20 ta' Dicembru, 1952 Imhallef:

L.-Onor. Dr. W. Harding, B.Litt., LL.D. II-Pulizija versus Joseph Zammit

Assikurazzjoni — Karrozza — "Third Party Risks" — Polza tas-Sigurtà — Licenza tas-Sewqan — Sospensjoni — Piena — Kompetenza — Art. 3 u 20 tal-Kap. 165.

- Il-fatt li l-piena komminata mill-liģi kontra min isug karrozza tal-mutur minghajr ma įkollu polza tas-sigurtà jew garanzija dwar irriskji ta' terzi persuni tikkomprendi multa li tasal sa £50, u hekk tagbež il-maximum normali tal-multa ta' £20, ma įbiddelx il-karattru tal-multa ghall-finijiet tal-kompetenza; u r-reat jihga' ta' kompetenza tal-Qorti Inferjuri.
- Ma hix sostenibili l-allegazzjoni illi, meta l-każ jigi gudikat mill-Qorti Inferjuri fuq ordni ta' l-Attorney General, mhix applikabili l-piena tas-sospensjoni tal-licenza tas-sewgan.
- Il-minimum tal-perijodu tas-sospensjoni tal-ličenza tas-sewgan komminata ghal dina l-kontravvenzjoni hvwa ta' sena, jekk il-Qorti, ghal ži raguni specjali, ma jidhrilhiez li ghandha tordna diversament. Imma l-pont ta' dawn ir-ragunijiet specjali hvwa pont kontrovers kafna.
- Mhux "special reason", fil-kaž ta' min jixtri karrozza assikurata f'isem il-venditur, il-fatt li, meta huwa talab it-transfer tal-licenza tal-karrozza fuq ismu; il-Pulizija ma rrikjeditx minn ghandu, kif lmis-

sha ghamlet, ic-certifikat tas-sigurtà. Kif langas hung "special reuson" il-fatt allegat illi s-sospensioni tal-licenza ghal driver tu' karrozza ttellef lil dak id-driver l-ghaixien tieghu u tal-familia tieahu.

Langus ma hija "special reason" il-kredenza illi l-polza f'isem il-venditur thopri anki lix-xerrei sakemm thun ghadha ma skadietx. Ghalkemm il-massima "injorantia juris neminem excusat" f'xi ka: ma gietx applikata, fejn kien każ ta' pont oskur tal-ligi, l-injoranza tal-liği jew l-izball iridu ikunu invincibili: u mhuz invincibili žball simili tad-driver, meta huwa seta' facilment javvičina lillegent tal-kumpannija tas-signeta, u dan kien malaje jahidlu li lpolza l'isem il-venditur ma kienetz tkopri lilu.

Imma e-cirkustanza li l-kumpannija tas-sigurtà tildikjara illi, kicku ngula' xi "claim", il-kumpannija kienet thallas il-heara l-istess. uvvolia d-driver ikun sag il-karrozza bil-polza l'isem min bicaklu dik il-karrozza, tista' sservi ta' raguni specjali biez il-Qorti tnehhi, iew timmitiga, il-periiodu tas-sosvensioni tal-licenza tas-sewgan : bhal ma ghamlet f'dan il-każ.

Fuq l-imputazzjoni illi ghamel użu minn motor van minghajr il-polza tas-sigurtà jew garanzija dwar ir-riskji ta' terzi persuni skond il-ligi, u li naqas li jwahhal il-licenza tal-van fuq in-naha tax-xellug tal-"wind-screen", l-imsemmi Zammit, b'sentenza tal-Qorti Kriminali tal-Magistrati ta' Malta tal-24 ta' Ottubru 1952, gie misjub hati, u ghar-rigward ta' l-ewwel imputazzjoni gie kundannat ghall-piena tal-multa ta' £5, u gew blu sospiži I-ličenzi tas-sewqan ghal perijodu ta' tnax-il xahar, u kwantu ghat-tieni imputazzioni gie kundannat ghall-piena ta' l-ammenda ta' 7s. 6d.:

B'rikors tat-3 ta' Novembru 1952 l-imputat appella minn din id-decizjoni, u talab ir-riforma taghha fis-sens li titnehtia i-piena tas-sospensjoni tal-ličenza;

