

22nd October, 1960

Judge:—

The Hon. Mr. Justice J. Flores, B.L.Can., LL.D.

The Police

versus

No. 23469879 S/Sgt. John Penny

**Driving Licence — Domestic Private Permit — Residence
Reg. 14 of the Traffic Regulations.**

According to the Regulations, it is lawful for a person resident outside these Islands, who holds a domestic private licence issued in a country outside these Islands by a country which is a party to the Convention on Road Traffic Act, 1949, during a period of twelve months from the date of his last

entry into Malta, to drive in these Islands a motor vehicle of any class or description which he is authorised by that permit to drive, notwithstanding that he is not the holder of a driving licence under the Regulations.

"Domestic Private Licence", in relation to a country outside these Islands, means a document issued under the laws of that country and authorising the holder to drive motor vehicles, or a specified class or description of motor vehicles, in that country.

In that light, "residence" in the above regulations means more than mere presence or sojourn. To constitute "residence", although the term is distinct from "domicile", fixity and choice of abode are material.

By judgment of the Court of Magistrates of Malta of the 11th May, 1960, John Penny was convicted of driving a motor car in Hompesch Street on the 8th March, 1960, without a local Police licence, and was released under the provisions of sec. 23(1) (a) of the Criminal Code;

The defendant appealed against his conviction and conditional release;

Having heard the appeal, this Court considers;

The grounds of appeal are that by virtue of regulation 14 of the Traffic Regulations the appellant did not require a local driving permit on the relevant date;

It is the evidence that on the 8th March, 1960, the appellant drove a private motor car in Hompesch Street, Zabbar, when he was not in possession of a driving licence from the Commissioner of Police of Malta in terms of regulation 37 of the Traffic Regulations. He was, however the holder of a driving licence no. 10317 issued by Hampshire County Council to drive motor vehicles of group A, B, C, D and G, according to the Road Traffic Acts 1930 to 1956, for the period from the 1st December 1959 to the 30th November 1952 (exh. A.) Group "A" includes a motor car;

The appellant, a staff sergeant with R.E.M.E., arrived in Malta in 1959. On the 2nd December of that year he went home on leave, and returned on the 12th January, 1960. His wife came to Malta the following May. In this way the appellant, on the relevant date 8th March 1960, had not been in Malta over a year since his last entry here;

By regulation 14 of the Traffic Regulations, it is lawful for a person resident outside these Islands, who holds a 'domestic driving permit' issued in a country outside these Islands by a country which is a party to the 'Convention on Road Traffic, 1949' during a period of twelve months from the date of his last entry into Malta, to drive in these Islands a motor vehicle of any class or description which he is authorised by that permit to drive, notwithstanding that he is not the holder of a driving licence under regulation 37. 'Domestic private permit', in relation to a country outside these Islands, means a document issued under the laws of that country and authorising the holder to drive motor vehicles, or a specified class or description of motor vehicles, in that country;

The purpose of regulation 14 is that set out in article one of the 'Convention on Road Traffic' and Motor Transport, 1949', to which Great Britain was a party, whereby each contracting state, while reserving its jurisdiction over the use of its roads, agreed to the use of its roads for international traffic under the conditions set out in the Convention;

In that light, 'residence' in the above regulation, means more than mere presence or sojourn, as the period of one abroad shows. To constitute 'residence' in that regulation, although the term is distinct from 'domicile', fixity and choice of abode are material;

On the relevant date, the appellant was the holder of a domestic private permit, and was authorised to drive a motor vehicle of the group to which the car he drove belonged. His home was in the United Kingdom, and, although he was stationed in Malta, he was subject to military movements;

This Court, therefore, finds that on the date of the event the appellant, being a resident outside these Islands and the holder of a 'domestic private permit', did not require a local driving permit;

For these reasons, the Court revokes the judgment of the First Court, and acquits the appellant.
