarġa ta' "The Voice of Malta" tas-26 ta' Novembru 1961 il-kwerelat kiteb artikolu bit-titolu "Attempt to Assassinate Social Mission", bis-subtitolu 'Priest-Politicians

Police to Blame". Fil-bidu tal-artikolu huwa qal:— "The assassin, evidently worked up to a state of frenzy as a result of *incitement by priest-politicians* and *encouraged* by Police failure to maintain law and order, fired two shots at the delegates' car". Mbgħad — u dejjem fil-bidu tal-artikolu — hu kiteb:— "Responsibility for the attempted heinous crime rests only and squarely on priest-politicians who are waging a most degrading un-Christian campaign of open incitement and the organised build-up of hate and hostility by these same agitators and provocators for the visit of the Socialist *Delegation. Responsibility equally* rests fairly and squarely on Police Commissioner De Gray and his Force, in whom the Governor has repeatedly expressed he has complete confidence following complaints of abuse and misuse of office and discrimination against the Malta Labour Party and its supporters, who form up the vast majority of the Maltese People";

L-artikolu jkompli jillustra kif, skond il-kittieb, hemm din ir-responsabbiltà għall-inċident, u dan taħt sotto-titoli "Organised Violence", "Socialist Delegation", "Police Responsibility", "Assassination Attempt";

Mbgħad, taħt il-kliem "The Times of Malta", l-artikolista kiteb dan:— "One word about the anti-socialist Times *of Malta*. *What is the* responsibility of The Times of Malta in connection with the attempted assassination? During the week the newspaper disclosed the number and gave a description of the car of the Socialist Mission. The least intelligent of readers could read between the lines and understand the paper's gratification at the organised hostility shown to the Delegates. What was the purpose of the Times of Malta in divulging the number of the car and giving a description of it? *The information published in* the Times of Malta must have been of great help to the assassin. Of the fifteen cars going down together to Wied iż-Żurrieq the assassin singled out the Volkswagen which carried members of the Delegation and Mr. J. Zerafa, the general secretary of the Malta Labour Party. One asks:— In these circumstances how can there be in Malta free and fair electione under the present Police Commissioner and a *Colonial Administration of this type? It is amply clear* that if the present situation persists, civil war in these

Islands is inevitable. All facts point to one conclusion: the intention of certain people is that of precipitating such civil war on the lines of the Spanish civil war in order to have installed in Malta a Franco-type regime";

Ikkunsidrat;

Il-kwerelant ħassu nġurjat, bħala editur tat-Times of Malta, billi ħass illi f'dak l-artikolu ġiet akkollata lilu r-responsabbiltà tal-attentat, u ħassu nġurjat ukoll bl-aħħar parti tal-artikolu li tibda bil-kliem "All facts point out to one conclusion";

Għandu jiġi rilevat illi, meta l-kwerelant irrapporta, kif intqal, fuq id-delegazzjoni soċjalista, huwa rrapporta fuq il-movimenti tagħhom, u wara li semma li kienu għamlu viżita l-Mużew, huwa qal:— "They were then driven in two cars, one a pale green Volkswagen No. 27625 and a cream-and-red Singer Gazelle No. 28254". Għalkemm — almenu skond ix-xhieda ta' Harold Scorey u Ivor Tilney, li dam erbatax il-sena jaħdem bħala ġurnalista fit-Times of Malta — mhux solitu li ġurnal jagħti n-numru ta' karrozza li jkun riekeb wieħed fiha, jibqa' l-fatt illi l-kwerelant ta deskrizzjoni *taż-żewġ karrozzi li użaw il-membri tad-Delegazzjoni* biex marru minn Kingsway sa Old Bakery Street. Il-kwerelant ma qalx illi dawk iż-żewġ karrozzi kienu mqegħdha għall-użu tad-delegati, u lanqas inġiebet xi prova illi l-kwerelant jew il-publiku kienu jafu li dawk il-karozzi kellhom iservu għad-delegati matul is-soġġjorn tagħhom hawn Malta;

X'qal, issa, il-kwerelat bl-artikolu in kwistjoni a kariku tat-Times of Malta li jirrifletti fuq il-kwerelant bħala editur ta' dak il-ġurnal? Hu beda biex staqsa x'inhi r-responsabbiltà tal-ġurnal "in connection with the attempted assassination", *u kompla jgħid illi "during the week* the newspaper disclosed the number and gave a description of the car of the Socialist Mission". Ma jimpurtax illi fil-fatt ġew deskritti żewġ karrozzi. Hu rilevanti, però, illi jingħad fl-artikolu illi l-kwerelant ta deskrizzjoni "of the car of the Socialist Mission". Dawn il-kliem bħala dikjarazzjoni ta' fatt, jestendu aktar *minn dak li hemm* fir-rapport publikat mill-kwerelant. Din l-estensjoni, wieħedha mhix sostan-

zjali, iżda flimkien mal-kumplament tal-artikolu hija tiswa biex taghti l-kulurit partikulari tiegħu;

Il-kwerelat, wara li għamel ir-riflessjoni illi 'the least intelligent of readers could read between the lines and understand the paper's gratification at the organised hostility shown to the Delegates", jistaqsi x'kien l-iskop — "purpose" — tat-Times of Malta "in divulging the number of the car and give a description of it"; u wara josserva illi:— "The information published in the Times of Malta must have been of great help to the assassin. Of the fifteen cars going down together to Wied iż-Żurrieq, the assassin singled out the Volkswagen which carried members of the Delegation";