Trattat dan l-appell, din il-Qorti kkunsidrat; L-ewwel mezz defensjonali jikkonsisti fir-riljev illi, skond l-art. 3 (2) tal-Ligi li tahtha hi migjuba l-imputazzioni (Kap. 165 Ediz. Riv.), il-piena hi dik tal-multa ta' mhux aktar minn £50, jew tal-prigunerija ghal zmien mhux aktar minn tliet xhur, jew taż-żewg pieni flimkien. minbarra l-piena ta' l-iskwalifika milli jkollu jew jiği moghti licenza ta' driver ghal zmien tnax-il xahar. Dan ir-reat—sostniet id-difiza—hu ghalhekk barra mill-kompetenza tal-Qorti Inferjuri. Skond l-art. 20 ta' l-istess liği, l-Attorney General jista' jordua li r-reat jiği ğudikat mill-Qorti Inferjuri; imma allura, skond dan l-istess artikolu, il-piena tkun biss tal-multa jew tal-priğunerija, ghax l-iskwalifika f'dan l-art. 20 (argumentat id-difiża) ma hix aktar imsemmija. Issottomettiet ghalhekk id-difiża li, ladarba dan il-każ ĝie ordnat li jiĝi ĝudikat mill-Qorti t'Isfel, il-piena ta' l-iskwalifika ma setghetx tinghata; ghax, jekk ĝie hekk ĝudikat, dan kien taht l-art. 20, u fl-art. 20 l-iskwalifika ma hix imsemmija;

Id-doljanza tad-difiża hi nfondata, ghaliex fil-fatt ir-reat hu reat ta' kompetenza tal-Qorti Inferjuri, apparti konsiderazzonijiet ohra ta' l-art. 20 ghar-rigward tan-nuqqas ta' menzjoni tal-piena ta' l-iskwalifika. Infatti l-art. 20 jibda biex jghid: "All offences under this Ordinance shall be prosecuted in accordance with the provisions of the Criminal Code......";

Issa, skond dan il-Kodići (art. 382), huma ta' kompetenza tal-Qorti tal-Magistrati (inter alia) ir-reati li jaqghu taht il-pietal-kontravvenzjonijiet, jew tal-multa, jew tal-prigunerija jew tal-lavuri furzati ghal žmien mhux aktar minn tliet xhur etc. F'dan il-kaž, il-massimu tal-piena tal-prigunerija ma jaqbežx tliet xhur, u, kwantu ghall-multa, l-art. 13 ta' l-istess Kodići jghid:— "Where it is not otherwise specifically provided the maximum of a fine (multa) is twenty pounds sterling." Kosikkė l-fatt li l-multa, taht xi dispožizzjoni ohra, taqbež il-maximum ta' £20, ma jbiddelx il-karattru tal-multa ghall-finijiet tal-kompetenza; u appuntu fil-kaž preženti hu "specifically provided" fl-art. 3 (2) tal-Kap. 165 fuq imsemmi, li l-multa tilhaq il-maximum ta' £50;

L-eżami tal-liği, Kap. 165, juri li l-art. 20 qieghed jikkontempla r-reati msemmija fl-artikolu precedenti, li huma sog-

getti ghal piena li taqbez il-kompetenza inferjuri;

Ghalhekk, ladarba r-reat li tieghu kien akkużat l-appellant kien ta' kompetenza inferjuri, ma hemmx lok — apparti konsiderazzjonijiet ohra dwar l-interpretazzjoni ta' l-art. 20 fug imsemmi — ghall-ilment relativ tad-difiża;

Fit-tieni lok, id-difiża ssottomettiet li f'dan il-każ jirrikorru "special reasons" biex tigi mnehhija l-piena ta' l-iskwali-

fike;

Il-ligi. fl-imsemmi art. 3 (2), tghid....... "and a person convicted of an offence under this section shall (unless the Court thinks fit to order otherwise, and without prejudice to the power of the Court to order a longer period of disqualification) be disqualified for holding or obtaining a driver's licence for a period of twelve months from the date of the conviction";

Il-fatti ma hemmx kontestazzjoni fuqhom, u huma dawn. L-appellant xtara din il-van minn ghand Carmelo Seychell f'April ta' l-1952. u dan Seychell kellu regolarment il-polza tassigurtà mentiega mill-ligi, u valida sat-3 ta' Settembru 1952 (ara dok. fol. 3 tal-process). Kosikkè d-"date of expiry" kienet "posteriuri" ghad-data tal-fatt imputat lill-appellant, li gara fit-8 ta' Awissu 1952. Issa, li "special reasons" addotti mill-appellant huma dawn, kif jidher mir-rikors u mill-osservazzjonijiet li ghamel id-difensur tieghu fil-kors tad-dibattitu:—

