THE RIGHT OF REPLY IN BELGIUM

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PREFACE

The purpose of this thesis is to study the right of reply in Belgium.

In the first part of the work,I shall briefly describe the Belgian judicial system.I find it necessary because our judicial and legislative principles are so much different from those of the Anglo-Saxon countries. In the second part of the thesis,I shall study the right of reply in theory,as it is found in the laws.I shall, also,in this part,examine the various problems related to the right of reply and the solutions given by the Law or by the jurisprudence to those problems.The third part of this work will be devoted to the description of various cases of right of reply.The last chapters will be,in fact,a study of the right of reply as it is practiced in Belgium.

I want to thank the management of both papers "La Libre Belgique" and "Le Peuple" for the help they gave me in the redaction of this work.I particularly thank Mr.Jean-Louis Lohest,Chief-Editor of the paper "Le Peuple" for his help and cooperation.

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DECRET DU 20 JUILLET 1831,ART.13

From "Les Documents Parlementaires - Chambre - session 1952/53 - n°773.

" Toute personne citée dans un journal,soit nominativement,soit indirectement,aura le droit d'y faire insérer une réponse,pourvu qu'elle n'excède pas mille lettres d'écriture ou le double de l'espace occupé par l'article qui l'aura provoquée.Cette réponse sera insérée,au plus tard,le surlendemain du jour où elle aura été déposée au bureau du journal,à peine,contre l'éditeur,de vingt florins d'amende par jour de retard."

LOI INTERPRETATIVE DU 14 MARS,1855

From "Les Documents Parlementaires - Chambre - session 1952/53 - n°773."

" Si le journal n'est pas quotidien,la réponse sera insérée dans le numéro ordinaire qui paraîtra,selon la périodicité du journal,deux jours au moins après celui du dépôt,à peine contre l'éditeur de vingt florins d'amende pour chaque jour qui s'écoule depuis l'omission d'insérer jusqu'à l'insertion."

LOI DE 1953 SUR LE DROIT DE REPONSE (EXTRAITS)

From "Les Documents Parlementaires - Chambre - session 1952/53 - n°706."

1.Toute personne physique ou morale,nominativement mentionée ou implicitement designée dans une publication périodique,a le droit d'exiger,endéans les six mois,la publication gratuite d'une réponse,à condition d'avoir un interêt légitime à le faire.

2.La réponse ne peut pas dépasser 1.000 lettres d'écriture ou le double de l'espace occupé par le texte qui l'a provoquée.

3.Sera refusée l'insertion de toute réponse:

a)qui n'aurait pas une relation immédiate avec le texte;

b)qui serait injurieuse ou contraire aux lois ou à la moralité;

c)qui concernerait un tiers sans que cela soit nécessaire;

d)qui serait écrite dans une langue autre que celle du périodique;

4.L'imprimeur est présumé être l'éditeur,sauf preuve du contraire.

This Bill was voted by the House on July 2d,1957.It still has to be voted by the Senate in order to become a Law.

PART I. THE BELGIAN LEGISLATIVE SYSTEM

1.General notions. Belgium is a country of "Statute Law".The more important legislative rules are the statutes e.i.the Acts of Parliament.These statutes are gathered in various "Codes";the essential rules,on which the Belgian society and political system are based,are to be found in the Constitution.

The Custom and the Courts' decisions constitute supplementary sources to the statutes:when a solution to a legal problem cannot be found in the statutes,the judge looks into the Custom and previous Courts' decisions.

The powers of the judge are to interpret the statutes and to adapt those abstract and general rules to practical situations.The judge decision is valid for the judged situation only.It doesn't have the force of a precedent for ulterior cases:it doesn't impose itself as a solution for a similar case,coming up in the future.The basis of the judge decision is the statutes,and not former judicial decisions: these are used when no solution can be found in the Statutes, nor in the Custom.

I shall speak,in the second part of this thesis, of the jurisprudence,meaning the decisions given by the Courts of a country.

One must keep in mind that,in Belgian law,jurisprudence doesn't mean precedents that must be followed, but only interpretations of the statutes that may inspire the judge. When these interpretations are commented by the legislative authors, they become what we call the Doctrine.

We have in the national law two great distinctions: the civil law which is a part of the private law and the penal law which is a part of the public law. The civil law concerns the contestations related to civil or political rights and originated from the relationships between individuals. The statutes of the civil law are contained in the Civil Code. The penal law punishes the injuries to the integrity of the human beings or to that of the collectivity;the statutes of the Penal Code determine the injuries and the penalties.

The judicial power has two functions:1) a civil one which is to arbitrate the litigations and 2) a penal one which is to repress the infractions to the penal statutes. In the first Function the case is brought to the Court by the interested parties; in the second function, the infractions are denounced by a judicial officer the "Ministere Public", who has been informed by an official report or by a complaint from the victim.

The Courts also are divided between civil and penal courts. There are three degrees of civil courts:1) the "Peace Juridictions" which are the lowest courts; 2) the "Juridictions of First Instance" which are the second degree of juridictions and constitute the Courts of Appeal for the "Peace Juridictions" 3) the Court of Appeal which is the appeal for the "First Instance Juridictions".

There also is a Court of Commerce which falls into the category of the First Instande Juridictions. The classification of the cases are made following their financial importance.

The penal juridictions are divided into 1) the Courts of Police that take care of the contraventions i.e.the infraxtions punished by 1 to 7 days of imprisonnement;2) the "Correctional Courts" that take care of the infractions punished by 8 days to 5 years of imprisonnement and that constitute the degree of appeal for the Police Courts; 3) the Court of Appeal which is the appeal for the "Correctional Courts"; 4) the "Cour d'Assises" that takes care of the crimes (5 years of imprisonnement to death sentence) and of the press cases (libel...). The Court of Cassation is together penal and Civil its function is to guarantee the correct application of the law and the unity of the jurisprudence.

2.Some legislative definitions.

We shall now examine some legislative notions that I shall use in the second part of this thesis.

The first definition is that of "the public order". The public order consists in the rules that exist in a society and that cannot be transgressed without endangering the existence of this society. It is, in fact, the foundations on which this particular society is based. The rules of the public order may be different from one society to another, but they always constitute the essential prerequisites to the existence and the stability of the society. The reason why? Because parts of the system of law are based on the family.

The family is a socioligical notion which is the foundation of the legislative rules that regulate the inheritance, the mariage... The acceptation of polygamy would make that system tumble down. The concept of family,i.e. the group composed by the parents and the children born during the mariage, would be completely disorganized and the systems of inheritance, mariage, filiation... would have to be reviewed and changed. The law must evolve to adapt itself to changing situations, but the complete overthrow of some parts of the legislative system is not evolution any more: it is something like a revolution. This is what would happen if the rules of the public order would not be respected. We see therefore that those rules are very important. Some of them are spelled in statutes, but generally they are non-written.

The second notion I want to explain is that of "the Custom." The Custom in Belgian law is only a supplement to the statute. It is not considered as a law and it is inferior to the statute. In other words, the solution of a legal problem must be searched in the statutes first; it is only when the statutes don't give any solution that the judge may look into the Custom and apply, eventually, a customary solution. When a statute and a particular usage are opposed to one another, the statute will always prevail over the usage. This is one result of our system of statutory law.

I also want to define the notions of person and of right. A person, in a general meaning, is a being susceptible to have rights and obligations.

The physical persons are the human beings; the moral persons are abstract beings with no real existence, but to which the law grants certain rights and imposes certain obligations. The moral personality is granted by law.

To have a right is to be entitled to exercise a certain power. A real right is the right of a person about a thing i.e. the right that a person has on a thing. The right of ownership, for example, is a real right. A personal right is the right of a person in regard to a person i.e.a right that a person has on certain actions of an other person. The rights originated from the contracts are examples of personal rights: in a contract, in effect, one person promises to do something for another person against some counterpart, of course; the second person, if he has given the counter-part, may oblige the first one to execute the promise. In other words, the second person has the right to obtain from the first one that he accomplished the promise made in the contract. On the other hand, the first person may exige the counterpart before he executes the promises: he also has a right on the other person's behavior.

The notion I shall examine now is the notion of tort as we conceive it in our statutory law. The tort consists in what we call "the Aquilian (I) responsability". The Aquilian responsability is that of the person who causes a damage to another person's rights or integrity.

(1)From Latin "Lex Aquilia" which organized the system of responsability in Roman Law.

Three conditions must be fulfilled to start an action in tort:

a)there must be a fault i.e. a prejudice caused to the physical, the patrimonial or the moral integrity of a person;

b)there must be a damage i.e. the injury of a material or moral interest;

c)there must be a causal relationship between the fault and the damage.

The Aquilian responsability is a civil responsability. There also exists, in our law, a penal responsability. That responsability consists in the fact that an infraction (injury to the penal law) has not only injured general interests (the society's), but also particular interests. In that case, the person, whose interests have been injured by the infraction, may be presented in the penal Court to ask a reparation for her injured interests: we say that this person constitutes the "civil part" in the penal action.

The notion of prescription is also familiar to Belgian jurists. It is the right granted to the author of an infraction not to be prosecuted after a certain lapse of time fixed by law.For press matters, the prescription is fixed to three months. This means that 1) the author of a press infradtion cannot be prosecuted later than three months after the infraction has been committed; 2) that the Court decision must be executed within three months: after that delay, the author of the infraction cannot be obliged to undergo the penalty.

The last notion I want to examine here is that of the succession.

We have two sorts of succession in Belgian law:the "succession ab intestat" i.e. the case where there is no will and the "succession testamentaire" where there exist a will.

In the "succession ab intestat", the successors (i.e. the parents up to the fourth degree) inherit without any formalities: the succession is opened by the death. The succession consists in the patrimony of the de cujus i.e. all his rights and obligations. These obligations as well as the rights pass into the theirs' patrimony: this is why a heir can accept or refuse a succession. When several people are parents at the same degree of the dead person, the succession must be divided up between them. If some of them refuse the succession, their shares go to the others.

The case of the "succession testamentaire" is simpler. Here, the de cujus has made a will in which he has distributed his patrimony, or, more exactely, one part of it. In effect there is one part of his patrimony that he cannot distributed as he wants to; this part, that we call the "reserve", is due to a special sort of heirs i.e. the direct ascendants or descendants.

I shall now briefly review the principal rules of the Law of the Press. There is no special Code for the law of the press: it is to be found into the Constitution, the 1831 Decree, the Penal and the Civil Codes.

The I8th article of the Constitution establishes the essential principles of the liberty of the press i.e. no censorship, no compulsory security and "responsability in cascade". The "responsability in cascade" is a special system to determine the responsible of a press infraction. When the author of an illegal text is know, he alone is hold responsible; the editor, publisher, distributor ... are not considered as co-actors of the infraction. When the author is not known, the editor is hold responsible; when the editor is unknown, the printer is responsible and so on, down to the distributor. The advantages of this system are explained by Mr.Cooremans in his course of "Law of the Press" (1):
"Our legislators have thought that a system of cumulative responsability "when all the co-actors of an infraction are hold responsible) implies a sort of indirect censorship towards the work of the author, expressed by the feeling of fear of the editor, the printer and the distributor."

The 96th article of the Constitution insists on the compulsory publicity of the press cases and the 98th article states that those cases must go to the "Cour d'Assises". In other words the press cases must be decided by a Jury, which, of course, is a guarantee of impartiality.

The Penal Code takes care of the penal infractions that are committed by the press and of the "press infractions" themselves.

(1) Cooremans, "Droit de la Presse", U.L.B.,p. 23.

