## 15 ta' Novembra, 1958

Implatiof:-
Onor. Dr. W. Harding, R.M., B.Litt, LID. I1-Puluada

## persuts

Na. 5172 Sapper Carmel Attard
"Chird Perty Ethos' - Lidomzat tas-Sowqun -- Soopomsjon: - "uspecial Remons" - Art. 3(2) ta' Ordinanas 36 tal-1989.

Ragunijitet persomali ghal min jikser id-dtspotimanondtet talLift dwor l-Asstgurazzioni kontra r-kidkil te' Teral Perrwn; bhal ma hi dite li l-kontraveentur bis-sorpensfoni talilcenze isofri "hardahip" finunsjaryw, ghar l-iberroesse aserpieh wboll blex jghatifex itfamellfa tiegha, me ghemethomx jitqiess bhala "special reasons" If thotustiflketw 14 -Qorth takiorda rdimzzjomi fil-ptena preskertta mil-lig! dioar tit-


Ir-rajunijitet orall-mitioazzjont ta' ain a-ptena friak jkwnu. invede. specfall ghall-fatti li fikkouttivixra l-offtha; ir-
 wanti it ma tommontax ghal diftita legali kontre l-akkwede, tmme ntant tkxn konnessa direttament mel-kommicojont tal-kontravienzjoni, u u l-Qorti jmissha tiohk to konitlerazzioni fi-applitazafoni tal-ptena.

Fil-kaz prezenti, sid u-karrozza, debttament ucentjat blex lewa u licenzjat dwar ir-riskfi ta' terzi persumi, tppermetta ullifonc li kien miephu fil-karrozza, u 4 ma kollut ucomea tarsewoqn. iswa ohal bicta triq pjuttost eqhitre fpost fefa ma klenx hemm traffikz ta' entitd, u qajhed netelh wegt it dak zbne kien qed iswq; u 1 -Qorti, fic-ctrkustanal tal-ked, dehrilha li kien u-kas li tirriduct t-terminx tas-sospensfoni talutenza tas-sewgan ta' dak is-std tal-karrozza.
n-Qorti:- Rat 1 -imputazzjoni migjube mill-Pulisja quddiem il-Qorti Kriminali tal-Magistrati ta' Malta kontre l-imputat, talli f'San Pawl il-Bahar, fit-3 ta' Settembru 1958, f'xi s-6.45 pm., Ippermetta lill-ibnu John Attard Ieuq
car 18007 minghajr licenza mill-Pulizija tas-sewqan, u b'hekz ma kienx kopert bill-polza tas-sigurti jew garanzija dwar riskji ta' terzi perguni skond id-dispokizzjonijiet talOrdinanea XXXVI tal-1939, u ghaldagstant il-Provekutzjoni talbet li jifi skwalifikat milli jzollu jew jehu ebda licenza tas-sewqun ghal perijodu ta' anax il-xahar jew aktar skond l-art. 3(2) tal-intess Ordinanza;

Rat in-sentenza ta' dik il-Qorti tat-30 ta' Settembru 1958, li biha gie misjub hati u kundannat ghal 55 multa, u skwalifikat milli jkollu litenci tas-sewqan ghal tnax ilxahar:

Rat ir-rikora tal-imputat, li bih appella mid-decitjoni fug imsemmija, u talab If tigi riformata fil-piena, in kwantu li 部i applizat 1 -art. 23 (a) tal-Kodici Kriminali, jew, subordinatament, li tigi mitigata 1 -piena;

Trattat 1-appeli;
Hkuraldrat;
Dwar il-fatti - li fuqhom ghandu jisi valjat dan lappell kontuttokkè li hu limitat ghall-piena - ma jidherx Li: hemm kwistjoni. L-Appellant, li hu driver regolarment Hiensjat, ippermetta lill-ibau, li kien mieghu fil-car, li jsuq fi'-curnata msemmija fic-eitazzjoni, ghal bicta triq ighira fil-limiti ta' San Pawt il-Banar, ejot minn fejn ic-cimiterju (fin-nahiet tai-kuntrada msejha "tral-erbgha mwieteb") sa ftit lure mill-Canberra Hotel, distanza pjuttost ighira. Ilhin kien ghal wi sitt $u$ nofs f'Settembru, x'hin nitlet ixxems, peró qabel ma dalam. L-appeliant. waqt li kien qieghed isua ibnu, kien hdejh. Ma Jidherx li dak il-hin kien hemm traniku ta' xi entita. Kif gew bdejn il-bini, 1-appellant rega' beda jouq hu. Ibnu ghandu ni hmigtax il-sena:

Ma hux il-kat lit jigi applikat l-art. 23 (a) invokat middificie, ghaliex ma hemm ebda rakuni biex tigi mnaqqaa ipiena ta'-multa li giet infitta mill-Ewwel Ocrti. Kwantu ghar-riduzzioni tal-perijodu tal-iskwalifika. din hi materja li ghandha tigi kunaidrata mhux taht dak l-artikolu, imma
taht id-dispozizzjoni tal-art. 3 tal-Kap. 165 Edizzjoni Riveduta, fis-dens li din il-Qorti ghandha tara jelk kienx hemm xi "special reasons" taht dik il-ligi speejali biex tigi mitigata l-piena ta!-iskwalifika;

Id-difiza semmiet ic̀-cirkustanza li, peress li l-appellant hu suldat fis-sezxjoni tal-mekkanici u tat-trasport tal-Inginieri, u peress li l-karrozza sservieh ukoll biex jghin 1 ghejrien tal-familja tieghu numeruta, ghalheki hu joofri "hardship" kbir bis-sospensjoni;

Din il-materja ta "special reasons" giet diversi drabi kunsidrata "funditus" f'deciizjonijiet tal-Qrati Ingliti; liema decizjonijiet ghandhom importanza, ghaliex il-ligi lokall giet modellata fuq il-ligi ngliza in materja;

Fit-test ta' Blake Carn intitolat "Special Reasons", edizzjoni tal-1951, hemm riportata fil-pa㐌na 9 d-decitioni, li bagghet "locus classicus", "Hittal vs. Kirby", li rriteniet illi:-"(2) A special reason within the exception was one which was special to the facts which constituted the of fence, and not one which was special to the offender as distinguished from the offence; (b) accordingly, no consideration of financial hardship, or of the offender beinr before the Court for the first time . . . . . could be regarded as a special reason";

Frdin is-sentenza, Lord Goddard, li sa ftit ilu kien Chief Justice tal-Ingilterra, qal ukoll li Ad-decitijoni R. v. Crossan, moghtija mill-King's Bench Division ta' Northern lreland, dik il-Qorti kienet adottat appuntu dan il-principju, illi cjoè:- "A special reason within the exception is one which is special to the facts of the particular case, that in, special to the facts which constitute the offence . . . It is, in other words, a mitigating or extenuating circumstance not amounting in law to a defence to the charge, yet directly connected with the commission of the offence, and one which the Court ought properly to take into consideration when imposing punishment. A circumstance peculiar to the offender, as distinguished from the offence, is not a special reason within the exception";

Chalhekk, ir-ratmijet adiotti mid-diak li huma per-
 guatiatan xi ridurijomi tilpiena talimwaliftra;

1e-cirkumani, pero, ta' dan illkat, cijod tal-ithest "of-
 in Reay v. Youss ripartat isi-pegtan 37 tat-tent fug finzemin I-fatti tallati kiens dawn=- The owner of a exr. which was inamed aghote thrd party ribls while any persoas holding a drifies licence was drivisg it, allowed hil wife, who did not hold a driving ticence, to drive it alongs a lonely mociland road Hie remained in the car, and his wife drove slowis for aboat 150 yards. The only other trafic apon time roed at the tive was a mobor cycle driven by a potioe officer". Lord Godiard, wara bi qui it "I ana far from saying that there may not be cuses in which, if that mere dowe, the perality of diequalifiction would moot property be applied, as. it a permom in the street of a town. or even of a viltage, chome to let an raimared, pecion drive in such eircumstrices that the car was uninaured, it would be a mexious matter, and dinqualification ought to follow, because one could not say that thene was some special resson there which would mitigate the ofience", kompla joghid, peri, in frdak il-kat bi impecje e-cirlustansi kienu jumudericon mitigazzjon;

Din il-Qoeti thona li anki fdan illtat, li hu simili aceCirkustanzi partitulari tieghu, a ble ma 1-Qorti qeghedha tikkommetti ruhhe ghal ebde propotizajoni geverali, hemm lok ghall-mitiganemoni;

Ghal dawn ilmotivi, dim il-Qorti tilqa' 1-appell, fasmens biss li tirriduci l-piena tal-iskwalifike ghal tmien xahurejn milhom.