1. Illi, peress li I-polza kienet ghadha valida sa Settembru 1952, u kienet tkopri anki r-riskju meta jkun qed isuq xi hadd bil-permess ta' l-assikurat, ghalhekk l-appellant kien qed jahseb in bwona fede li ma kellux ghalfejn jaghmel il-polza f'is-

mu qabel id-data ta' l-iskadenza;

2. Illi, meta l-appellant talab it-transfer tal-permess talvan fuq ismu, il-Pulizija ma rrikjedietx, kif kellha taghmel skond il-ligi, il-produzzjoni taċ-ċertifikat tas-sigurtà;

3. Illi bis-sospensjoni tal-licenza tieghu ta' driver l-appellant, li hu bus-driver fuq il-linja ta' Birkirkara, jitlef l-ghaj-

xien tieghu u tal-familja tieghu;

4. Illi l-kumpannija tas-s-igurta kienet l-istess thallas, kieku avvera ruhu r-riskju, allavolja l-polza ma kienetx ghad-

ha mdawra fuq l-appellant; u dan skond l-ittra fol. 13;

Dan il-pont ta' "special reasons" hu pont ferm kontrovers, kif jūru n-numeruži dečižjonijiet tal-Qrati Ingliži in propožitu; liema dečižjonijiet huma ferm importanti anki hawn Malta, ghax il-ligi taghna giet mudellata, jekk mhux "tolta di peso", fuq il-ligi ingliža; u gie dejjem ritenut mill-Qrati Taghna illi, meta l-ligi hi l-istess, allura d-dečižjonijiet tat-tribunali superjuri tal-pajjiž esteru mnejn tkun mehuda l-ligi huma fonti utili ta' interpretazzjoni (ara App. "Debono vs. Chapelle" 23 ta' Januar 1890, fejn intqal illi "le opinioni dei supremi tribunali di paesi esteri sono state in ogni tempo in queste Isole e

generalmente adottate, quando si tratta di interpretazione di leggi simili alle leggi di queste Isole......');

Il-fatt li anki fl-ingilterra l-interpretazzioni tal-kliem "special reasons", kif inghad, "ha dato molto filo da torcere", jirrizulta minn rimarka ta' ezordin ta' artikolu li deher fir-rivista legali "The Magistrate", Vol. IX, no. 8, March-April 1951, li ttratta appuntu din il-kwistjoni; fejn intqal:— "A point of law may be a thorn in the flesh of magistrates, and the one which appears to draw magisterial blood most frequently is that which is involved in the finding of special reasons for disqualifying a motor driver. In a few short years it has been the subject of a considerable number of High Court decisions":

L-Imhallef sedenti josserva — u dan ir-riljev hu utili "in lege condenda" — illı forsi fl-Ingilterra l-piena ta' l-iskwalifi-ka ta' sena hi mitigata bil-fatt illi fil-Liği Ingliza jinghata d-dritt lill-persuna hekk skwalifikata li, wara sitt xhur, tappella dett lill-persuna nekk skwannkata ii, wara sitt knur, tappena lill-istess Qorti li tkun ordnat l-iskwalifika, biex jigi lilha mahfur il-perijodu rimanenti, u f'dan l-appell "all grounds, including financial hardship, may (skond Shawcross, On the Law of Motor Insurance", 1949 edition, pag. 247) be urged in support". F'Malta dan id-dritt ma jezistix. Mitigazzjoni ohra li hemm l-Ingilterra hija illi, mentri hawn Malta l-iskwalifika bilfors tapplika ghas-sewqan ta' kull vettura, sija dik li ghar-rigward taghha saret il-vjolazzjoni, sija kull wahda ohra, skond il-liği ingliz (Shawcross, ibidem, pag. 247 note "W") "the dis-qualification may be limited to the driving of a motor vehicle of the same class or description as the vehicle in relation to which the offence was committed":