A press infraction is an injury to the society or to an individual by the publication of an opinion through the press. The best example of press infraction is, of course, libel, The 44rd article of the Penal Code is concerned with libel and diffamation.

In the Civil Code we also find some articles concerning the press: the articles regulating the contract between the advertiser and the paper for example. All the articles about the civil responsability (1382,83,84...) (1) are also valid for the press.

After the review of those essential notions of Belgian law, I shall study the theoritical principles of the right of reply. I shall expose the right of reply as we find it in the statutes and also the legal problems that are raised by the application of these statutes. This study will form the second part of the thesis.

(1) See page 5.

PART II. THE RIGHT OF REPLY IN THEORY

The right of reply was introduced in Belgium by the Decree of I83I about the Press. (1) The law of March 14,1855 completes the Decree. (2)

It is a right of legitimate defense that may be used together with an action in libel (if the article is libelous of defamatory) and/or with an action in tort (if the article has caused a damage). It is, following Mr. Cooremans, professor at the University of Brussels, a very practical system to give the rectification of a mistake or the justification of an act. The person, who is mentioned in a paper, doesn't have to go to Court and to start a complicated process: he just has to write a reply, that must fulfill certain requirements, and to send it to the paper. The publication of the reply explains, justifies of rectifies a situation, an action, a behavior.

It sounds easy; in fact, it is not as simple as that. The law and the jurisprudence answer a lot of questions related to the right of reply. I am going to examine these problems and their solutions. In my opinion, this is the best way to study such a complex subject.

(1) See page A the text of the 1831 Decree.
(2) See page B the text of the Law.

I. THE FIRST QUESTION IS WHO

Who is entitled to make use of the right of reply? The 1831 Decree says:

"Any person, mentioned in a newspaper, either by name or indirectly..."

We have in Belgium two sorts of persons: the physical persons i.e. the people, the citizens and the foreigners and the moral persons i.e. the associations, with the legal personality.

Let us take first the physical persons. There are three big problems concerned with them:

1) the citizenship
2) the indirect mention
3) the rights of the heirs.

In the first problem, the Belgian jurisprudence had to determine whether the "person" of the 1831 Decree has to be of Belgian nationality to be allowed to use the right of reply. The law says "any person", it doesn't specify that only Belgian citizens are concerned. Moreover, this law is aimed at protecting the public against the power of the press. The article 128 of the Belgian Constitution states that any foreigner on the Belgian territory receives the same protection as the Belgian citizens, behalve the exceptions established by law.

The right of reply, from the very terms of the Decree "any person", is not one of these exceptions. Therefore, we can consider that it may be used by foreigners as well as by Belgians.

The term "indirectly" that we find in the 1831 Decree rises the problem of the indirect mention. When is a person mentioned indirectly? And when will the indirect mention opens a right of reply? The jurisprudence distinguishes the different cases of indirect mention: some of them are admitted, some others are not.

The mention of a person by a pseudonyme or a nickname opens a right of reply only when that person is well known under that pseudonyme or nickname. This is the case of movie stars mentioned by their movie name: this may not be their real name, but, as everybody knows them under that pseudonyme, the paper has no right to refuse the reply on these grounds: the only thing that matters is that it is possible for the public to recognize the actor. For the same reason, when a product or a public local is mentioned in a paper (in the editorial part, not in the advertisings), the manufacturer or the owner have a right of reply: it is, in effect, very easy to recognize them, the name of their product or local being known. On the contrary, there is no possibility of right of reply when the mentioned situation is common to several people and when it is described in general terms. In the case of an homonym, the right of reply is not admitted either, but a rectification may be sent.

From these examples, we see that the rule for the indirect mention is, above all, common sense. If the person who is indirectly mentioned may be easily recognized, the right of reply is permitted; if not, the paper is not obliged to publish the eventual reply. This interpretation seems logical to me: the right of reply being a right of ligitimate defense, the person, who wants to use it, must have something to exercise his legitimate defense against. It may be the malevolence of the public or, at least, its curiosity. Therefore, this person must be recognizable in the article of the paper: in fact, if he cannot be recognized, why should the curiosity of his neighbours bother him?

The third important question concerning the physical persons and the right of reply is that of the heirs. The Belgian jurisprudence agrees that the heirs of a deceded person have the right of reply for the mention of this person in the press. But, if the specialists are united on the principle, they are divided on its justification.

Two thesis are opposed. The first one states that the right of reply is a real right i.e. the right of a person about a thing. (1) Therefore it goes into the patrimony of the de cujus like all his other real rights and it is transmitted to the heirs.

(1) From Latin: Res = Thing.

So; the theirs can only use the right of reply when the article, where the de cujus is mentioned, has been published before his death. In effect, following this theory, the right of reply of Mister M... is a right he has about the mention of his name in a newspaper: the existence of the right is thus subordonned to the mention of the name. On the other hand, to pass into the patrimony of Mister M..., two conditions must be fulfilled: one, the right must exist i.e. the name must have been mentioned;two, is must be existing before Mister M...'s death. If the first point is not realized, the right, being non-existent, cannot go into the patrimony; only actual rights or obligations, not potential ones, can pass into someone's patrimony. If the mention is made after Mister M...'s death, the right cannot be considered as existing because a dead person doesn't have any legal rights any more. In conclusion, we can say that this theory of "the right of reply-real right" restricts the action of the heirs to the case of the mention having appeared before the death of the de cujus. In that theory, also, the right of reply that can be used by the theirs is not their, but one of the dead person's rights that they have inherited.

The second thesis considers that the right of reply is a personal right i.e. a right attached to a person and intransmissible (1). That sort of rights dissapears with the person: they don't pass into the patrimony and they are not transmitted to the heirs.

(1) See "Droits et Devoirs du Journaliste", Dumartean et Duwaerts, p. 151 - 155.

This does not mean that the heirs cannot send a reply to a paper when the name of their parent have been mentioned. They may use the right of reply, not as a right that has been transmitted to them by inheritance, but as a mean to defend or protect the memory of the de cujus. The justification here is not the legal notion of succession, but that of the familial solidarity. The heirs in both theories are the direct relatives (parents-children) or the widow.

In the last part of this chapter, I shall examine the rights of the non-physical persons in regard to the right of reply. There exist two sorts of non-physical persons: the associations with the legal personality that we call "societies" and the associations that don't have the legal personality and that we call "collectivities".

The "societies" are considered as real persons and they have all the rights of the physical persons, except those that are attached to the physical quality of an individual. The societies, therefore, possess the right of reply. They are entitled to make use of it when the society itself has been mentioned of when all its members have been designated. The society exercises its right of reply through its legal representatives. Of course, the members of the association keep their personal right of reply and they may still use it when they are mentioned through the society.

The collectivities, having no legal personality, cannot use the right of reply. The collectivity may be clearly mentioned, no right of reply is opened, i.e. the collectivity as such may not send a reply and have it printed by the paper.

There are, however, two possibilities of right of reply for a collectivity of more exactely for its members: one, when one member is personally mentioned he has a right of reply; two, when all the members are designated, without being personally mentioned, every one of them has the right of reply.Let us take, for example, the Jewish community in Belgium. Such a group is what we consider as a "collectivity". If, in a Belgian newspaper, we find a sentence such as "The Jews in Belgium have come to important economic positions; in certain sectors of the national enonomy, they have overcome the "Christians", using, sometimes, disreputable methods", the Jewish collectivity doesn't have any rights of reply because no member of the community have been personally mentioned or designated. If the paper had said" Mister Jacob,a member of the Jewish community uses disreputable methods in the battle for economic influence..." or " Some Jews use disreputable methods...; one pf them has a jewelry store in Market Street; another is the biggest name in the diamond business; another sells dresses in rue Longue...", then a right of reply would be opened. The first sentence is a case of personal mention: the second a case of indirect designation. In both cases, the right of reply, is that of the individuals who have been mentioned (directly or indirectly):it is, thus, more a problem of direct and indirect mention, than a question of the rights of a collectivity. The important thing is that these people have been designated by the paper in one way or another: the fact that they are a part of a collectivity is not taken into consideration. The rights they use is theirs, not these of the group.

In fact, they don't get any special rights because they are the members of the group: this one result of the sixth article of the Consultation (1). Besides, a group with no legal personality have no rights at all because 1) only persons have rights and 2) with no legal personality a group cannot be considered as a person.

To conclude this first chapter, we can say that the most important problem that was examined is that of the mention of the person. In effect, the mention is at the base of almost all the questions we have studies up to now I even consider that it is one of the essential factors of the right of reply. The mention is, in fact, the first thing a person must take into consideration before sending a reply; it is the earlier foundation on which that person can based his right of reply, and this for two reasons:

1) the mention opens the right of reply: it is the necessary condition to the right.
2) the form of that mention determines whether the right may be use and by whom.

We shall see in the second chapter of this part some other conditions to the use of the right of reply.

(1) Belgian Constitution, art. 6:"... The Belgians are equal in front of the Law..."

II. THE SECOND QUESTION IS WHEN

When is the person, who has been mentioned in a paper, entitled to make use of the right of reply? The Decree doesn't say anything about the conditions to which the use of the right of reply is subordonned. The only indication to be found in the 1831 text are the words "either by name or indirectly". These words, however, concerned the mention: they don't regulate the use of the right. The answer to the question must therefore be found in the jurisprudence.

The jurisprudence have established two sets of conditions for the use of the right of reply.

The first set concerned the mention or more generally the designation: it must be clear and precise enough for the person to be easily recognized. This is what we have seen in the first chapter.

The second condition creates a new problem: two thesis are opposed in the jurisprudence i.e. the "absolute" and the "relative" thesis. The first one states that the right of reply is absolute i.e. that the simple mention of the name is enough to open the right. There is no need of an attack, a libelous text; there is no need, either, for the article to have caused a damage to the reputation or the economic interests of the person who claims to have the right. The printing of the name and its publication is sufficient for the person to use his right of reply.

It is thus an absolute right: there is no condition for its use. One will note that this is literal interpretation of the 1831 Decree. In effect, except for the requirements of the reply itself, there is nothing in the Decree that conditions the nature of the mention: for example, it doesn't say that the mention must be clear and precise. This is the jurisprudence's practical interpretation based on common sense. The same sort of interpretation is used in the "relative" thesis.

Following this theory, the mention must be harmful or false to open a right of reply. In other words, an interest, even an un-important one, must have been injured. The Court appreciates whether or not the mention has injured an interest: if it did, the newspaper is obliged to publish the reply; if it didn't the paper has the right to refuse the publication of the reply.

The "relative" theory seems the most reasonable to me: if every person, whose name is published in a paper, should send a reply, the columns of the paper would be filled. The law of 1831 doesn't take point into consideration: it simply sets a context of general principles. These must be interpreted in the most practical way. It is exactely what the "relative" theory does.

I am going now to examine two special cases where the right of reply is denied or, at least, discussed.

The first case is that of the critique, the artisitical, literary or scientific critique. Here also we find three different theories.

The question is wether the author of a book, a painting... etc has a right of reply against the critique of the book, published in a newspaper or in a periodical? It is certain that the name of the author will be mentioned by the critic: that fact should entitle the author to use of his right of reply. This is exactely the position defended by the tenants of the first thesis: the author's name has been mentioned, they say, why shouldn't he have the same rights as other people. The fact that he is an anthor and that the article is a critique of his work doesn't change a thing: the law's terms are "any person". Here again we have the absolute position, based on a literal interpretation of the Decree.

