[WILSON, P., ZEKIA, VASSILIADES AND JOSEPHIDES, JJ.]

IOANNIS GEORGHIOU HINIS,

Appellant,

v.

THE POLICE,

Respondents.

(*Criminal Appeal No.* 2599).

Courts—Jurisdiction—Jurisdiction of the District Courts in criminal cases—Special jurisdiction of the District Courts under section 155 (*b*) *of the Criminal Procedure Law, Cap.* 155—*Not affected by the provisions of the subsequent Law i.e. the Courts of Justice Law,* 1960 (*Law of the Republic No.* 14 *of* 1960) *section* 24 (1) *and* (2)—*Notwithstanding anything contained in the last mentioned section and whenever any person has been committed for trial on information, the Attorney-General may, under section* 155 (*b*) *of the Criminal Procedure Law, Cap.* 155, *direct that such case be tried and determined by a Court of summary jurisdiction, notwithstanding that such offence could not otherwise be triable by such Court.*

Criminal Procedure—Committal for trial before the Assizes—After committal the Attorney-General has power under section 155 (*b*) *of Cap.* 155 (supra) *to direct that the offence be tried and determined by a District Judge or President, District Court.*

Criminal Procedure—Attorney-General—Powers of the Attorney-General under section 155 (*b*) *of the Criminal Procedure Law, Cap.* 155 (supra).

Statute—Interpretation—Repeal by necessary implication—Principles applicable—Generalia specialibus non derogant.

Criminal Law—Intent—Proof of—Wounding or attempting to wound with intent to do grievous harm, contrary to section 228 (*b*) *of the Criminal Code, Cap.* 154—*In that context "intent" means "desire" or "purpose"—Rule laid down as to the proof thereof in* R. *v.* Steane (1947) *K.B.* 997, *at p.* 1004, *and adopted by the High Court in the case* of Pefkos and others *v.* The Republic, 1961 *C.L.R.* 340, *at pp.* 367-8, *followed.*

Section 155 of the Criminal Procedure Law, Cap. 155, provides :

"Whenever any person shall have been committed for trial on information, the Attorney-General may—

(*a*) if he is of opinion that further inquiry is necessary before such trial, direct that the original depositions be

remitted to the Court in which the accused had been so committed and, thereupon, the Court shall carry out such further inquiry and take such further depositions as may be necessary as if such committal had not been made ;

b) if he is of opinion that the case may suitably be dealt with summarily under the powers possessed by a Court of summary jurisdiction, direct, that such case be tried and determined by any such Court, notwithstanding that such offence could not otherwise be triable by such Court."

Section 24 of the Courts of Justice Law, 1960, (*supra*) reads as follows :

"(1) Evey President of a District Court and every District Judge shall have jurisdiction to try summarily all offences punishable with imprisonment for a term not exceeding three years or with a fine not exceeding five hundred pounds or with both and may, in addition to or in substitution for any such punishment, adjudge any person convicted before him to make compensation not exceeding five hundred pounds to any person injured by his offence.

(2) Notwithstanding anything in this section contained a President of a District Court or a District Judge shall, with the consent of the Attorney-General of the Republic, have jurisdiction to try summarily any offence punishable with imprisonment for a term not exceeding seven years, if satisfied that it is expedient so to do, in all the circumstances of the case including consideration of the adequacy of the punishment or compensation such President of a District Court or District Judge is empowered under this section to impose or award :

Provided that any punishment imposed or any compensation awarded shall not exceed the punishment or compensation which a President of a District Court or a District Judge, as the case may be, is empowered to impose or award under subsection (1)."