Dan qieghed jinghad mhux ghax minhabba f'hekk hemm lok "in lege condita" ghal interpretazzjoni aktar generuża talkliem "special reasons"; ghax dawn il-kliem dejjem jibqghu listess li huma; imma biex tigi rilevata d-desiderabilità illi, ladarba l-legislatur malti mpona f'Malta l-istess piena ta' l-iskwalifika ghal tnax-il xahar kif hemm fl-Ingilterra, tigi wkoll inkluża l-fakoltà li hemm fl-ligi Ingliża tar-revizjoni tal-piena wara sitt xhur—dan, kif inghad, "in lege ferenda"; Il-Qorti issa sejra teżamina r-ragunijiet addotti mill-appellant bhala "special reasons"; biss, ghall-kjarezza tas-sentenza, seira tvarialhom is-sekwenza fug indikata.

seira tvarjalhom is-sekwenza fuq indikata;

Kwantu ghat-tieni rağuni, dik éjoè li l-Pulizija, meta sar it-transfer tal-licenza, ma talbitux il-produzzjoni tac-certifikat tas-sigurtà, din ma tistax tigi kunsidrata bhala "special reason"; ghaliex id-dover li timponi l-ligi fuq id-driver ta' vettura; li jkollu polza tas-sigurtà, huwa dover "tieghu", indipendenti minn kull dover iehor mixhut mill-ligi fuq hadd iehor; u jekk hadd iehor ma osservax il-ligi, din l-inosservanza ma tistax tiskuża lid-driver:

Kwantu ghat-tielet raguni, maghmula tikkonsisti filhardship' ghall-appellant, Lord Goddard C.J., sedenti filKing's Bench f'appell mill-Qrati tal-Magistrati Inglizi, qal, filkawza "Knowler vs. Rennison" (1947) K.B. 488, All Eng.
Law Rep. 1947, p. 302:— "There is no provision permitting
the Court to refrain from disqualifying on the ground of exceptional hardship. Disqualification might work hardly on one person, and not so hardly on another; but Parliament had not seen fit to draw a distinction between different offenders". U filkawża "Whittall vs. Kirby", 1-istess Chief Justice qal:— "It is not for the Courts to disregard the plain provisions of an Act of Parliament merely because they think that the action Parof Parliament merely because they think that the action Parliament has required them to take causes some hardship". U verament hekk hu, ghaliex "special reason" hija logikament pjuttost raguni li hi eccezzjonali in relazzjoni, mhux ghall-kondizzjonijiet personali ta' l-"offender", imma ghall-fatti talkawża. Hu veru li (ara Shawcross, Law of Motor Insurance. 1949 edition, p. 245) bejn il-1930 u l-1946 il-magistrati fl-Ingilterra kienu komunement iqisu bhala "special reason" dan il-"hardship", imma l-gurisprudenza tal-Qorti ta' l-Appell ma approvatx;

'Kwantu ghall-ewwel raguni, din hija l-kredenza ta' l-appellant li l-polza, ladarba kienet ghadha in vigore sa Settembru 1952, kienet tibqa' tkoprieh, peress li hu kien qed isuq ilvan bil-permess u x-xjenza ta' l-assigurat Seychell, li kien beghlu l-van u kkonsenjalu ċ-ċertifikat tas-sigurta;

Issa, ghandu jirghad immedjatament li l-każ preżenti ghandu jigi differenz at mill-każ l-iehor li gie recentement quddiem din il-Qorti similment kostitwita — "Pulizija vs. Anthony Pace", 29 ta' Novembru 1952. F'dak il-każ intalbet ukoll l-indulgenza minhabba "special reasons" konsisten-

ti fil-fatt li l-imputat kien jinjora l-liği; imma fil-każ citat l-appellant kien xtara l-vettura li kienet assikurata f'isem il-venditur, imma din il-polza tas-sigurtà kienet ghalqet u l-appellant ma kien ha ebda hsieb li jğeddidha, u l-kontravvenzjoni saret fiz-zmien meta l-polza, sija pure f'isem il-venditur, kienet ghalqet; mentri fil-każ prezenti l-polza, fil-gurnata li l-appellant ğie mizmum, kienet ghadha in vigore, ghal-kemm f'isem il-bejjiegh. Fil-każ l-iehor, l-appellant qatt ma seta' jahseb li kien hemm polza in vigore, u ghalhekk il-Qorti cahdet it-talba ghall-konsiderazzjoni tal-każ minhabba "special reasons";

