

30th April, 1990

Judge: -

**Onor. Prof. Wallace Ph. Gulia B.A., LL.D., B.Sc., Ph.C.,
M.A. (Admin) (Manch) D.P.A.(Lond)**

In the Extradition Proceedings of Colin John Trundell

**Constitution - Right to a Fair Hearing - Art. 39 of the
Constitution - European Convention on Human Rights -
Act XIV of 1987 - Extradition - Act XVIII of 1978**

*The Court of Appeal entertained Applicant's request for a stay in
Appeal Proceedings pending the final outcome of Constitutional
Proceedings.*

The Court: -

Having seen the application of the 18th January, 1990, by which Colin John Trundell requested that his court orders the staying of the appeal proceedings pending the final outcome of the Constitutional Case he filed in December, 1989, in which he alleged that his fundamental rights had been infringed in the course of the proceedings the decision relating to which is being considered in the course of these appeal proceedings;

Having seen the Attorney General's reply of the 25th January, 1990, in the sense that request for a stay of proceedings should be dismissed;

Having heard the submissions of learned Counsel on the

application;

Having seen the copy of the application of Colin John Trundell in the First Hall of the Civil Court of the 12th December, 1989, in which he requested that, that court declares that his fundamental rights for a fair hearing, guaranteed by sections 39(1) (2), (6) of the Constitution of Malta and by sections 6 of the European Convention of Human Rights rendered applicable to Malta by Act XIV of 1987, have been violated and that, that court should consequently give such orders and directives as it may deem fit in order to safeguard his fundamental rights;

Having likewise seen a copy of the defendant's reply in that case;

Considers that sub-section (2) of section 21 of the Extradition Act, 1978 (Act XVIII of 1978) specifies that "a person shall not be returned to any country under that Act (b) if the person committed to custody is entitled to institute any proceedings, whether of appeal or otherwise, which may lead to the reversal, annulment or modification of the courts' order of committal" and (c) if any such proceedings "have been instituted, until the conclusion of such proceedings";

The request contained in Colin John Trundell's application in the First Hall, of the Civil Court referred to above is quite general in its broad sweep, but the declaration of nullity of the proceedings now being considered on appeal by this Court definitely fails within this mischief of its generality, however frivolous or vexatious it may appear apart therefrom;

Therefore this Court decrees that it should entertain applicant's application for a stay of the General Proceedings of the Appeal Proceedings pending the final outcome of the Constitutional case filed in December, 1989, in the First Hall of the Civil Court and consequently adjourns the case *sine die* until the conclusion of those proceedings.