The appellant was convicted of the offence of unlawfully attempting to strike a person with an offensive weapon, to wit, a shot gun with intent to do grievous harm to him, contrary to section 228 (*b*) of the Criminal Code, Cap. 154, and sentenced to nine months' imprisonment. As this offence carries life imprisonment a preliminary inquiry was held and the appellant was committed for trial before the Assize Court of Larnaca. Subsequent to his committal, the Attorney-General being of opinion that the case could be suitably dealt with summarily under the powers possessed by a District Judge or President of a District Court, and in exercise of his powers vested in him by section 155 (*b*) of the Criminal Procedure Law, Cap. 155, directed that

the case be tried and determined by a District Judge as President, District Court, notwithstanding that such offence could not be otherwise triable by such Judge. The appellant-accused pleaded not guilty to this charge and the District Judge, after hearing evidence, convicted him of the offence under section 228 (*b*) of the Criminal Code (*supra*) and sentenced him to nine months' imprisonment. The appellant appealed against his conviction on two grounds : 1. that the trial Judge had no jurisdiction to try the accused on the count on which he was found guilty in view of section 24 (2) of the Courts of Justice Law, 1960 (*supra*), and 2. that the trial Judge misdirected himself as to whether the facts as found were unequivocably referable to the offence of which the accused was convicted or to any other offence. It was argued on appeal on behalf of the appellant that the intent proved in this case was an intent to terrorise and not an intent to do grievous harm. Two conflicting versions were given before the trial Judge, the one by the complainant, the other by the accused. The trial Judge preferred that of the complainant, giving his reasons therefor.

Held : As to the question of jurisdiction.

(1) We have no doubt that section 155 (*b*) of the Criminal Procedure Law, Cap. 155, conferring the power on the Attorney-General to remit a case to the District Court is intended to help in the proper and speedy administration of justice, that it is to the benefit of an accused person, and that it is not obnoxious to the liberty of the citizen. In construing this section we have to apply the general principles applicable to the construction of an act of Parliament, having regard to the provisions of a subsequent statute, *i.e.* section 24 (2) of the Courts of Justice Law, 1960.

(2) A general principle applicable to the construction of a statute is that a prior special statute is not repealed by a subsequent general statute, unless by express reference or necessary implication ; and that it depends upon the intention of the legislature whether a subsequent statute does or does not control a prior statute. But it is impossible to construe absolute contradictions and, if the provisions of a later Act are so inconsistent with, or repugnant to, those of an earlier Act that the two cannot stand together, the earlier stands impliedly repealed by the later (see Maxwell on "Interpretation of Statutes", 10th edition, pages 160–1). As Bramwell, L.J. said in *Garnett* v. *Bradley* (1877) 2 Ex. D. 349, at pages 351–2 :

> "That rule (that subsequent laws repeal prior ones to the contrary) is subject to a qualification excellently, as it seems to me, expressed by Sir P. B. Maxwell, in his book on the interpretation of statutes. He says, at p. 157, under the heading 'Generalia specialibus non derogant', 'It is but a particular application of the general presumption against an intention to alter the law beyond the immediate scope of the statute to say that a general Act is to be con-

strued as not repealing a particular one by mere implication. A general later law does not abrogate an earlier special one. It is presumed to have only general cases in view, and not particular cases, which have been already provided for by a special or local Act, or what is the same thing, by custom. Having already given its attention to the particular subject, and provided for it, the legislature is reasonably presumed not to intend to alter that special provision by a subsequent general enactment, unless it manifests that intention in explicit language."

And Lord Hobhouse, delivering the Judgment of the Privy Council, in *Barker* v. *Edger* (1898) A.C. 748 at page 754 said :

"The general maxim is, '*Generalia specialibus non derogant*'. When the legislature has given its attention to a separate subject, and made provision for it, the presumption is that a subsequent general enactment is not intended to interfere with the special provision unless it manifests that intention very clearly. Each enactment must be construed in that respect according to its own subject-matter and its own terms."

(3) Applying the above principles to the interpretation of section 24 of the Courts of Justice Law, 1960, we consider that it cannot be construed to have repealed by implication section 155 (*b*) of the Criminal procedure Law, Cap. 155, as there is no inconsistency in the two statutes standing together, nor does the Courts of Justice Law, show any intention of the legislature to restrict or alter the provisions of section 155 (*b*) of the Criminal Procedure Law.