Issa, hu fait li l-injoranza tal-ligi ma tiskużax. Kif ighid il-Garraud, "Traité Theorique et Pratique du Droit Penal Francais", Ediz. 1898, Vol. I, pag. 555, "on est universellement d'accord pour admettre que l'ignorance de droit ne peut etre una cause d'irresponsabilité ou d'excuse; et en consequence, on pose, en dogme, que la loi penale, des sa promulgation, doit etre connue ou est censeé connue de tous". U fil-gurisprudenza Ingliża gie ritenut illi "belief, however honest, could not be regarded as a special reason, unless based on reasonable grounds":

Hu veru illi f'dan il-każ l-appellant, ghad-differenza talkaż l-iehor, ma kienx qed jinjora fatt lampanti bhal ma hu dak li l-polza li tkun ghalqet ma tiswiex, imma kien qed jinjora pjuttost pont tal-ligi milli l-ligi stess. Infatti, dottrinalment u fil-gurisprudenza hu stabbilit li, peress li min ibiegh ma jibqax interessat fis-"subject matter" tas-sigurta, u ma ghandux aktar "insurable interest", ghalhekk il-polza tieghu taqa avvolja t-feminu taghha jkun ghadu ma ghalaqx, u kwindi ma jistax khaddiha lix-xerrej, u lanqas jista jaghtih permess li jsuq il-vettura mixtrija taht dik il-polza. Dawn huma r-ragunijiet legali li ghalihom il-polza ma tibqax issehh, u mhux dawk indikati fis-sentenza odjerna appellata (ara decizjoni ta' din il-Qorti, kif presjeduta, b'citazzjoni tad-dottrina u gurisprudenza estera, App. "Pulizija vs. Spiteri", 25 ta" Ottubru 1952);

Hu veru wkoll li meta wiehed ighid li l-injoranza talligi ma tiskuzax ikun qieghed jirriferixxi ghall-"error juris" dwar il-ligi partikulari li tikkontempla r-reat, ghaliex jekk ližball ikun fuq xi ligi ohra, allura jista' jkun hemm lok ghalliskuža (ara App. Krim. "Pulizi a vs. Xuereb' 11. 12. 43, fejn hemm citata monografija tal-Carrara, "Della Ignoranza come Scusa''); u forsi f'dan il-kaž wiehed jista' jgbid li l-pont deciž fil-kawža fuq citata "Pulizija vs. Spiteri" huwa pont ta' liģi civin pjutiost minn ta' liģi partikulari li tahtha hemm l-imputazzjoni. Hu veru wkoll li l-massima "ignorantia juris neminem excusat" xi minn daqqiet ma gietx applikata, fejn kien hemm xi pont oskur legali, kif, fuq l-awtorità ta' decižjoni ta' Mr. Justice Avory, gie rimarkat fis-sentenza issa citata "Pulizija vs. Xuereb";

Però, ghalkemm l-Imhallef sedenti immedita fuq dawn il-punti, huwa gie ghall-konklużjoni li ma humiex ta' siwi lill-appellant, ghax din il-Qorti thoss li ghandha taqbel ma' dak li qal Lord Goddard in "Rennison vs. Knowler", 1947, K.B. 488, illi "it was the duty of people to make themselves acquainted with their policies and, if they do not understand them, it is their duty to take advice". L-"error juris", biex jimmerita l-indulgenza tal-Qorti, jehtieğ li ikun "invincibili", u ma hux invincibili meta kien facili ghall-appellant li jikkommunika ma' l-ağent lokali (al-kumpannija tas-sigurtà biex iaccerta ruhu dwar dak li kellu jsir biex il-polza tibqa' ssehh, u l-ağent kien mala'r ighidlu li kien jehtieğ biss li l-kumpannija tirrikonoxxi lilu bhala titolari tal-polza bl-"endorsement" tal-polza f'ismu;

Dwar ir-raba' rağuni, din hi bażata fuq id-dokument fol. 13. F'dan id-dokument ir-rapprezentant lokali tal-kumpannija sostanzjalment ighid li l-kumpannija, kieku saret xi claim, kienet tikkunsidra pagament "ex gratia" minhabba appuntu dak li din il-Qorti ssenjalat bhala differenza mill-każ ta' Pace, cjoè illi f'dan il-każ il-polza, apparti t-transfer, kienet tkun ghadha in vigore. U hu, del resto, risaput li kumpannija tas-sigurtà ta' certu "standing" ma tiehux vantaġġ minn pont simili biex tehles mill-hlas, kif ġie wkoll osservat fid-deciżjoni tal-Qorti Ingliża li sejra tiġi citata aktar 'il quddiem;