The second theory considers that the author doesn't have any right of reply in regard to the critique of his work and this for two reasons:1) there was a provocation to publicity by the nature of the work or 2) by a special action from the author. In the case of artistic or scientific work, the provocation to publicity is obvious: a book, a painting, the discovery of a new treatment medical are made for the public; they exist only in fonction of the public that must appreciate them. In fact, they are put into the hands of the public. This is what the specialists call a provocation to publicity by the nature of the work. The author may provoke the publicity himself, by sending his book to the newspapers and asking for a critique. In both cases, but especially in the second, the jurisprudence considers that the author has abandonned his right of reply: in effect, having asked himself for a judgement, he must accept it.

This thesis is not based on any interpretation of the Decree: there is nothing in the 1831 Law about the critique. The theory has thus been developed from practical cases.

The third theory states that the author may use the right of reply against the critic when he has in interest in doing so.

In other words, the author has a right of reply against the critic only when this one has injured one of his interests: for example: when the article of the critic contains material mistakes or attacks against the author's personality or private life. This position is very rational, I think: the critique, the publicity, must be concerned with the work, not with its author; the private life is the limit that must be respected. This thesis is not founded directly on the 1831 text, but on the "relative theory" that we have studied at the beginning of this chapter: here again, one needs the injury of an interest in order to use the right of reply. The case is special because everything can be said on the book; the notion of injury intervenes only when the critique contains mistakes, falsities or attacks against the author. There may not be any right or reply against a text saying: "Mister X.,..'s book is un-interesting, badly written and presents no originality..."; but, if the article says:"MisterX...'s book is un-interesting; X himself is not very intelligent: he is the worst conformist and has no personality ..." , Mister X ... may reply to the author of the article. This seems to me the most logical theory.The two other thesis are, I think, too absolute: they don't deal with reality.

To permit the right of reply against any critique is exaggerate: this position denies that the critique is a special case. To suppress the right of reply against the critique is also going too far: it opens the door to a lot of abuses .

Certain pros- of this theory considers that the critic must stay "moderate", but this term is vague: when does a text stop of being moderate? It is not too difficult to distinguish when a text is injurious or libelous, but what exactely does "moderate" mean? It is a very subjective notion: its meaning may vary with the individuals. The third theory is more precise and therefore more easily applicable.

The second special case I want to mention is that of the accounts of the Parliament's or of the Courts' sessions. These accounts are immune from the right of reply and from the actions in libel or diffamation, but there is one condition: they must be accurate. The same immunity is applied to the official or legal publications.

Therefore, if a person is mentioned in an account of a Parliament's session, he cannot send a reply to the paper where the account has been published. One exception: an inaccuracy in the account. For example, it is said in the article that the person mentioned has made a certain speech when, in fact, the person has made no speech at all; in this case, the person mentioned may sent a reply under the form, generally, of a rectification.

The immunity of these accounts is normal: the work of the journalist would be very difficult, indeed, if he had to keep in mind that every person he mentions in his account may use his or her right of reply.

Parliamentary or Court's accounts are that sort of articles where the mention of names is necessary: the account of a debate in Parliament is not interesting if it doesn't tell the names of the people who have taken a part in the debate. In other articles, features for example, names are less important. This is why the parliamentary and judical accounts are considered as special cases and fall under a particular regime. The same reasoning is made for the official and legal publications.

In conclusion, we see that there are not many conditions to the use of the right of reply.

Up to now, we have been seen what requirements must be fulfilled by the article to entitle a person to exercise his right of reply. In the third chapter, we shall study at what conditions the answer will be published by the paper. These are the requirements that must be fulfilled by the reply itself: if the y are not, the paper has the right to refuse the publication of the text.

III.THE THIRD QUESTION IS HOW

This chapter concerns the content, the form and the length of the reply. Let us examine first the conditions related to the content.

In the first part, there must be a direct relationship between the article and the reply. This again is plain common sense: if the person mentioned wants to use his right of reply against an article, it is normal that the reply should answer that text and not any other article.

Secondly, the reply must not be contrary to the legitimate interests of the third: the reply may not contain any mention of the thirds that would enable them to start an action in libel, in tort or in foreed publication. (1)There is one exception to that rule: the reply may mention thirds when the article is such that the mention of thirds is necessary for the defense of the author of the reply.

Thirdly, the reply may not be contrary to the honour of the journalist: if the articles's terms were strong, those of the reply may be strong too, but they may not be libelous or injurious.

(1) The action in "Forced publication" is the judicial action by which a person, mentioned in a paper,obliged that paper to publish his reply.

When the article is libelous, the victim may start an action in libel: he may also send a reply, but this must stay in the limits of the law.

The fourth requirement states that the reply may not be contrary to the laws, the public order (2) and the morality. Finally, the reply must be signed.

The form of the reply does not matter as long as the contents meets the five requirements I mentioned: it may be a letter, a speech, a feature ...

The length of the reply is 1.000 letters as a minimum and twice the length of the article as a maximum. When the reply is too long, the editor may refuse to publish it or may cut the exceding part. The fact that the reply may be twice as long as the article sometimes leads to abuses: in fact, if the mention consists in a few lines of a long article, the reply to these few lines may be very long; there may be a disproportion between the article and the reply. The 1953 Bill on the right of reply changes this disposition and points out that the length of the reply may be the double of that of the text which has provoked it. I shall examine the articles of this Bill in the last chapter of this second part.

Except for the length of the reply, the 1831 Decree does not mention anything about the content and the form of the reply.

(2) See page 3.

All these requirements are, again, the result of the interpretation of the law by the jurisprudence. They have been established for practical reasons:1) to mention thirds mayrise all sorts of difficulties: it will open new rights of reply that will take the space of the newspaper; this would not be fair for the paper, as it wouldn't have provoked these rights of reply itself i.e. directly. In effect, why should the paper gives its space to replies when the articles are not from its journalists? 2) an illegal reply (libelous, contrary to the laws...) could cause a lot of trouble to the paper's managers: as they are responsible for everything that is published in their paper, they would be hold faulty for the illegal reply; this would not be fair either. The penalization for having exposed a person to the public is the obligation for the paper to publish the reply of this person: nothing more, as long as the article is not libelous or damageable. When this penalization can become a criminal action against the paper, there is some exaggeration, there is here a disproportion between the "damage" and its reparation.

We see, therefore, that the requirements related to the content of the reply have one precise purpose i.e. to protect the press against eventual abuses of the right of reply. We shall examine in the next chapter the obligations of the newspaper or of the periodical in regards to the right of reply.

In fact, in the case of a refusal to publish it is the person who has sent the reply who will go to Court and start an action in "forced publication". There is only one way in which the editor may justify his refusal to publish the reply i.e.to prove that this reply did not fulfill the requirements previewed by the law or by the jurisprudence. If the editor shortens or changes the reply, its author may considered that it had not been published and may start an action in "forced publication". On the other hand, the editor may reply to the reply or add commentaries to it; both open new rights of reply. The adjunction of commentaries is often used by the newspaper as a mean to destroy the effect of the reply: this is particularly true in the case of political discussions. The paper will say, for example, of a political opponent who has sent a reply:
"Mister V..., who has not understood yet, sends us this reply..."
This little bit of irony is sufficient to show poor Mister V... that his reply will be useless, that nobody, i.e. the paper's staff and public, is and will be convinced. Of course, Mister V... could send a new reply, about the commentary, but it wouldn't be more useful: in those cases, one, generally, abandons after the first reply.

The second obligation of the paper concerns the way the reply must be published. The publication must be made in such types and as such place that the reply will be as obvious as the article was. It would be too easy for the paper to bury the reply where nobody would notice it: it would be completely useless.

IV.THE FOURTH QUESTION IS WHAT

What are the obligations of the newspaper when it receives a reply to one of its article? Some of them are to be found in the text of the 1831 Decree; some others are the result of the interpretation of the law by the jurisprudence.

The right of reply is applied to every newspaper or periodical for any published article, feature, interview, advertising... The Decree uses the term "newspaper", but it must be taken in a general sense.

The first obligation of the newspaper is to publish the reply; the reply must, however, fulfill all the requirements of content and lenth that we have examined in chapter III; moreover the right of reply must be justified. In other words, the person who sends the reply must be entitled to make use of the right; the mention must be "clear and precise" etc... If the reply doesn't answer all these conditions, the newspaper is not obliged to publish it.

The publication of the reply must be integral and textual. The editor may not cut some parts of the reply, except when it is too long; he cannot make any changes in the reply, either. If some terms of the reply seem unlawful to the editor, he has not the right to modify them: if he doesn't want to take the responsability of this illegality, he must refuse to publish the reply and eventually go to Court.

The purpose of the reply is to tell something to the paper's public: if there is no chance for this public to read the reply, this purpose will not be realized. This is the reason why the jurisprudence insists on the fact that the reply must be as apparent as the article. For practical reasons, it is impossible to oblige the paper to publish the reply at the same place as the article. It is not too difficult for the editor, however, to chose for the reply a part of the paper which has a high a readership as the part where the article stood.

The editor must publish the reply two days, at the latest, after its deposit; for the periodicals, the publication must be made in the issue that immediately follows the deposit. These dispositions are present in the 1831 Decree. They also constitute a defense for the person who is using the right of reply. If the reply is published a long time after the article, nobody will remember the article and, again, the reply will be useless.

The refusal to publish the reply is punished by a fine of 20 florins (1) by day of late publication. To obtain the publication and to see the fine applied, the person who sent the reply must go to Court. The action in foreed publication is a criminal action: the result is the fine. The author of the reply must prove that the reply has been submitted to the editor; the only defense of the paper is that the reply does not fulfill the obligatory requirements.

(1) a florin was the money used in Belgium in 1830.

When the refusal to publish the reply has caused a damage to the author, an action in tort is possible; the author of the reply must prove that the non-publication caused him a damage. This action in tort may be used together.with the action in foreed publication.

The prescription for the use of the right of reply is of 30 years: this is the usual prescription for civil matters. The prescription for the action in foreed publication is of three years: this is the normal prescription for criminal matters.

All these obligations have one purpose: to make of the right of reply a useful remedy to the abuses of the press. That a reply may be sent is not enough: that reply must reach its aim. To realize this aim, there are four conditions: 1)the reply must be published; 2) it must be published within certain delays, so that is constitutes a following to the initial article; 3)the reply must be apparent; 4) is must be published as it is and in its integrality, so that it reaches the public exactely as its author has meant it.

All these principles, except those that determine the limits of the delay for the publication of the reply, are originated by the jurisprudence. The 1831 Decree is too thin a foundation for the right of reply:it is too general, there are many problems that have not been taken into consideration. These problems have risen with the development of the press. The rules of the 1831 Decree may be sufficient for the 19th century;they are not enough for the 20th.

This insufficience of the 1831 Decree has made necessary the adoption of a new law ruling the right of reply. It is this new law that I am going to examine in the last chapter of this second part.

V.COMMENTARIES OF THE 1953 BILL

The first article of the Bill concerns the mention. It says: "any physical or moral person, nominally mentioned or implicitly designated...".

These terms cover any designation i.e. mention, allusion, omission, as long as it is personal and identifiable.

The terms "any physical or moral person" eliminate the problems caused by the non-physical persons: there is no need of an interpretative reasoning to include the societies in the field of application of the right of reply.

The Bill does not say "newspaper" like the 1831 Decree, but "periodical", which is a much more general term. Here again the choice of the terms saves the jurisprudence of a long interpretation.

The Bill adopts the "relative theory" of the right of reply. It clearly states that the person must have "a ligitimate interest" to use his right of reply. I showed in the second chapter all the avantages of this theory in regards to the "absolute thesis", too general and impractidal.