(4) The words "notwithstanding that such offence could not otherwise be triable by such Court", occurring in section 155 (*b*), are plain and unambiguous and we think we ought to give them their ordinary meaning. We are, therefore, of the view that section 155 (*b*) should be construed to mean that although originally, before the case was committed to the Assizes, the District Judge had no jurisdiction to try the case summarily, after committal, the Attorney-General may remit such a case to the District Judge, to be tried and determined by him summarily, notwithstanding that the offence is punishable with imprisonment exceeding seven years ; provided that any punishment imposed or any compensation awarded shall not exceed the punishment or compensation which a District Judge is empowered to impose or award under section 24 (1) of the Courts of Justice Law, 1960, that is, three years' imprisonment and/or £500 fine, and £500 compensation.

(5) For these reasons we hold that the District Judge had jurisdiction to try the case remitted to him by the Attorney-General of the Republic.

Held : II. As to the merits of the case (VASSILIADES, J., *dissenting*) :

(1) The trial Judge, after weighing the two conflicting versions, preferred that of the complainant and rejected the appellant's version as untrue, and he gave his reasons for doing so which have not been proved to us to be unreasonable.

On the evidence before him the Judge was satisfied beyond any reasonable doubt that the appellant aimed and fired at the complainant and not at any birds, and that the only inference to be drawn from the facts proved was that the appellant intended to do grievous harm to the complainant, and the Judge found the appellant guilty of the offence of attempting to strike the complainant with intent to do him grievous harm.

Counsel for the appellant, in submitting that the appellant's intent was simply an intent to terrorise and not to do grievous harm, argued that there was nothing to prevent the appellant from going nearer the complainant or firing a second shot at him as his (appellant's) gun was a double-barrelled one.

These arguments were no doubt put by learned counsel to the trial Judge who, after considering them, came to the conclusion that the intent to do grievous harm had been proved.

(2) As was said in the case of *Pefkos and others* v. *The Republic*, 1961 C.L.R. 340 at pp. 367–368, the onus of proving intent remains throughout on the prosecution. Where on a true construction of a statute " intent " equals " desire " or " purpose ", as in the case of wounding with intent to do grievous bodily harm, then the rule laid down by Lord Goddard in *Rex* v. *Steane* (1947) K.B. 997 at page 1004, would be applicable :

> " No doubt, if the prosecution prove an act the natural consequence of which would be a certain result and no evidence or explanation is given, then a jury may, on a proper direction find that the prisoner is guilty of doing the act with the intent alleged, but if on the totality of the evidence there is room for more than one view as to the intent of the prisoner, the jury should be directed that it is for the prosecution to prove the intent to the jury's satisfaction, and if, on a review of the whole evidence, they either think that the intent did not exist or they are left in doubt as to the intent, the prisoner is entitled to be acquitted."

(3) The trial Judge in fact referred to the *Pefkos* case and directed his attention to the onus of proof of the intent to do grievous harm, and after reviewing the whole evidence before him he found that the intent to do grievous harm had been proved beyond reasonable doubt.

Having read the record of the evidence in this case and the judgment of the trial Judge the majority of this Court were satisfied that there was evidence before the trial Judge to support

his finding of fact, and that on the totality of the evidence there was no room for more than one view as to the intent of the appellant in firing at the complainant.

(4) For these reasons the appeal must be dismissed.

Held : Per VASSILIADES, J., in his dissenting judgment.

The appellant was charged on two counts. In the first he was charged with the felony of attempting to maim or do grievous harm contrary to section 228 (*b*) of the Criminal Code and in the second with the misdemeanour of attempting to wound contrary to sections 234 (*a*) and 367 of the Code. The intention of the appellant-accused at the material time, inferred in this case from surrounding circumstances, could equally well be to commit either the felony charged in the first count or the misdemeanour charged in the second count. In the circumstances, I am inclined to accept the submission that the evidence leans towards a conviction on the lighter count ; and I would determine the appeal accordingly.

Appeal dismissed.

Cases referred to :

Garnett v. *Bradley* (1877) 2 Ex.D.349, at pages 351-352, per Bramwell, L.J., *applied* ;

Barker v. *Edger* (1898) A.C.748, P.C. at page 754, per Lord Hobhouse, *applied* ;

Pefkos and Others v. *The Republic*, 1961 C.L.R. 340, at pp. 367-368, *applied* ;

R. v. *Steane* (1947) K.B.997, at page 1004, *applied.*

Appeal against conviction.