Issa, il-pont hu jekk din id-dikjarazzjoni tal-kumpannija tikkostitwix "special reason";

Fuq dan il-pont kien hemm pronunzja tal-King's Bench Division, presjeduta minn Lord Goddard, sedenti ma' l-Im hallfin Byrne u Ormerod, fil-kawża "Pilbury vs. Brazier", 4 ta' Ottubru 1950. Din id-deciżjoni mhijiex fost dawk migjuba fuq din il-kwistjoni ta' "special reasons" fix-Shawcross fuq citat, almenu fl-edizzjoni disponibili, li hi ta' l-1949, cjoè gabel id-deciżjoni fug citata. qabel id-decizjoni fuq citata;

Dan il-kaz kien hekk. L-imputat kien is-sid ta' "fleet"

ta' "taxi-cabs", li kienu koperti kontra "third party risks' b'polza kollettiva, li tahtha l-assikurat kellu jaghti "notice" lill-"insurers' minn žmien ghal žmien dwar liema cars kienu "at risk" u liema kienu "off risk". F'Jannar ta' 1-1950, wiehed mit-taxi-cabs gie mahrug mis-servizz ghax kellu bżonn ta' tiswija, u allura l-kumpannija giet avżata li dan kien "off risk". Meta, f'Marzu ta' 1-1950, rega' gie mqieghed fis-servizz, il-manager ta' l-imputat, bi zvista, nesa jinforma l-kum-pannija li t-taxi-cab kien rega gie mqieghed fis-servizz, u ghal xi granet gie wzat bla ma kien hemm polza ta' sigurta ghar-rigward tieghu. L-imputat ipproduca ittra mill-"under-writers" fis-sens li huma, b'dan kollu, kielsu saret claim, kie-nu jinkontrawha l-istess, non ostanti li ma nghatax avviz li nu jinkontrawna i-istess, non ostanti li ma nghatax avviz li t-taxi-cab kien rega' gie mqieghed fis-servizz. Il-"justices" ta' Romford, Essex, fid-decizjoni taghhom ta' l-4 ta' Mejju 1950, ma skwelifikawx l-appellant, ghaliex irritenew illi kien hemm "special reasons". li huma ghamlu jikkonsistu f'dawn il-fatti: illi l-imputat kellu 38 taxi, u kwindi bilfors kellu jid-delega certi doveri lill-manager; li hu ağıxxa rağjonevolment mela ddelega davi illəndən davi l-"insurance" lillənanager; li hu ma kellu ebda rağuni biex jaħseb li dan il-manager; li hu ma kellu ebda raguni biex janseb ii dan it-mana-ger ma kienx sejjer jaqdi dmiru tajjeb; li hu ma kellux ra-gunijiet biex janseb li t-taxi ma kienx "insured"; u li l-kum-pannija kienet thalias l-istess kieku nqalghet claim. Il-Puli-zija appellat, u l-każ gie quddiem il-King's Bench, kompost mic-Chief Justice u ż-żewg Imhallin fuq imsemmija. Id-decizioni giet pronunziata minn Lord Goddard, li qal hekk:— "This case raises the vexed question what is or what is

not a special reason for refraining from disqualifying a mo-

torist who is driving an uninsured car. There is no question whatsoever—and this Court has constantly said so in no uncertain terms - that, ordinarily speaking, driving an uninsured ear, is a serious offence. It is seldom an answer to say that it was only driven a little way. Not long ago we had a case in which a car was driven for some 200 yards by somebody who ought not to have driven it because he had no policy of insurance, and in that short distance the driver injured two people and broke a plate-glass window. There are, however, cases in which it is found that on a technical and strict construction of the policy the underwriters would not be liable, but that they would regard themselves as liable as if an accident happened. The most familiar instance is where a man has forgotten to renew his driving licence. Then, technically, he is not insured, though his insurance policy may have several months to run; but no respectable insurance company would ever take that point if an accident happened in such cincumstances, or if the renewal of the policy was out of time for a week, or something of that sori. Only insurers approved by the Ministry of Transport can grant Insurance under the Road Traffic Act. 1934; and if one of the approved insurance companies states that in the circumstances of the case they would have regarded themselves as liable, and would have been willing to meet any claim made, it is obvious that the mischief which the Act was designed to prevent does not arise. In these circumstances it cannot be said that there does not exist a special reason for the justices not to order disqualification. In this case, the respondent was a taxi-cab proprietor who had a number of hire-cars or taxi-cabs. I do not think the fact that he left it to his manager to see to the insurance of the cabs would have been an excuse, if there had been an accident. There was an open cover under the respondent's policy under which notice had to be given saying which cars were at risk and which were not. This particular cab had been taken out of service, and then it had been put back into service without the insurance company having been informed of the fact. The insurance company have stated that, if there had been an accident, they would have regarded themselved as liable,