The terms "within six months" of the Bill established a shorter prescription was 30 years, which, of course, was much too long. The threat of a right of reply cannot stay with a newspaper for 30 years: six months are more reasonable.

The second part of the first article concerns the critique.

The 1953 Bill considers that the critique falls under the possibility of the right of reply, unless it has been sollicited by the author of the work. No right of reply is possible in that case, except when the critique does not stay within the limits of a thoughtful and fair appreciation. The position adopted by the Bill is thus a synthesis of the three theories I have examined. The critique is considered as a normal case of right of reply, but there is one exception i.e. the provocation to the publicity by the author himself. The provocation to publicity by the nature of the work is not sufficient to refuse the right of reply: the author must submit his work to the appreciation of the press. In that case, some limits are set for the critique: if they are not respected, a right of reply is permitted. These limits, "a fair and thoughtful appreciation", consists, in fact, in an illustration of the vague and general notion of "a moderate critique". As many critiques are the result of a sollicitation of the author, we see that the second thesis have a far more important place in the theory adopted by the Bill than the first one.

A "fair and thoughtful appreciation" is more precise than a "moderate critique", but, in my ominion, it is still too general. I prefer the third thesis' notion of an injured interest. In fact, the Court will always come to that notion when it will have to determine whether an appreciation was fair and thoughtfull or not.

What is a fair appreciation, in effect? And a thoughtful one? It is, I think, a critique that doesn't hurt the author of the work in his personality, his private life or in his legitimate interests. So, if we finally come back to the "legimate interest", why let the notion out of the text of the Bill? The problem of the critique has been tackled by the authors of the Bill. They give a solution, a legislative solution,where there was nothing but the interpretation of the jurisprudence: this is very good, I consider, however, that the solution had been clearer and more complte, had they adopted the injured interest theory. They had been more consistent too, because this theory goes together with "the relative thesis of the right of reply" that they have adopted.

The third part of the first article answer the question of the rights of the heirs. The thesis adopted is that of the familial solidarity. The heirs can send a reply to protect the memory of their deceded parent against the publicity of a mention in the press.

The second article of the Bill establishes that the length of the reply may be the double of the text that has provoked it. This eliminates the possibility of a disproportion between the article and the reply: when the mention is made by a lines of a long article, the reply may not be more than four lines, i.e. the double of the text that has provoked it.

The third article determines the conditions that must be fulfilled by the reply: 1) a compulsory relationship between the article and the reply;

2) the prohibition for the reply to be injurious or contrary to the laws, the public order and the morality; 3) the prohibition for the reply to mention thirds when it is not necessary; 4)the prohibition for the reply to be written in a langague different from that of the periodical. Except for the fourth condition, we find here all the requirements established by the jurisprudence from the interpretation of the 1831 Decree.

The article four deals with the time-limits for the publication and with its place in the paper.

The fifth article concerns the fines: the 20 florins are replaced by 100 belgian francs by day of late publication.

In conclusion, we see that the 1953 Bill brings a solution to almost all the problems I have studies in the second part of this paper. The principles it sets are still general,but they are more clearly exposed. They are more precise and they take into consideration the practical sides of the application of the law.

The 1953 Bill is more appropriate to the 20th century press and to its function: it is certain that the development of the number and of the power of the press have made the opportunities of abuses more real. The defenses of the public against these journalistical abuses have thus to be developed too; the methods of defense had to be perfectioned. This is what the 1953 Bill does for the right of reply. It makes it more easili applicable and more efficient than the 1831 Decree.

The 1953 Bill has been voted by the Chamber of Representatives on July 2nd,1957. It must now be voted by the Senate before it becomes a law.

The theory of the right of reply was found in the legislative acts, in the jurisprudence and in the doctrine. In the third part of this thesis, I am going to turn to the press and to study some practical cases of right of reply.

PART III.SOME CASES OF RIGHT OF REPLY

Before reviewing some cases of right of reply, I want to make clear that the right of reply may be used by any periodical (newspaper, magazine...) for any article that is printed. Some authors, as we have seen, hold a "relative theory of the right of reply". In other words, they state that the right is usable only when the incriminated article has injured an interest of the designated person. The interest may be small and relatively un-important, but there must be an injury, a damage: the mere citation is not enough to make use of the right of reply. In the recent cases of right of reply that I have examineed, this theory seems to be followed. There is always a justification in those replys, a justification that looks very much like a defense. We must keep in mind, however, that the right is valid for any sort of article (new, political editorials...)

Another remark I wish to make is that the paper that receives a reply may add commentaries to the publication of this reply. Often, these commentaries stand before the reply, like an introduction, and destroy all the effect of the reply. This is the case for political controversies.

At last, we must not forget that the reply must be published as apparently as the article was. This rule is usually respected.

I shall now study some interesting cases of right of reply that I found in 5 big belgian dailies. (1) I shall also examine some more recent cases of right of reply that I shall join to this study.

The first case is that of a citation in a judicial report. (2) The "Niews van den Dag", a Flemish newspaper,mentionned, in a judicial report, the name of Esquelin was an attorney and the mention implied that he had lacked completely of professional conscience in the case that was judged. Esquelin sent a reply to the paper, but the editor refused to print the reply on the grounds that there can be no right of reply for judicial or parliamentary accounts. Esquelin went to Court arguing that this exception to the right of reply was not to be found in the 1831 Act. The Court, however, basing her position on the jurisprudence, decided that the paper's refusal to print the reply was justified.

The second case I shall examine is that of the paper "Le Travailleur". In an article published the 20th of December 1925, that paper criticizes some new taxes established by the City Council. The article, clearly mentioning the City Council in order to make sure that the new taxes were necessary.

(1) As I found these cases in the periodicals' collection of the Law Library, I cannot join the articles to this study.
(2) See "Revue de Droit Penal" March 4, 1953 p. 499.

We have here all the elements for a right of reply, i.e. a mention which is also an attack and a mention in an article that falls under the disposition of the law. Here, we have not a report of a meeting of the Council, but a critical article about a decision of this Council. Of course, such decisions may be critized, but is also normal that the persons who are attached have the right to reply to such anattack.In that case, the attack was defamatory (a portion of the article constituted defamation) and the Council had a legal defense.

Without the right of reply, however the Council would be defenseless against the criticism: it would not be able to justify its decision, to explain its position.

The paper is obliged to publish the reply. The fact that the Council is not a physical person (i.e. it is a group of several persons);cannot be held as an excuse. We have seen, in effect, that the associations, which have the legal personality, are considered as real persons and have all the rights of the real persons (i.e. the physical persons). A Common in Belgium has the legal personality (1). The Council of the Common, (2) being in fact the mere actualization of the notion of Common, has the legal personality too.

(1)A Common is an administrative division of the Belgian territory.
(2)The Common is ruled by a Mayor and 7 Assistants ("Echevins"), each of them taking care of one branch of activity. The decisions are taken by the Council of the Common (Mayors and Echevins and Common's Counselors) and are executed by the Mayor and the Echevins acting individually for their branch of activity.

Therefore, it has the right of reply, through its legal representative, who is, in this case, the mayor, the head of the Common and the president of the Council. The members of the Council cannot, in that case make use of their individual right of reply because it is the decision of the Council as a whole that has been critized. Thus, the publication of the reply cannot be refused in that case, as long as it fulfills the regulations of content that are determined by law.

Another example of right of reply was found in "Le Drapeau Rouge" of February 2nd., 1952. The "Drapeau Rouge" has published a serie of articles consisting in interviews of railroads workers, who were complaining about the conditions of work.

The CGSP (the union of the public servants) and especially the section "railroads workers" of the union sent a protestation to the paper. It made clear that the Union was opposed to a campaign against the government and claimed that the Communist Party was using the discontent of the railroads workers to political aims.

There were no grounds on which the paper could refise the publication of the reply. There was no attack against the CGSP, but the articles tended to impute to the Union a position that was no its. This action, of course, could hurt some interests of the Union: a right of reply was thus perfecly justified.

The reply was published with an introduction and some commentaries that were longer than the letter itself.

The commentaries justified the action of the paper; they said, in substance, that the paper, in editing those articles and critizing the government, was merely defending the interests of the working class. The paper has also added a litle to the reply: it said: "An astounding protestation". For that title and the commentaries, the CGSP had the right to send another reply. It didn't, probably because it estimated the printing of the reply was sufficient to prove that it didn't endorse the position the paper wished it to follow.

An article of "La Dernière Heure", published on January 26,1952, also opened oa right of reply. The article reports that a certain Princess d'Anjou Durassov, claiming she was waiting for a fabulous inheritance, had borrowed 12 millions from too-confident persons. The article said :

"... even the tennis champion, Yvon Petra, had welcomed her in his Paris appartment and had lent her more than one hundred thousands francs..."

A few days later, Mr Petra sent a reply to the paper. He said it was true he had lodged Mrs Durassov (who is not princess, but simply Durassov, remarked Mr Petra) at his appartment during the summer and that she hadn't paid the rent. But, Mr Petra added, he had not lent her a few hundreds thousands francs. He explained that he has paid for Alexandra Durassov a passage on the "Ile de France" in tourist class which costed him 186 dollars. Mrs Durassov had her passage trangered to the Air France Company, this with the aid of another confident person (Mr Thomas from Nice) who paid the supplement. She finally went to Canada because she couldn't get her immigrant visa for the USA.

"This" concluded Mr Petra "is the exact thruth and I'll ask you to publish it because inaccurate news may cause great prejudice".

I think Mr Petra's prejudice in this matter is, above all, a hurt self-respect, but even such an un-important prejudice may open a right of reply. Besides, the allegations of the paper were false and falsity is always a ground for a right of reply.

Another case of right of reply concerns a judicial sessions' report, published in "La Dernière Heure" of December 29,1951. The trial was that of some "collaborators" i.e. people who have fraternized with the Germans during the war. The December 29th session consisted in the deposition of one of the witnesses, the Chief of the Police of Braine l'Alleud, Mr Piette. Mr Piette was asked, the "Dernière Heure" report said wether it was true that Wautier (one of the accused) has fired on a denonciator, in May 1944. Mr Piette, the report continued, answered "yes".

On January 4,1952, Mr Piette sent a "precision" to the paper, claiming:
"that in may 1944, he didn't know wether it was Wautier who had hurt Lambert, who was proved guilty of denonciation, but that he knew that Wautier was in conflict with Lambert. The later was Wautier's Landlords". Mr Piette added that he didn't want that people think that he dad been voluntarily silent about this matter; in fact, he said, the author of the fact was unknown to him.

We are here confronted with a strange case of right of reply, I could say.

In effect, the paper was not obliged to publish the reply because it was a judicial session report. We have seen (page 22) that Parliament and Court sessions'accounts were immune from the right of reply at the condition that they be accurate. It seems to me that here there was no inaccuracy and therefore the paper could have refused the publication of the reply.

In front of the Court, Mr Piette answered "yes" to the question wether it was true that Wautier has fired on a denonciator. If he didn't realize immediately what implications that answer could have for him and if he didn't explain his "yes" in front of the Court, that is too bad for him. The journalist who was in the courtroom had the obligation to report what was said in the most accurate way. It was not his job to look for explanations that have not been expressed. The journalist hasn't omitted not changed anything in Mr Piette's deposition: therefore, the report may be considered as accurate. Whetter or not it hurted Mr Piette's interests is of no importance in this case. In effect, the jurisprudence has decided that inaccuracy alone was the sole exception to the immunity of the Parliament and Court sessions'accounts in regard to the right of reply. The lesion of interest is not taken in consideration in that special case.