The appellant was convicted on the 12th December, 1962, at the District Court of Larnaca (Cr. Case No. 1861/62) on one count of the offence of unlawfully attempting to strike a person with an offensive weapon with intent to do some grievous harm, contrary to s. 228 (*b*) of the Criminal Code, Cap. 154 and was sentenced by Orphanides, D.J., to nine months' imprisonment.

G. Achilles with *G. Pikis* for the appellant.

Cr. G. Tornaritis, Attorney-General of the Republic, with *S.A. Georghiades* for the respondents.

Cur. adv. vult.

The facts sufficiently appear in the judgment read by JOSEPHIDES, J.

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WILSON, P. : The appeal will be dismissed. The reasons for judgment will be delivered later except for those which Mr. Justice Vassiliades wishes to deliver now with respect to the question of intent.

VASSILIADES, J. : I share the view that this appeal must fail as far as the jurisdiction of the trial Court is concerned. And as the Court has reserved for a later date the reasons for dismissing the appeal, I do not wish to say anything at this stage on the issue of jurisdiction.

But as regards the other ground upon which the appeal was argued, namely, that, on the evidence, the appellant should be convicted on the lighter of the two counts charged, I am inclined to accept the submission made on behalf of the appellant.

When the case reached the Attorney-General upon committal for trial by an Assize Court on the charge of attempt to maim or cause grievous harm with intent, under section 228 (*b*), the Attorney-General remitted the case for summary trial, adding a lighter count for attempt to wound under sections 234 (*a*) and 367 of the Code. The first crime is a felony punishable with imprisonment for life ; the second is a misdemeanour punishable accordingly.

Both counts arise from the same set of facts and rest on the same evidence. The intention of the accused at the material time, inferred in this case, from the surrounding circumstances, could equally well be to commit either the felony charged in the first count, or the misdemeanour charged in the second count. In the circumstances of this case, I am inclined to accept the submission that the evidence leans towards a conviction on the lighter count ; and I would determine the appeal accordingly.

REASONS FOR JUDGMENT

19th February, 1963.

WILSON, P. : The reasons for judgment in this appeal will be given by Mr. Justice Josephides.

JOSEPHIDES, J. : This appeal was dismissed and we intimated that we would give our reasons later, which we now proceed to do.

The appellant was convicted of the offence of unlawfully attempting to strike a person with an offensive weapon,

to wit, a shot gun with intent to do some grievous harm to him, contrary to section 228 (*b*) of the Criminal Code, Cap. 154, and sentenced to 9 months' imprisonment.

As this offence carries life imprisonment a preliminary inquiry was held and the appellant was committed for trial before the Assize Court of Larnaca. Subsequent to this committal, the Attorney-General of the Republic, being of opinion that the case could suitably be dealt with summarily under the powers possessed by a District Judge or President, District Court, in exercise of the powers vested in him by section 155 (*b*) of the Criminal Procedure Law, Cap. 155, directed that the case be tried and determined by a District Judge or President, District Court, notwithstanding that such offence could not otherwise be triable by such Judge.

Section 155 (*b*) reads as follows :

" Whenever any person shall have been committed for trial on information, the Attorney-General may—

(*a*)

(*b*) if he is of opinion that the case may suitably be dealt with summarily under the powers possessed by a Court of summary jurisdiction, direct that such case be tried and determined by any such Court, notwithstanding that such offence could not otherwise be triable by such Court."

The appellant was then brought before the District Judge at Larnaca when a second count of attempting to wound unlawfully, contrary to sections 234 (*a*), 367 and 35 of the Criminal Code was added to the charge sheet. The accused pleaded not guilty and the District Judge, after hearing evidence, convicted the appellant on the first count under section 228 (*b*) of the Criminal Code.

The appellant appealed against his conviction on two grounds, namely :

(1) that the trial Court had no jurisdiction to try the accused on the count on which he was found guilty in view of section 24 (2) of the Courts of Justice Law, 1960 ; and

(2) that the trial Judge misdirected himself as to whether the facts as found were unequivocably referable to the offence of which the accused was convicted or to any other offence.