and in those circumstances there was ample ground for the justices to hold that there was a special reason for not ordering disqualification. The only thing in which I differ from them is that, in my view, it was not necessary to impose a fine of £10. They did impose such fine, and no doubt it will be useful in making the respondent more careful in future to see that due notice is given; but it is impossible to say that there were not ample grounds for the justices to refrain from disqualifying him; and therefore the appeal is dismissed";

I.-Imballef Byrne — skond il-prattika tal-Qrati Inglizi — tkellem wara Lord Goddard, u qal:— "I entirely agree. I think it would have been entirely surprising if the justices had come to any other conclusion than that to which they did come". U l-Imballef Ormerod qal:— "I agree" (ara All Eng. Law Reports, Vol. 2 ta' 1-1950, Part 15, Oct. 28, p. 835):

Grandu jiği notat li fis-sistema İngliz (u din hija mitigazzjoni ohra li ma hemmx fil-lği Malti'a, u li ghalhekk iixraq li l-leğislatur Malti, in vista ta' dawn il-mitigazzjonijiet li hemm fil-Liği İngliza, jikkunsidra xi emenda attenwanti simili, ğa ladarba t-terminu minimu ta' tnax-il xahar ğie stabbilit fuq il-liği İngliza), hu moghti lill-Qorti illi teskludi l-imputazzjoni taht il-Probation of Offenders Act 1907, meta "inter alia" jkun hemm "extenuating circumstances"; u appuntu fil-kaz Southgate vs. Bruce (unreported), li ğie quddiem il-Hampshire Quarter Sessions Appeal Committee f'Mejju ta' 1-1948, l-assikurat kien warrab ghal xi zmien il-car imsemmi fil-polza, u beda juza car iehor li ğa kellu qabel ghall-"hire driving" taht it-"terms" tal-policy. Ghalkemm huwa kien imissu informa lill-Kumpannija bit-tibdil, il-Kumpannija qalet li kienu jinkontraw il-claim l-ietess kieku ğara xi accident, u l-Qorti ghalhekk illiberat, u b"hekk ma applikatx id-"disqualification" (ara note (00) Shaweross, ibidem, pağ. 245);

Din il-Qorti, ghalhekk, jidhrilha li ghandha ssegwi dawn il-precedenti, bazati fuq din ic-cirkustanza li l-Kumpannija kienet tikkunsidra l-claim l-istess; ghax ghel tant, rettament interpretata, tammonta d-dikjarazzioni fol. 13;

Biss, l-Imhallef sedenti jidhirlu li, una volta jkun hemm dik iĉ-ĉirkustanza bhala kostitwenti "special reason", kif hemm i'dan il-każ, u una volta li b'dik iĉ-ĉirkustanza l-Qorti tkun awtorizzata tiddipartixxi mill-minimum ta' tnax-il xahar, imbaghad ghandha tqis iĉ-ĉirkustanzi kollha tal-każ biex tara jekk ghandhiex tnebhi l-iskwalifika ghal kollox jew tillimitaha, u ĉertament il-kliem "thinks fit to order otherwise" ta' l-art. 3 (2) Kap. 165 huma komprensivi, u jinkludu tant il-każ li ma tiĝix ordnata ebda skwalifika kemm il-każ li tiĝi ordnata skwalifika ghal perijodu anqas. Del resto, il-"più" jikkomprendi l-"meno";

Issa, f'dan il-każ il-Qorti ma hix tal-fehma li ċ-ċirkustanzi huma tali li ghandha titnehha ghal kollox l-iskwalifika, anki biex l-interessati joqghodu attenti; imma li t-terminu

ghandu jigi sostanzjalment ridott;

Ghalhekk tiddecidi, billi tilqa' l-appell fil-kap devolut lilha, billi tirriforma s-sentenza appellata fis-sens li l-perijodu ta' l-iskwalifika, minflok ta' tnax-il xahar, ikun ta' xahar mil-lum.

Tmiem tal-Volum XXXVI.