The newspaper had, thus, the right to refuse the publication of the answer, to go to Court and to let the judge decide wether the account was accurate or not and wether the reply had to be published.

La Dernière Heure accepted the reply and published it as a rectification. In my opinion, it was more a "post-facto" justification than a true rectification (i.e. the correction of a mistake or of a falsity).

The cases of right of reply that I shall examined now are recent: they appeared in the Belgian press from July 1960 up to October 1960.

The first case was found in a satirical weekly"Pourquoi Pas"?. The reply was published on the Friday 15th of July, just one week after the article.

The "Pourquoi Pas?", in an article about Congo's independance day, has mentioned that Mr De Kayser, rector of the University of Brussels, has warmly applauded Mr Lumumba's speech. Mr De Kayser sent a reply, claiming he didn't applaude and that he was, on the contrary, deeply shocked by the speech.

The reply was published but with one of illegality. We have seen (second part page) that the paper has to publish the reply, if not at the same place as the article, at least at the similar place. In this case, the article was published on page 7. The reply was printed on page 114, in the "Reader'Letters" Rubrique. I don't say the reply should have been published on page 7: that particular rubrique. In effect, this reply is more than a simple letter from a reader. It is a rectification concerning Mr De Kayser's reputation that has been attacked in the article. It should have been published after the weekly political article and even after a political article about the Congo.

To place Mr De Kayser's reply in the "Readers'Letters" Rubrique minimized its importance: it is not a rectification or a defense any more; it's just another letter.

The title "An hallucination" and the ironical commentary destroy a great part of the reply's impact, but these are legal devices and they open a new right of reply.

In this case, we have an example of an indirect attack, against someone's reputation. The paper doesn't critize Mr De Kayser's attitude: it simply describes the facts. But, the mere description of those facts implied that Mr De Kayser, in applauding Lumumba's speech, approved of his policies and acts in general. In other words, Mr De Kayser was a Lumumbist, almost a Communist and, at any rate, a very bad Belgian. This opinion about a University's rector could be very harmful to his prestige and his career. An interest had been hurt: Mr De Kayser was entitled to reply.

He justified himself by claiming that the reported facts were untrue: that he was not applauding the speech. Mr De Kayser, however, like any other Belgian citizen is entitled to his opinions. If he wants to be a Lumumbist or a Communist he has the right to. If a paper critizes him, either directly or indirectly (like in this case,) he may defend his opinions by explaining them to the public, by trying to convince his fellow-citizens he is right. So,if the reply had been a justification of pro-Lumumbist feelings, the paper, no matter how anti-Lumumbist he may be, had had the obligation to print it.

On the other hand, the editor is not forced to publish every letter he receives from his readers. In the case of the right of reply, he has no such choice. If the reply meets all the requirements set by the Bill and the jurisprudence, the paper has to print it even if is strongly opposed to its political philosophy.

Before I consider another of these recent cases of right of reply, I want to make a remark. One must be keep in mind that a great number of the Belgian papers are "opinion papers". Together with the news, they present opinions on different subjects, especially on social, political and economic questions.

They have a political phisolophy and some of them are very close to a political party. The "Drapeau Rouge". for example is communist, "Le Peuple" is socialist and the "Libre Belgique" is in favor of the Christian Social Party. Some papers like "Le Soir", are "neutral". In fact, they support the government, especially when it is a conservative government. I thought this precision could be useful because some of the cases I am going to expose now are political cases, and only the opinion-character of the Belgian papers can explain the critical articles one sometimes finds in them.

The right of reply I shall examine now was found on July 27,1960 in the socialist paper "Le Peuple". On the 23rd of July, Le Peuple published two articles about a new political groupement "The Comity for Action and Defense of the Belgians from Africa".

Times were hard for the Belgians of the Congo; they tried to organize ghemselves in such groupings as the Comity. They organized meetings, marches throughout the city... where they hold the Government, the Parliament and the Belgian citizens in general as responsible for the Congo catastrophe.

The paper's articles states that the CADB was a fascist movement that tried to use the Congo crisis to overthrow the Parliamentary regime in Belgium.

The articles also associated the CADBA to a certain JR Debbaudt, former rexist (1) and collaborator with the German during World War II. Debbaudt was said to advocate the overthrow of the democratic system and its replacement by a military junta, headed by General Janssens (2).

The CADBA sent a reply to the paper which published it on July 27,1960. The reply claimed that the CADBA was not an "extreme-rightist" movement whishing to overthrow the Parliamentary regime. It also denied that the Comity had anything to do with Debbaudt. It justified its position by clarifying its opposition to the "regime". We think that the Government must pay his mistakes, they said, but we are the resolute ennemies of those who want to injure our institutions". It also stated that it reserved its right to a legal reparation for the tort made to the association by the journalist.

(1)The Rexism was a National Socialist Party founded by Léon Degrelle around 1933. It has a certain success in the 1935 elections. During World War II, the rexists fraternized with the Germans and some of them even enlisted in the German army.
(2)General Janssens was the high commander of the "Congolese Army".

We can see here that the right of reply does not suppress the other legal appeals. An action in tort would be perfectly admissible.

An amazing tact to be noted: the article and the reply were published on the same page, in the same part of the page and in the same types (the lower part of the front page and in italics). Besides, the article and the replygot the same headline, in the same types. This is the exact enforcement of the rule that was mentioned on page 25.

The paper printed a moderate commentary after the reply. This, also, is unusual: in most of the cases, the paper publishes a commentary that destroys completely the effect of the reply.

The third case I shall study is also a "political right of reply". It appeared in the Catholic paper "La Libre Belgique", on the 20-21rst of September 1960. In a long article about the Congolese crisis, the paper mentioned that Mr Buisseret, a former Minister of the Colony (1), had brought into the Congo the sordid anti-clerical quarrels that were going on in Belgium. La Libre Belgique claimed that, doing this, Mr Buisseret had causes the first blows to Belgian prestige and authority in the Colony.

For the clarity of this case, one must know that, in 1955, Belgium has known a serious crisis about education.

(1) Mr Buisseret was Minister of the Colony in a Liberal-Socialist government from 1954 to 1958.

The country has two educational systems i.e. the official system, state-controlled and state-supported and the parochial one which is constrolled by the Catholics and partly supported by them. In effect, one part of the parochial system of education is supported by the State that gives subsidies to the Catholic Schools. It is on this point that the problem was raised. The Catholic were constantly asking for bigger subsidies. The Liberals (Big Business Party) and the Socialists (who were in the government and who were opposed to the second system of education, refused to grant bigger subsidies. In fact, the opposition exists since the creation of the parochial system, but, sometimes, the quarrel became more bitter and more violent.

When the paper "La Libre Belgique" claimed that Mr Buisseret had brought into the Congo the "anti-clerical" quarrels, it meant that the Minister had introduced the educational question in the Congo and had fought against the missionary schools that were established in the Congo long before World War II.

Mr Buisseret replied that he had never done anything against the missions and against their schools, that the loss of authority of the Whites in the Congo has been caused by the mistakes made by some Belgian Unions (especially the CSC, the Catholic Union) in the colony. He also mentioned some attacks against the official education of the Congo in the Congolese press. He ended the reply by making some allusions to the responsability of the Catholic Party in the present Congolese crisis.

We find a here a situation I mentioned in the second part of this study, page 30. The text about Mr Buisseret consists in 7 lines of a 3 and ½ columns article. The reply is a two columns article. There is a disproportion between the "mention" and the reply. To be logic and perfectly fair, Mr Buisseret's answer to La Libre Belgique" should be an article of 14 lines (the double of the text that has provoked it). This would be fair to the paper that has sopken of Mr Buisseret in 7 lines, without mentioning him in the rest of the article. The 1831 Decree, however, states thatthe reply may be twice as long as the article: this is one of its numerous imperfections. The 1954 Bill brings a solution to this problem.

Now had Mr Buisseret the right to send a reply? Following the absolute theory of the right of reply, his name being mentioned, he certainly was entitled to a reply. Following the relative theory also, a reply was legitimate. In effect, the mention of the paper could have hurt the former Minister's prestige or political career. A reply was, thus, completely justified but I doubt it was very useful.

In effect, this reply was published with a headline and a commentary that completely destroy its impact. The headline is: "Mr Buisseret has not understood yet". The commentary explicitely stated that Mr Buisseret created in the Congo official schools with no spiritual basis. This, the paper added, is contrary to the Bantou personnality, essentially spiritualist.

The paper also claimed that Mr Buisseret had discredited the missions' schools in the promaganda for the official schools and that he tried to reduce subventions that were going to the pariochal education. Finally, "La Libre Belgique" explained that the division of the Whites on the educational problem has had a very bad influence on their prestige.

We can see that the paper's commentary is an answer to Mr Buisseret's reply. Mr Buisseret could send another reply concerning the commentary, but the paper could publish another article to the second reply and the game could go on and on.

I think that, in a case such as this, Mr Buisseret shouldn't have sent a reply to the paper. He should have known that a paper like "La Libre Belgique" was not going to abandon the controversy so easely.

Besides, the first attack consisted in a few lines and was not too clear. The second one, the commentary, gave details and justified the critics by facts: it was for more dangerous for Mr Buisseret's carrer and reputation that the first one.

The two other cases I have found recently are less intersting. Both concern a news story published in L e Peuple: the first one is a crime, the other one a car accident. They look more like a rectification than like a reply, but we know that the reply may take any form as long as the content's and length's requirements are met.

The first story reports the crime of a poliee officer who killed his wife and committed suicide afterwards.

In a letter the murderer said that wife had a lover, a certain Malfroid, and that this is the reason why he killed her.

This was published on the 12th of October 1960. On the 19th, Malfroid sent the paper a note in which he stated that he has never been the lover of the victim of the Sauvenière crime. The paper published the rectification on the 20th.

In fact, it was not Malfroid's note that was printed, but a small article of 11 lines in which the paper gave a resumé of the facts and the rectification of Mr Malfroid. It seems the 1831 rule about the lenght of the reply has not been respected here. On the contrary, it is the 1954 Bill that has been followed in this matter: the mention had 5 lines, the reply II. I don't think this was intentional, tough. The paper didn't consider this case as "a true right of reply" and it didn't treat it like one. It handled it like the correction of a mistake or of a falsity, and, in fact, that is what it was.

I think this formula i.e. the resumé of the facts and the correction -- is very good in the case of a material mistake or falsity that does not need a long explanation or justification to be straightened out. It saved the space of the newspaper, which is sometimes used for the useless considerations that are contained in certain replies. The headline, like in this case, should be the same as that of the news story or should be such that the news story would be immediately recognizable.

The case of the car accident is very similar. The story of the paper said that the driver was drunk when he had this accident. The driver, Mr Tournay, contacted the paper. The stated he was not drunk and explained that his deficient health plus two glasses of beer were the cause of the failing that provoked the crash.

As in the preceding case, the paper printed a rectification, i.e. as small article, stating the facts and Mr Tournay's version of the story. Both articles (the story and the rectification) were published on the same page, in the same types and with almost the same headline. It was therefore very easy to notice the rectification and to connect it with the first story.

This is the last case of right of reply that I wanted to study. In the next and last chapter of this thesis, I shall give, as a conclusion, some personal considerations on the right of reply.

CONCLUSION

The purpose of this study was to describe and explain a solution to certain press problems, such a solution being common in Europe and almost unknown in the USA. I have tried to show what the right of reply is and to explain its sometimes complicated mechanisms. I would like, now, to give the reasons why I think the right of reply is a good solutio, at least for our European press.