With regard to the *first ground*, the appellant's counsel submitted that as the District Judge had jurisdiction to try summarily any offence punishable with imprisonment not exceeding three years he had no jurisdiction to try the present case as the offence with which the appellant was charged was punishable with life imprisonment. He also submitted that the only provision which gave power to the District Judge to try criminal cases was contained in section 24 of the Courts of Justice Law, 1960, and that no other law could confer jurisdiction on a Judge to try a case, nor could the Attorney-General of the Republic create jurisdiction for a Court. He further submitted that there is no conflict between section 155 (*b*) of the Criminal Procedure Law, Cap. 155, and section 24 of the Courts of Justice Law, 1960, but in case it were held that there was such a conflict then the Courts of Justice Law, which was a Law providing for the constitution, jurisdiction and powers of the Courts of the Republic, should prevail over the Criminal Procedure Law, Cap. 155, which was an earlier procedural law. In the submission of learned counsel, the power given to the Attorney-General under section 155 (*b*) of the Criminal Procedure Law was to remit a case in which the offence was punishable with imprisonment for a term not exceeding seven years, as this would be consistent with the provisions of subsection (2) of section 24 of the Courts of Justice Law, 1960.

He went on to submit that if it was the intention of the legislature to give such wide powers to the Attorney-General under the Criminal Procedure Law, which had been enacted before the Courts of Justice Law, 1960, then the provisions of section 155 (*b*) should have been expressly saved in section 24 of the Courts of Justice Law which conferred criminal jurisdiction on a District Judge, and as this had not been done, the provisions of section 155 (*b*) should be taken to have been repealed by necessary implication. Finally, he submitted that even if there was any doubt as regards the powers conferred on the Attorney-General under section 155 (*b*) then the benefit of the doubt should be given to the citizen.

The learned Attorney-General of the Republic, who opposed these arguments, submitted that the provisions of section 155 (*b*) had not been repealed either expressly or by necessary implication ; and that, apart from the Courts of Justice Law, 1960, which was a general law conferring jurisdiction on the Court, there existed other laws conferring special jurisdiction on Judges, and it was not possible for the legislature to provide and save every specific jurisdiction

on the statute book. Finally, he submitted that there was nothing in section 155 (*b*) of the Criminal Procedure Law contrary to the provisions of the Constitution or the proper administration of criminal justice and that, consequently, the words in the statute should be given their ordinary meaning.

In considering these matters it is, we think, helpful to trace the origin and history of the provisions of section 155 (*b*) of the Criminal Procedure Law, Cap. 155, along with the powers and jurisdiction of a District Judge. The provisions of section 155 (*b*) were introduced for the first time in our legislation in 1934, by Law 45 of 1934 (section 6), amending the Cyprus Courts of Justice Order, 1927. A new clause 157B was added conferring power on the Attorney-General to remit a case to a lower Court. This clause came immediately after Clause 157A which provided for the delegation of the Attorney-General's power of *nolle prosequi*. In fact, today the Attorney-General's power of *nolle prosequi* is contained (in addition to Article 113.2 of the Constitution) in section 154 of the Criminal Procedure Law, Cap. 155, immediately preceding section 155. When this provision was first introduced in 1934 the jurisdiction of the District Judge was limited to offences punishable with imprisonment not exceeding three months and/or a fine not exceeding £10. He could also try offences punishable with imprisonment not exceeding three years, with the consent of the Attorney-General, provided that he did not impose any punishment exceeding three months' imprisonment and/or £10 fine (clause 48 of the Cyprus Courts of Justice Order, 1927). All offences punishable with imprisonment exceeding three years had to be committed to the Assizes.