Jekk l-osservazzjoni illi l-qarrej intelliġenti seta' jinduna bis-soddisfazzjon tat-Times of Malta "at the organised hostility shown to the Delegates" tista' tittieħed bħala komment, iebes iva, imma mhux barra l-limiti ta' komment ġustifikabbli fuq il-bażi tal-artikoli li dehru fit-Times of Malta rigward il-miġja tad-Delegazzjoni Soċjalista, jibqa' dejjem, però, illi l-kwerelat qiegħed jassoċja lill-kwerelant mal-"attempted assassination" imsemmija fl-artikolu, u qiegħed jattribwixxi lill-kwerelant skop partikulari "in divulging the number of the car and giving a description of it". U meta jingħad fl-istess kontest illi l-informazzjoni publikata mit-Times of Malta "must have been of great help to the assassin", dan l-iskop attribwit lill-kwerelant ma jistgħax ikun ħlief illi, jekk mhux vjolenza jiġu adoperati atti ta' ostilità kontra d-Delegazzjoni Soċjalista;

Ir-responsabbiltà għall-inċident akkollata lill-kwerelant mhix biss dik li l-kwerelat akkolla fl-istess artikolu lill-"priest politicians" u lill-Kummissarju tal-Pulizija, imma hija responsabbiltà li toħroġ minn obbjettiv determinat illi jsiru atti ostili kontra d-Delegazzjoni, u li finalment irriżultaw fl-"attempted assassination" ta' wieħed mid-delegati. Ir-raġunament li joħroġ mill-qari tal-artikolu għar-rigward tat-Times of Malta huwa dan:— It-Times of Malta, li wriet soddisfazzjon għall-ostilità organizzata kontra d-delegati, ippublikat deskrizzjoni tal-karrozza tagħhom, bl-iskop li tgħin u tiffomenta din l-"organised hostility"; mela hija responsabbli tal-"attempted assassination";

Dan l-iskop attribwit lill-kwerelant joħroġ mir-rapport minnu publikat? Kif diġa' ġie rilevat, ma hemm ebda ndikazzjoni f'dak ir-rapport illi l-karrozzi hemm deskritti— fosthom il-Volkswagen — kienu addetti għall-użu tad-Delegazzjoni, u ebda tagħrif ma rriżulta li kien ingħata b'xi mod lill-pubbliku li d-Delegazzjoni kienet sejra tuża għal drabi oħra dawk il-karrozzi jew xi waħda minnhom. Anki jekk wieħed kellu jieħu l-veduta tal-kwerelat, illi kien hemm "gratification at the organised hostility shown to the delegates", ma toħroġx minn din il-konklużjoni illi dik id-deskrizzjoni ġiet mogħtija bl-iskop illi jiġi mxandar liema karrozzi — jew karrozza — kien hemm għad-dispożizzjoni tad-delegati, ħalli jiġu provokati atti ta' ostilità lid-delegati. Altru hija s-soddisfazzjoni li talvolta wieħed jista' jħoss fuq fatt li ġara, u altru li wieħed jagħmel b'mod li jipprovoka avveniment, kif il-kwerelat attribwixxa lill-kwerelant li huwa għamel;

Din l-attribuzzjoni ta' skop speċifiku ma tikkostitwix komment, imma hija fiha nnfisha attribuzzjoni lill-kwerelant ta' fatt speċifiku li jinċidi fuq ir-riputazzjoni tiegħu;

Fl-aħħar tal-artikolu l-kwerelat kiteb illi, jekk is-sitwazzjoni minnu deskritta tkompli, tkun inevitabbli hawn Malta gwerra ċivili, u li kollox jindika konklużjoni waħda — "the intention of certain people is that of precipitating such civil war on the lines of the Spanish civil war to have installed in Malta a Franco-type regime". L-artikolista qiegħed jattribwixxi lil xi ħadd intenzjoni li jippreċipitaw gwerra ċivili hawn Malta. Il-qarrej tal-artikolu ma jistgħax ħlief jifhem illi fost dawn hemm il-kwerelanti, billi qabel ġiet attribwita lilu attività d'retta għall-ostilità fuq imsemmija. Din l-attribuzzjoni mhix komment, imma hija l-istess addebitu ta' fatt magħmul fil-parti ta' qabel tal-artikolu lill-kwerelant, u anki tkompli tiċċara dak l-addebitu;

F'dan il-kontest l-appellant xehed illi ma kienetx l-intenzjoni tiegħu li jirriferixxi għat-Times of Malta. u illi anzi l-opinjoni tiegħu hija li l-kwerelant ma jridx it-tip ta' gvern indikat fl-artikolu, u illi huwa għandu l-impressjoni illi qabel il-paragrafu li jibda 'One asks" kien hemm xi "sub-title" ieħor li fl-istampa ġie ommess, u illi fil-fatt dan

il-paragrafu anqas jista jirriferixxi għat-Times of Malta, għax l-ordni tal-id-at tbiddel għal kollox u ma jitkellimx aktar fuq l-attent t. Kif, però, osservat l-Ewwel Qorti, fil-fatt dan is-"subheading" ma deherx u l-qarrej għandu bilfors jifhem illi fost is-"certain people" kien hemm il-kwerelant;

Din il-Qorti, però, sejra tqies, għall-finijiet tal-piena biss, dan ir-rikonoxximent da parti tal-istess kwerelat;

Għal dawn il-motivi;

Tikkonferma s-sentenza appellata, b'dan illi tirriduċi l-piena għal multa ta' £16. Il-kwerelat għandu jippublika, f'ħarġa tal-"Voice of Malta" mhux iżjed tard mit-tieni waħda mil-lum, din is-sentenza jew sunt komprensiv tagħha. Bl-ispejjeż taż-żewġ istanzi kontra l-kwerelat appellant. Onorarju tad-difensuri tnax il-xelin u nofs kull seduta.