The press, in Belgium and more generally in Europe, is not an "information press", like in the USA, but an "opinion press". Exceptions to this rule must be made for some French papers, like "France Soir", that are the crime-accidents-love stories-sort of papers. In belgium, all our papers, even "the neutral" ones, are "opinion papers". This doesn't mean that our press does not give any informations. It gives news, but it doesn't claim that these news are completely objective. Our journalists admit that a complete objectivity is impossible. A paper cannot print all the news it receives, it must make a selection: this is the first subjective element. Most of the news, especially those that come on the telexs, must be re-written or a leadt "arranged". They must get an headline, some news stories must be cut off: here the second subjective element appears. A third subjective factor is the space alotted to the news in the paper and the location of the various news-stories.

When the news is commented or explained,one must agree that there is not much objectivity left in the news-story. Besides,some sources of news can give very different stories and the paper cannot check every story it gets.A first check is made by comapring the stories of different news-agencies, but this is not always sufficient.

To reach a complete objectivity is impossible for a newspaper.It may get to a certain objectivity in suppressing any interpretation of the news i.e. in giving straight news with no background,no explanations.What the paper gains in objectivity is then lost in understanding.What is the use of an objective report of facts if the reader does not understand those facts,their causes and their implications.I think that the newspaper,in the 2oth century,ahs a mission to fulfill i.e. to relate its readers with the "outside world".This relationship will be acheived if the readers know,but also understand,what is happening in this "outside world".The rest of the universe is too big,too far from us for us to understand without explanations and commentaries all the events taking place outside of our small personal world.

I feel that understandable news are more important than completely objective news,but at one condition i.e. that, if the interpretation of the news is subjective,the readers must know who is talking.In other words,the paper must be clear about its philosophical and political bias,so that the readers exactely know what are the prejudices of the paper. Let me show,by an example, what I have in mind here.

I read in "Le Peuple",a Socialist newspaper,that 20.000 workmen,belonging to the FGTB (the Socialist Union), have marched in Brussels' streets,protesting the governmental policy.The "Libre Belgique",a Catholic newspaper all for the Social Christian Government,prints that the march was composed of 5.000 people.Substracting 7.000 people from "Le Peuple" story and adding the same number to the "Libre Belgique" report,I probably shall get the right amount of marchers.Were the papers deliberately lying? I don't think so,but,the source of "Le Peuple" being the FGTB and that of the "Libre Belgique" the government,the newspapers got two different strories.

As everybody knows that "Le Peuple" is a Socialist paper and "La Libre Belgique" a Christian Social daily,every reader in Belgium realizes that,in the first paper he gets a Socialist explanation of the news and,in the second one,a Social Christian interpretation of the same news.The papers, by letting know their political bias,are not cheating anybody.

In our "political" papers,we find editorials and political controversies where opinions on facts and persons are expressed.I think that here,more than in the news-stories, the right of reply is very useful.In effect,without the right of reply,what could a person do when a paper expresses on his ideas or activities an opinion he does not like? When the paper's opinion is libelous or defamatory,the person can sue the paper, but I have three objections against that solution.

1) It may only be used in very definite conditions.

It is not as general as the right of reply.Even if we consider the relative theory of the right of reply,we must agree that it is a larger solution than the libel suit.To be able to sue for libel,a person must have been the victim of an accusation of a precise fact,directed to hurt his honor or to expose him to the public contempt.The conditions of the right of reply are simpler:the person mentioned must have one of his interests hurt,even a little-important interest like self-respect.

2) Some people hesitate to start a legal action,long and expensive.If they can be satisfied with the printing of a reply that will cost them a ten cents stamp,why wouldn't they use the right of reply?

3) I think that a reply,published in a paper,is sometimes more useful than a complicated action in libel or in tort.In effect,what will be the result of an action in libel? The author of the libelous article will pay a fine and that is very good because he will probably think twice before writing a libelous story again.But,is that all the victim of the libel should wish? It seems to me the victim would like very much to tell the public that the facts in the libelous story were not true and why.The publication of the judgement,that the Court sometimes orders,could constitute such a rectification.But,who reads the publications of judgements? I think a reply,printed almost at the same place as the libelous article,with the same headline and published a few days after the article,is far more useful than any judgement's publication.With such a reply, the rectification's purpose will be reached in a more general way than with the publication of the Court's decision in the

libel case.As for the action in tort,I don't think the damages the victim would get,would outweighed the costs of such an action.The right of reply seems,therefore,the most reasonable course of action.

An American journalist could have the impression that the right of reply is something that everybody approves, but that nobody uses.This view is undoubtly mistaken.There are cases of right of reply in the Belgian press.If they are not very numerous,it is not because the public does not make use of it,but because the journalists are very careful not to get any case of right of reply.In other words,the journalists are very "right-of-reply-conscious" and they are careful not to give grounds to a right of reply when they write their stories.

Another objection to the right of reply is that it is an hindrance to the freedom of the press.I don't think this is right.Of course,the paper is obliged to publish the reply,that answered the various legal conditions,but it may add any commentaries to this reply.The paper may therefore justifies itself in front of its readers.If one accepts the limitations to the freedom of the press in the cases of libel and pornography,I don't see why the right of reply shouldn't be admitted on the same grounds.

In my opinion,a person my be hurt in his interests by a newspaper story,even if it is not libelous and it is fair that this person should have a way,easy and quick,to repair the damage made to his interests by the newspaper.Besides,and this is very important,the use of the right of reply still permits the use of the other legal solutions.

When the use of other legal solutions is not permitted, the right of reply may constitute a precious way of defense.I know that,in certain cases,the publication of a reply may seem useless,especially when a paper's commentary destroys the impact of the reply upon the readers.However,even in these cases,the victim of the citation has the possibility to present his thesis to the readers or to rectify a falsity.

Such a rectification is very important in political matters.In effect,the absence of reaction against a paper's allegations could look like an aknowledgement that would be dangerous for the future of a political career.So,if the facts mentioned by a newspaper are false,the victim has an interest to send a rectification or a justification to be printed by the paper.The paper,by an ironical commentary,may ridiculize the reply and its author.Officially,however,this one has disavowed the journalist's allegations.The important fact is not so much that every reader believes the rectification:it is that the victim has sent it.

The right of reply is thus an important defense of the public against the misuses of the press' great power.I do think that,in our century of mass communications,the public is entitled to have such a defense.

CLIPPINGS OF SOME CASES OF RIGHT OF REPLY

Case n° 1 : the reply.

Case n° 2. (From : le Peuple).

Réservée à nos lecteurs, cette rubrique ne publie que des lettres dont l'original porte le nom et l'adresse de l'expéditeur. Toutefois, seules les initiales figurent à la publication. Il n'est tenu aucun compte des lettres anonymes.

Rappelons que ce courrier n'engage que nos correspondants occasionnels et que l'insertion d'une lettre ne signifie nullement qu'elle exprime l'opinion du journal (N d l R.).

L'hallucination

Monsieur le Rédacteur en Chef,

Dans le n° 2171 de « Pourquoi Pas ? » du vendredi 8 juillet 1960, page 7, vous avez affirmé que M. De Keyser, Recteur de l'Université Libre de Bruxelles, avait applaudi le discours de M. Lumumba au cours de la séance où l'indépendance du Congo a été proclamée à Léopoldville.

Cette affirmation est dénuée de tout fondement et j'y oppose le démenti le plus formel. J'ai été, bien au contraire, comme la quasi unanimité des Belges, profondément choqué par le discours du leader congolais.

Faisant usage de mon droit de réponse, je vous invite à faire figurer la présente mise au point en bonne et due place dans votre prochain numéro.

Veuillez agréer, Monsieur le Rédacteur en Chef, l'expression de mes sentiments distingués.

Le Recteur,
W. DE KEYSER.

Dont acte. Nous nous étonnons cependant que les témoins oculaires qui nous ont donné cette information se soient aussi lourdement trompés. Et que ce soit trompé, en même temps que nous, un confrère qui tenait le renseignement d'une autre source que la nôtre.

Une seule explication possible : M. De Keyser a été à Léo la victime d'une hallucination collective. Ses voisins ont cru le voir applaudir le discours de M. Lumumba alors qu'au contraire il en avait les mains nouées d'indignation. Ce qui est certainement une attitude plus sage. Et aujourd'hui, en tout cas, plus opportune...

Flore : Pourquoi Pas.

NAMUR p 6. 5 c.
12.13 nov 60

Arrestation d'un chauffard

Jeudi, en fin d'après-midi, une violente collision s'est produite à Namur, avenue des Combattants. Une voiture pilotée par le représentant de commerce M. François Tournay, domicilié chaussée Romaine, à Bruxelles, a quitté soudain sa droite et heurté une voiture qui roulait en sens inverse et conduite par le Dr Delforge, de Namur.

Le choc fut extrêmement violent. Tournay fut blessé et Mme Delforge, qui accompagnait son mari, fut contusionnée. Les dégâts furent très importants. Les verbalisants ayant constaté que l'automobiliste bruxellois se trouvait sous l'influence de la boisson, le gardèrent au commissariat après qu'il ait reçu des soins.

Vendredi matin, M. Mélot, juge d'instruction à Namur, a décerné un mandat d'arrêt à charge de ce dangereux conducteur et cela du chef de blessures involontaires et ivresse au volant.

The story.

The rectification.

NAMUR p 6. 5 c.
15 nov 60

L'arrestation d'un automobiliste

Nous avons rapporté samedi l'accident qui s'était produit à l'avenue des Combattants, à Namur, entre la voiture de F. Henri Tournay, demeurant à Bruxelles, et celle du Dr Delforge, de Namur.

L'automobiliste bruxellois fut écroué, pour s'être trouvé sous l'influence de la boisson au moment de l'accident.

On nous précise cependant que M. Tournay n'était pas en état d'ivresse caractérisée et qu'il est considéré comme un conducteur raisonnable. Son état de santé déficient cumulé à l'absorption de trois verres de bière serait la cause de la défaillance qui est à l'origine de ce regrettable accident. M. Tournay a donc été plus imprudent que désinvolte.

Quoi qu'il en soit, après sa comparution en Chambre du Conseil ce lundi, il a été remis en liberté

feuilleter p1

PROVOCATION NÉO-REXISTE

Les Belges d'Afrique DÉFENDUS PAR UN ANCIEN SS !

LE Comité d'Action et de Défense des Belges d'Afrique se remue beaucoup. Visiblement désireux d'exploiter politiquement la tragédie congolaise, il organise manifestations et rassemblements bruyants et confidentiels. Les discours et slogans qui illustrent ces manifestations traduisent ce genre d'analphabétisme politique qui s'exprime en des termes qui rappellent étonnamment le vocabulaire fasciste. « Politiciens, la Belgique et le Congo vous vomissent » : Léon Degrelle n'eût pas désavoué pareil propos.

Exploiteurs de la misère

Aussi bien les hommes qui montent sur les tréteaux de ces manifestations sont d'illustres inconnus pressés de sortir des ténèbres, en ranimant la rancœur et les désillusions des réfugiés du Congo. Ils se font un tremplin de la misère de ces pitoyables victimes. Ils réclament ces « gouvernements forts » de style algérien, dont l'armée et la haute finance constitueraient l'ossature. Nous avons déjà entendu cette antienne. Elle appartient à l'extrême-droite, qui revient toujours à ses premières amours.