In 1935 a new Courts of Justice Law was enacted (Law 38 of 1935) whereby the jurisdiction of the District Judge was increased to one year imprisonment and/or £100 fine (section 20). He was further empowered to try certain specified offences and other offences punishable up to five years' imprisonment with the consent of the Attorney-General and the accused, provided that the maximum punishment that could be imposed did not exceed one year imprisonment and/or £100 (section 20 (4)). Clause 157B was not expressly repealed and it was not considered to have been repealed by implication. In fact, Clause 157B of the Cyprus Courts of Justice Order, 1927, (conferring the power on the Attorney-General to remit a case to a lower Court), remained on the statute book until 1948 when it was expressly repealed by the Criminal Procedure Law, No. 40 of 1948 (see Schedule,

Item 2) and re-enacted in section 152 (*b*) of that Law. In 1953 the provisions of section 152 (*b*) were amended slightly by Law 6 of 1953 (section 16), that is to say, whereas the Attorney-General had the power under the then existing law to direct that a case committed for trial be remitted to the committing Judge to be dealt with by him, such power of the Attorney-General was amplified by empowering him to remit such case not only to the committing Judge but to any Court of summary jurisdiction.

A new Courts of Justice Law was enacted in 1953 (Law 40 of 1953—*Cap.* 8 in the 1959 edition of the Laws of Cyprus). This Law replaced the 1935 Law, which was Cap. 11 in the 1949 edition of the Laws of Cyprus. Section 30 of the 1953 Law (Cap. 8) empowered the District Judge to try summarily all offences punishable up to one year imprisonment and/or £200 fine, and, with the consent of the accused, to try offences punishable up to seven years' imprisonment provided that the punishment imposed should not exceed one year imprisonment and/or £200 fine : and provided that where the offence was punishable with more than five years' imprisonment the consent of the Attorney-General was necessary ; but the latter proviso was repealed by Law 6 of 1958.

This was the position on Independence Day. Some four months later, namely, on the 17th December, 1960, the House of Representatives, pursuant to the provisions of Article 158 of the Constitution, enacted the present Courts of Justice Law, No. 14 of 1960, which Law contains section 24, with which we are concerned in this appeal.

Section 24 reads as follows :

" (1) Every President of a District Court and every District Judge shall have jurisdiction to try summarily all offences punishable with imprisonment for a term not exceeding *three years* or with a fine not exceeding *five hundred* pounds or with both and may, in addition to or in substitution for any such punishment, adjudge any person convicted before him to make compensation not exceeding five hundred pounds to any person injured by his offence.

(2) Notwithstanding anything in this section contained a President of a District Court or a District Judge shall, with the consent of the Attorney-General of the Republic, have jurisdiction to try summarily any offence punishable with imprisonment for a term not exceeding seven years, if satisfied that it is expedient

so to do, in all the circumstances of the case including consideration of the adequacy of the punishment or compensation such President of a District Court or District Judge is empowered under this section to impose or award :

Provided that any punishment imposed or any compensation awarded shall not exceed the punishment or compensation which a President of a District Court or a District Judge, as the case may be, is empowered to impose or award under subsection (1)".

As it will be observed, section 24 (2), which replaces the old section 30 (4), provides that a District Judge shall, with the consent of the Attorney-General of the Republic, have jurisdiction to try summarily any offence punishable with imprisonment not exceeding seven years, if satisfied that it is expedient so to do, provided that any punishment imposed shall not exceed three years' imprisonment. The accused's consent is no longer necessary.

The appellant's argument was that, having regard to these provisions, the powers of the Attorney-General to remit a case to the District Judge should be limited to offences punishable with not more than seven years' imprisonment, and that the words "notwithstanding that such offence could not otherwise be triable by such court" in section 155(*b*) of the Criminal Procedure Law, should be interpreted to mean "notwithstanding that the case has been committed to the Assizes". The question depends on the construction of an Act of Parliament and I think we ought to give the Act its ordinary meaning, and carry out to its full extent that which the legislature intended.

Now, we have no doubt that section 155 (*b*) of the Criminal Procedure Law, Cap. 155, conferring the power on the Attorney-General to remit a case to the District Court is intended to help in the proper and speedy administration of justice, that it is to the benefit of an accused person, and that it is not obnoxious to the liberty of the citizen. In construing this section we have to apply the general principles applicable to the construction of an Act of Parliament, having regard to the provisions of a subsequent statute, *i.e.* section 24 (2) of the Courts of Justice Law, 1960.