A supposer même — ce qui ne doit pas être exclu — que les promoteurs de ce comité soient de bonne foi, ils auraient grand tort de ne point se soucier des louches aventuriers qui déjà naviguent dans leur sillage. Il en est de très peu recommandables, depuis certains personnages dorés sur tranches qui, dans la coulisse, tirent les ficelles, jusqu'à des hommes de main, au passé très chargé, qui n'attendent que l'heure H pour faire dégénérer en une offensive contre nos institutions ce qui n'est encore qu'une protestation assez puérile contre des événements irréversibles.

La main de Rex

Dans un manifeste distribué au cours d'une de ces manifestations, on pouvait lire, comme par hasard, les plus odieuses attaques contre « la crapule communiste et résistantialiste tolérée par la police », « le régime pourri que nous connaissons », « les Mau-Mau de Lumumba »... Ce tract comparait les scènes de sauvagerie dont le Congo venait d'être le théâtre aux incidents d'Abbeville, en 1940, qui faillirent coûter la vie à Degrelle. Et, évoquant la mémoire des Belges tombés au Congo, ce pamphlet concluait en ces termes :

« Belges, vengez-les. Montez à l'assaut du Parlement. Ensemble, nous les balayerons. »

Ce tract, dont les dirigeants du Comité d'Action et de Défense des Belges d'Afrique semblent tolérer complaisamment la diffusion, émane d'un certain Mouvement Social Belge, dont l'organe est « L'Europe Réelle » et dont l'animateur est une vieille connaissance : le S.S. J. R. Debbaudt, aujourd'hui grand apologiste du Congo à papa, mais qui n'hésita pas, durant la guerre, à endosser l'uniforme hitlérien pour combattre nos alliés.

C'est lui qui rêve aujourd'hui de « pleins pouvoirs pour le général Janssens ». C'est lui qui convie les réfugiés du Congo à monter à l'assaut du Parlement. Lui encore qui n'hésite pas à glorifier son ancien chef Léon Degrelle dans les termes suivants :

Fernand DEMANY.

SUITE PAGE 3, 3me COLONNE

PROVOCATION

(SUITE)

« Il est frappant de constater au moment où la question de la « crise du régime » se pose dans tous les partis de voir avec quelle extraordinaire lucidité le Chef du Mouvement Rexiste avait — 25 ans avant la faillite de la démocratie belge — dénoncé les tares du régime et proposé les remèdes draconiens qui seuls pouvaient sauver la nation.

» Cette clarté de vue gênait à la fois les vieux partis, la haute finance et toutes les forces pourries qui exploitaient le pays et qui l'exploitent d'ailleurs encore aujourd'hui et contre lesquelles nous poursuivons le combat. En somme la lutte des mêmes contre les mêmes. C'est parce que le programme de Léon DEGRELLE gênait et que notre action les gêne toujours que nous subissons l'offensive sauvage des nantis du régime. Mais pas plus que Léon DEGRELLE ne se laissa impressionner alors, nous ne nous laisserons intimider aujourd'hui et comme lui, obstinément, nous avancerons tout droit le front découvert malgré les tirs de barrage continuels et comme Lui nous continuerons à dire le vrai avec la même vigueur et le même entêtement.

» Sous le titre « Léon DEGRELLE avait raison » à l'heure où les irresponsables du Parlement galvaudent l'héritage de Léopold II et où les prébandiers (sic) de la haine relancent leur stupide campagne contre le « Fascisme renaissant » nous donnerons chaque mois la parole à Léon DEGRELLE. On verra, c'est hallucinant. Oui, DEGRELLE avait raison, prenons-en conscience et agissons en conséquence ».

Les amitiés compromettantes

On conviendra qu'il est pour le moins étonnant de voir les prétendus défenseurs des Belges d'Afrique s'acoquiner ainsi avec un individu dont les sentiments hitlériens ne sont ignorés de personne.

Il est des collusions fort gênantes pour ceux qui s'y prêtent. Ceux qui, aujourd'hui, vont se prosterner un peu ridiculement devant la statue de Léopold II, se rendent-ils bien compte qu'ils font sottement le jeu des pires ennemis de nos institutions ?

Nous espérons qu'ils ne mettront pas trop de temps à le comprendre.

Fernand DEMANY.

Code n° 3 - From "Le Peuple"

The Story.

27 juillet 1960

PROVOCATION NÉO-REXISTE

Les Belges d'Afrique DÉFENDUS PAR UN ANCIEN SS !

A LA suite de l'article paru sous ce titre dans nos éditions de samedi, le C.A.D.B.A. nous a adressé la lettre suivante :

Monsieur le Directeur,

Nous avons pris connaissance, avec une stupeur indignée de l'article de M. Fernand Demany, paru dans votre numéro des 23-24 juillet 1960, sous le titre : « Provocation néo-rexiste — Les Belges d'Afrique défendus par un ancien SS ».

Votre collaborateur, pratiquant l'amalgame, ne recule pas devant le risque d'identifier sans la moindre preuve le « Comité d'Action et de Défense des Belges d'Afrique » à l'action d'un ancien SS à la feuille qu'il édite et au « mouvement » qu'il dirige.

Or, le « Comité d'Action et de Défense des Belges d'Afrique » ne connaît pas M. J.-R. Debbaudt. Il ne l'a jamais rencontré. Si il a eu connaissance de la feuille qu'édite cet individu, il réprouve avec énergie les « idées » qui y sont exprimées et qui doivent être considérées comme celles des pires ennemis de notre pays.

Le néo-rexisme dont il se réclame, la glorification du traître Degrelle, la destruction de nos institutions inscrites dans son programme, nous empêchent à tout jamais de nous entendre avec lui. Nous nous demandons d'ailleurs pour quelles raisons le Parquet n'a pas encore mis fin à l'agitation antinationale de cet énergumène.

Voilà notre position. Dès lors, vous comprendrez aisément que nous sommes indignés de l'article mensonger et diffamatoire de votre collaborateur, M. Fernand Demany.

Rectifions donc les fausses allégations de M. Demany :

1) Nous n'avons nullement envie d'« exploiter politiquement » la tragédie congolaise nous exigeons uniquement que justice soit faite. Nous estimons qu'il était absolument contraire à la justice et profondément immoral que le gouvernement responsable de tant d'erreurs, et aujourd'hui de tant de crimes, ne paie pas ses fautes.

2) Votre collaborateur veut bien reconnaître que les promoteurs de notre Comité « soient de bonne foi ». En effet, nous le sommes. Mais nous ne pouvons absolument pas accepter d'être identifiés à l'extrême droite, aussi nocive que l'extrême gauche... à laquelle votre collaborateur a d'ailleurs appartenu nommément. A notre sens, les notions de « droite » et de « gauche » sont vidées de tout contenu réel. Nous ne voulons qu'être profondément national.

3) Nous sommes les ennemis résolus de ceux qui veulent porter atteinte à nos institutions. Certes, nous faisons la distinction entre le régime politique qui a fait dégénérer nos institutions monarchique et parlementaire — et un système politique qui renforcerait le rôle de nos institutions, notamment celui du Parlement.

4) Jamais, un manifeste émanant du fumiste DEBBAUDT n'a été distribué à une de nos manifestations : il est faux d'écrire comme le fait votre collaborateur, que notre Comité a toléré « complaisamment la diffusion d'un tract émanant du « Mouvement Social Belge ». Nous défions M. Demany d'en apporter la preuve. Si d'ailleurs le cas se présentait, nous serions les premiers à nous y opposer par tous les moyens.

PROVOCATION NÉO-REXISTE

3b *(SUITE)*

Nous réservons notre droit de demander en justice réparation à M. Fernand Demany pour le tort injuste qu'il a fait à notre Comité et à ses promoteurs ; beaucoup de ces derniers appartiennent aux milieux de la résistance et des anciens combattants ; soit en 1914-1918, soit en 1940-1945 ils ont défendu au péril de leur vie les libertés chères aux Belges ; ils ont connu les camps de concentration nazis.

Il serait inconcevable que nous soyons à la remorque d'anciens hitleriens qui n'ont rien appris ni que nous nous laissions diffamer par quelqu'un qui, pour des faits semblables, a eu, à plusieurs reprises, maille à partir avec la justice.

Pour le Comité d'Action et de Défense des Belges d'Afrique : R. Matyn, A. Minet, M. Verlinden, M. Fourneau.

La lettre que le C.A.D.B.A. nous a adressée sous forme de droit de réponse prouve en tout cas que ses dirigeants n'entendent pas faire « sottement le jeu des pires ennemis de nos institutions et qu'ils n'ont pas mis « trop de temps pour le comprendre », comme le soutenait Demany en conclusion de son article.

Nous leur donnons donc acte de ce que leurs intentions sont pures. S'ils désirent rendre plus efficace l'organisation du parlement, nous tenons à leur signaler la critique que Léo Collard, président du P.S.B., a faite du fonctionnement de cette institution à la tribune de la Chambre, tout en proposant une série de remèdes appropriés. Enfin il convient que les dirigeants du C.A.D.B.A. soient attentifs au fait que si des craintes quant à leur volonté de s'en prendre aux institutions en tant que telles ont pu naître ils doivent s'en prendre à leurs propres affiches et manifestes, dont le ton et le contenu étaient peu compatibles avec la mise au point que nous insérons ci-dessus.

Case no 3

The Reply.

PRES LE DEBAT DE LA CHAMBRE

Le régime restera-t-il
nlisé dans ses ornières?

20-21

…us indiquons, par ailleurs, les …ents de coulisse et la manœu… …ocialiste qui ont abouti au vo… …r la Chambre d'un extrava… …ordre du jour qui, non seule… …fait confiance au gouverne… …pour l'avenir (moyennant re… …de l'équipe et élaboration …nouveau programme), mais …ngratule pour le passé dans …ermes suivants :

…La Chambre approuve l'exécu… …de la POLITIQUE AFRICAI… …du gouvernement. » Ainsi …, le drame congolais se com… …d'un vaudeville parlementai… …Pas de vaudeville ! proclama …eusement M. Eyskens, avant …ote de cet étonnant ordre …our. En réalité, on est en plei… …omédie.

…rtes, nous le répétons, ce tex… …e fut soumis à la Chambre … la suite d'une grosse malice …liste.

…ais l'opinion, elle, n'entrera pas … ces jeux de politiciens. Elle …dra à tout le Parlement le jus…

…ul ministre coupable. On pour… …remonter plus haut dans la …e de ses prédécesseurs. Et no… …ment jusqu'à cet inepte minis… …libéral Buisseret, qui trans… …a au Congo les sordides que… …es maçonniques et anticlérica… … de la métropole, assénant les …emiers coups, extrêmement gra…, à l'autorité des Blancs.

Il n'empêche. Chargé d'appliquer … politique d'indépendance dans … dernière phase, M. De Schryver …ommit le crime de faire, le 27 …anvier, à la Table ronde, des pro…messes qui laissèrent pantois tous les connaisseurs du Congo, abandonnant (à la date fixe du 30 juin) toutes les compétences, sans réserve et sans garantie, à des Noirs dont la désignation était laissée à la loterie d'un dérisoire suffrage universel organisé parmi les peuplades africaines !

Naturellement, à l'époque, les thuriféraires du gouvernement se félicitèrent de l'excellente atmosphère de la Table ronde ! Excellente atmosphère, en effet... Celle du Congo à l'heure actuelle est assurément beaucoup plus tendue.

Après tout cela, le plaidoyer de M. De Schryver apparaît d'autant plus indécent que le cadavre de l'œuvre coloniale de la Belgique est encore chaud et que le Congo n'a sans doute pas encore touché le fond de l'abîme !