A general principle applicable to the construction of a statute is that a prior special statute is not repealed by a subsequent general statute, unless by express reference or necessary implication ; and that it depends upon the intention of the legislature whether a subsequent statute

does or does not control a prior statute. But it is impossible to construe absolute contradictions and, if the provisions of a later Act are so inconsistent with, or repugnant to, those of an earlier Act that the two cannot stand together, the earlier stands impliedly repealed by the later (see Maxwell on " Interpretation of Statutes ", 10th edition, pages 160-1). As Bramwell, L.J. said in *Garnett* v. *Bradley* (1877) 2 Ex. D. 349, at pages 351-2 :

> "That rule (that subsequent laws repeal prior ones to the contrary) is subject to a qualification excellently, as it seems to me, expressed by Sir P. B. Maxwell, in his book on the interpretation of statutes. He says, at p. 157, under the heading ' Generalia specialibus non derogant ', ' It is but a particular application of the general presumption against an intention to alter the law beyond the immediate scope of the statute to say that a general Act is to be construed as not repealing a particular one by mere implication. A general later law does not abrogate an earlier special one. It is presumed to have only general cases in view, and not particular cases, which have been already provided for by a special or local Act, or what is the same thing, by custom. Having already given its attention to the particular subject, and provided for it, the legislature is reasonably presumed not to intend to alter that special provision by a subsequent general enactment, unless it manifests that intention in explicit language'."

And Lord Hophouse, delivering the Judgment of the Privy Council, in *Barker* v. *Edger* (1898) A.C. 748 at page 754 said :

> " 'The general maxim is, '*Generalia specialibus non derogant*'. When the legislature has given its attention to a separate subject, and made provision for it, the presumption is that a subsequent general enactment is not intended to interfere with the special provision unless it manifests that intention very clearly. Each enactment must be construed in that respect according to its own subject-matter and its own terms."

Applying the above principles to the interpretation of section 24 of the Courts of Justice Law, 1960, we consider that it cannot be construed to have repealed by implication section 155 (*b*) of the Criminal Procedure Law, Cap. 155, as there is no inconsistency in the two statutes standing together, nor does the Courts of Justice Law, show any intention of the legislature to restrict or alter the provisions of section 155 (*b*) of the Criminal Procedure Law.

The words " notwithstanding that such offence could not otherwise be triable by such Court ", occurring in section 155 (*b*), are plain and unambiguous and we think we ought to give them their ordinary meaning. We are, therefore, of the view that section 155 (*b*) should be construed to mean that although originally, before the case was committed to the Assizes, the District Judge had no jurisdiction to try the case summarily, after committal the Attorney-General may remit such a case to the District Judge, to be tried and determined by him summarily, notwithstanding that the offence is punishable with imprisonment exceeding seven years ; provided that any punishment imposed or any compensation awarded shall not exceed the punishment or compensation which a District Judge is empowered to impose or award under section 24 (1) of the Courts of Justice Law, 1960, that is, three years' imprisonment and/or £500 fine, and £500 compensation.

For these reasons we hold that the District Judge had jurisdiction to try the case remitted to him by the Attorney-General of the Republic.

The *second ground* of appeal was that the facts as found by the trial Judge were not unequivocably referable to the offence of unlawfully attempting to strike with an offensive weapon with intent to do grievous harm. Counsel for the appellant submitted that the intent proved was an intent to terrorise and not an intent to do grievous harm.

The complainant was married to the appellant's sister in 1959 and it was not disputed by the defence that the appellant objected very strongly to this marriage and that he had not spoken to the complainant at all ever since his marriage.

The complainant's version, which was accepted by the trial Court, was that on the 7th March, 1962, at about 5.30 p.m. he was in his field, some 20 donums from Kiti village, cleaning his water channel. There were artichoke plants growing in his field. While there, he saw the appellant's dog and he immediately looked up and saw the appellant standing on an " ohto ", about 6 ft. high, at a distance of 240 ft. away from him (as subsequently measured by the police), with nothing in between them to obstruct visibility. The appellant, who was then holding his shotgun in a shooting position, aimed at the complainant and fired a shot at him. The complainant ducked just in time and the pellets missed him by one or two paces and pierced the leaves of the artichoke plants nearby. The complainant then stood up and called out to the appellant " What have I done to you that you want to kill me ? ", but the appellant gave no reply nor did he go up to him.

Complainant's version was corroborated by his first complaint to the appellant's sister who stated that he appeared to be frightened when making his complaints to her.

The police firearms' expert carried out a test with the appellant's gun (a double-barrelled, 16-bore sporting gun) using two cartridges from appellant's possession. The pellets hit the target from a distance of 240 ft., they pierced a piece of paper and were embedded in a wooden frame. Relying on this test the police expert stated in evidence that he could definitely say that if a person were fired at from a distance of 240 ft with appellant's gun he would receive injuries from the pellets, and that the extent of such injuries would depend upon which part of the body was hit

Appellant made an unsworn statement from the dock and did not call any witnesses He denied aiming at or shooting the complainant and he referred to his statement to the police which he made two days after his arrest In his statement the appellant stated :

> "While I was in this locality from a distance of about three to four English donums I saw my brother-in-law Stavris Constantinou (complainant) standing in the middle of his artichoke-plantation While I was standing there some birds passed ; I turned my sporting gun to the direction of the birds passing from the side of Stavris and fired a shot but I failed to shoot down any birds Then I turned back to the village and I went to my house"

The appellant's version was put to the complainant in cross-examination but he denied that any birds passed by nor that the appellant fired a shot at any bird

The trial Judge, after weighing the two conflicting versions preferred that of the complainant and rejected the appellant's version as untrue, and he gave his reasons for doing so which have not been shown to us to be unreasonable

On the evidence before him the Judge was satisfied beyond any reasonable doubt that the appellant aimed and fired at the complainant and not at any birds, and that the only inference to be drawn from the facts proved was that the appellant intended to do grievous harm to the complainant, and the Judge found the appellant guilty of the offence of attempting to strike the complainant with intent to do him grievous harm

Counsel for the appellant, in submitting that the appellant's intent was simply an intent to terrorise and not to do grievous harm, argued that there was nothing to prevent

the appellant from going nearer the complainant or firing a second shot at him as his (appellant's) gun was a double-barrelled one.

These arguments were no doubt put by learned counsel to the trial Judge who, after considering them, came to the conclusion that the intent to do grievous harm had been proved.

As was said in the case of *Pefkos and others* v. *The Republic*, 1961 C.L.R. 340 at pp. 367-368, the onus of proving intent remains throughout on the prosecution. Where on a true construction of a statute " intent " equals " desire " or " purpose ", as in the case of wounding with intent to do grievous bodily harm, then the rule laid down by Lord Goddard in *Rex* v. *Steane* (1947) K.B. 997 at page 1004, would be applicable :

> " No doubt, if the prosecution prove an act the natural consequence of which would be a certain result and no evidence or explanation is given, then a jury may, on a proper direction find that the prisoner is guilty of doing the act with the intent alleged, but if on the totality of the evidence there is room for more than one view as to the intent of the prisoner, the jury should be directed that it is for the prosecution to prove the intent to the jury's satisfaction, and if, on a review of the whole evidence, they either think that the intent did not exist or they are left in doubt as to the intent, the prisoner is entitled to be acquitted."

The trial Judge in fact referred to the *Pefkos* case (*supra*) and directed his attention to the onus of proof of the intent to do grievous harm, and after reviewing the whole evidence before him he found that the intent to do grievous harm had been proved beyond reasonable doubt.

Having read the record of the evidence in this case and the judgment of the trial Judge the majority of this Court were satisfied that there was evidence before the trial Judge to support his findings of fact, and that on the totality of the evidence there was no room for more than one view as to the intent of the appellant in firing at the complainant.

For these reasons the appeal was dismissed.

VASSILIADES, J. : I agree with the judgment just read by Mr. Justice Josephides, as regards the question of jurisdiction. But I have nothing to add to what I said at the conclusion of the hearing of the appeal on the 22nd January, on the issue of intent. I would determine the appeal accordingly.

Appeal dismissed.