Il n'est certainement pas un seul cercle belge doué d'une culture et d'un bon sens moyens où le ministre des Affaires africaines oserait raconter de telles sornettes. Seuls les parlementaires pouvaient avoir l'épiderme assez dur pour l'écouter sans bondir d'indignation. Tel est l'effet sédatif de ce singulier milieu.

* * *

Quant à M. Wigny, sa tentative de blanchissage ne fut pas beaucoup plus heureuse.

(Voir suite en deuxième page)

APRES LE DEBAT DE LA CHAMBRE

Le régime restera-t-il enlisé dans ses ornières?

(Voir début en première page)

Comment oser vanter la politique suivie depuis le 6 juillet, alors que le chaos congolais pourrait difficilement être plus profond et que le prestige moral de la Belgique pourrait difficilement être plus bas ? L'histoire reprochera amèrement au gouvernement de ne pas avoir empêché le Congo de rouler dans l'anarchie, alors que la chose était possible et vraisemblablement fort aisée, grâce aux troupes belges stationnées en Afrique. Elle reprochera aussi à M. Wigny la faiblesse de ses interventions à l'O.N.U., alors que la Belgique avait un excellent dossier à plaider, qui fut malheureusement à peine entrouvert.

M. du Bus de Warnaffe, au cours du débat, déclara justement : « Le critère d'une politique, c'est sa réussite. » *Il faut en conclure que la politique du gouvernement fut détestable. Non seulement elle échoua, mais ses défauts, ses lacunes, ses dangers furent dénoncés des centaines de fois, bien avant la catastrophe, sans que les ministres daignassent tenir compte de ces avertissements.*

* * *

Il faudrait au moins tirer la leçon de ce lamentable échec. Pour nous, elle est claire. C'est que, dans sa phase actuelle de décrépitude, notre régime parlementaire est incapable de port… au pouvoir une équipe véritab… …es de gou…rnement q… …a fois la …onté, l'esp… et l'in…ence né… faire … une si… peu …u comple… …traire, o… …nt …diocres … …n …tement, …endent … …nes de… …leur… …nfor… …es… P… le dé… pressi… gique … nouveau… scuffler s… A cet ég… …aucun…

çon à éviter autant que possible la casse... électorale. Les élections, tel semble rester le souci éminent, sinon exclusif, de ceux qu'on appelle les « honorables ». Périsse le pays, si le parti triomphe !

* * *

Seul le discours du Premier ministre sortit quelque peu de l'ordinaire. M. Eyskens sentit qu'il fallait proposer au pays un programme neuf et tant soit peu vivifiant. Hélas ! il semblait fatigué et son appel à la nation n'eut ni l'accent ni la précision qu'on eût souhaités.

Pour convaincre le pays d'une véritable volonté de redressement, il faudrait assurément autre chose que les idées — à la fois trop générales et trop souvent ressassées — émises par le Premier ministre. Ces promesses ont été entendues si souvent qu'elles ne convainquent plus.

On annonce, par ailleurs, une modification profonde de l'équipe ministérielle. Mais comment celle-ci se fera-t-elle ? Suivant les anciennes méthodes, c'est-à-dire après d'épuisantes discussions mettant en cause les appétits des partis et les revendications individuelles, bien plus que l'intérêt national et la compétence des ministres ? Ou bien va-t-on vers un renouveau sérieux ? Entend-on, enfin, modifier les détestables pratiques où s'enlise le régime, entraînant toute la Belgique dans sa propre décadence ? Renouvellera-t-on profondément le personnel ministériel, notamment en faisant loya… appel à des hommes nou… …hors du sérail parleme…

…n voudrait savoir. Il fa… …les socialistes ont affir… …ils n'entendaient pas … gouvernement …ant … nouvelles. Cette …ision … …sser aux libé… et … …us de latitu… …our … profondément …quip… …urp… …ens devrait … …uve. Malvolonté, …rnement … velléi…ues. …lement … de ré…orrec… …ivi… …ne …

Case n° 4 - Frou…

Libre Belgique.

The Story.

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es responsabilités du drame congolais

M. Buisseret
a pas encore compris

Buisseret, ancien ministre des ies, nous adresse la lettre que :

sieur le Directeur,

présente vous est adressée à de droit de réponse ; je ne pas que vous la publiiez conment à la loi.

sa première page, avant-der- colonne, votre journal daté et 21 de ce mois, reprenant, liques, une de ses vieilles rangaines, alléguait que j'aurais « transporté » au Congo de sordides querelles et ainsi, asséné « les premiers coups, extrêmement graves », à l'autorité des Blancs.

Ce disant, l'on se trompait d'adresse.

En posant, en octobre 1954, la première pierre de l'Université catholique Lovanium, je proclamais que j'apportais un message de tolérance et de paix. Pendant toute ma gestion, j'ai scrupuleusement respecté cet engagement solennellement pris devant les plus hautes autorités civiles et ecclésiastiques, et l'ai fidèlement exécuté en dépit des critiques fielleuses et des calomnies dont la malveillance partisane et la haine des fanatiques n'ont cessé de m'abreuver. Une abondante correspondance de louanges et de remerciements venant de tous les horizons de droite, fait foi de l'équité, de la bienveillance et de la générosité avec lesquelles j'ai traité, sans distinction d'obédience, toutes les institutions et les œuvres consacrées au Congo. Lovanium en sait quelque chose.

Il est imprudent de la part des intolérants et des factieux de parler de sordides querelles et d'atteintes à l'autorité : la silhouette de ces ultras et de leurs pareils se profile derrière les dissensions qui, au cours de la guerre de 1940, ont mis en péril la solidarité des blancs,

Case no 4.

The Reply and the commentary of the paper (in italics).

M. Buisseret
n'a pas encore compris

(Voir début en première page)

Mais le comble avait déjà été atteint en avril 1955, lorsque, parallèlement avec l'agitation contre le ministre COLLARD en Belgique, l'hebdomadaire « Temps nouveaux d'Afrique » publia l'éloge des participants aux manifestations, rébellions contre la police et pugilats de Bruxelles et de Namur, en y ajoutant, à l'intention des lecteurs indigènes, la photographie de ces jolis exemples.

Cependant, nos pupilles noirs avaient applaudi à l'effort fait par nous pour que les relations en[tre] noirs et blancs soient vraiment h[u]maines, souscrit à la perspect[ive] d'une émancipation progressive [et] acquiescé à la politique en vigueu[r] en 1958 après plus de quatre a[n]s de cette paix que j'avais promise. Il[s] [...] manifesté cent fois leur crainte de la voir abandonnée après les élections prévues pour le mois de juin et, après celles-ci, inondé les autorités belges de requêtes insistant pour que rien ne fût changé.

Hélas ! les ultras reprirent le dessus. La chute de la confiance se mua en un esprit de révolte que les mauvais bergers purent exploiter à loisir. Je réserve pour le moment opportun mes commentaires sur cette évolution plus récente.

Celle des années 1954 à 1958 me concerne ; à son sujet, ainsi que je l'ai dit au Parlement, j'attends avec confiance le jugement impartial de l'Histoire.

Veuillez agréer, Monsieur le Directeur, l'expression de ma considération distinguée.

(s.) A. BUISSERET.

[L]es faits !

[...]ent hostile aux missions catholi[q]ues. Dès le début de son ministè[r]e, il se choisit un chef de cabinet, [«] mangeur de curé », par instinct [p]rofond et par vocation, l'ineffable [...]reuls de Tiecken !

A Léopoldville, le réalisateur [p]rincipal du grand dessein minis[t]ériel de création d'un enseigne[m]ent officiel fut un autre anticlé[r]ical rabique, M. Ney, qui présen[t]ait vraiment toutes garanties en [m]atière d'esprit sectaire et borné. [S]ous sa direction, l'enseignement [o]fficiel ne pouvait être qu'un en[s]eignement nettement offensif.

L'Université officielle d'Elisa[b]ethville aurait pu être un lieu [d]e science sereine, faisant pen[d]ant à Lovanium, dans un esprit [...]

[...] manifestaient l'indécrottable sectarisme ministériel.

Dès janvier 1955, l'épiscopat congolais dut publier une protestation solennelle parce que le gouvernement général, sous la pression du ministre, avait annoncé la réduction de 80 à 50 p.c. des interventions officielles en faveur des internats pour indigènes et parce qu'il prétendait mettre à la charge des missions 10 ou 20 p.c. des salaires des moniteurs. Les évêques firent observer que de telles mesures devaient conduire l'enseignement missionnaire à fermer des écoles. Ils reprochaient au gouvernement d'introduire au Congo « les complications inutiles et dangereuses de luttes politiques ».

Certes, en avril 1956, un accord fut conclu avec les missions au sujet des constructions scolaires : 45 p.c. des subventions pour les constructions devaient aller à l'enseignement catholique, 10 p.c., à l'enseignement des missions protestantes, et 45 p.c. aux écoles de l'Etat.

Partage équitable ? Non, assurément, si l'on considère que les missions possédaient, à elles seules, à peu près la totalité de l'enseignement du Congo ! C'était une équité à la mode de M. Buisseret, une équité à la mode homaisienne.

En même temps d'ailleurs, se menait une guerre sournoise, une guerre à coups d'épingle, qui multipliait pour les missions les retards et les difficultés de paiement. De nombreux débats parlementaires portent la trace de ces incidents, qui furent signalés à la tribune par des orateurs P.S.C.

* * *

D'ailleurs, les nominations faites par M. Buisseret témoignent suffisamment de sa volonté délibéré-

MASSACRE A SAUVENIÈRE

UN ANCIEN GENDARME TUE SA FEMME A COUPS DE HACHE PUIS SE PEND...

ES drames-là se découvrent toujours de la même manière : ce sont les voisins le lendemain, étonnés du ne que l'on pressent déjà stre de la maison d'à-côté, viennent les gendarmes.

'est ainsi que lundi après-i, rue Haute, à Sauvenière, s une petite maison ouvrière portant le numéro 54, une table boucherie fut découle.

ustave Delattin, 53 ans, un gen-ne pensionné, avait tué sa fem-à coups de hache : la victime, résia Lang, une Allemande, de 41 ans, gisait dans une ma-le sang sur le carreau de sa ine.

assassin fut découvert pendu rampe d'escalier.

rue Haute, à Sauvenière, com-e une rangée de petites mai-ouvrières. L'une d'elles, très rette, était occupée depuis le iars 1958 par un ménage venu pays flamand.

i, Gustave Delattin, né le ai 1907, divorcé depuis 1955 de ie-Josée Fabry domiciliée rue och, à Schaerbeek, avait eu enfants de ce premier maria-un fils, John, né à Maeseyck 934, divorcé lui aussi et domi-avec sa mère, et une fille, ac-lement âgée de 22 ans.

ustave Delattin avait épousé econdes noces Thérésia Lang, à Hirschau (Allemagne), le anvier 1919.

Deux sons de cloche

Le ménage fut d'abord domicilié à Kapellen. Gustave Delattin, atteint de rhumatisme déformant, dut être pensionné de la gendarmerie, où il fut longtemps en fonction. Les Delattin vinrent s'installer à Sauvenière. Le voisinage s'aperçut bientôt que le ménage marchait cahin-caha, comme on dit.

Cependant, l'Allemande avait bonne réputation à Sauvenière, et pour les gens de la région c'était « une brave femme ».

— **Et son mari**, avons-nous demandé ?

— **Il avait un drôle de caractère.**

Au fait, Gustave Delattin se plaignait souvent de la conduite de sa femme. On l'aurait entendu dire à plusieurs reprises :

— **Je vais surprendre l'amant de ma femme**

Car il était persuadé de l'inconduite de celle-ci.

— **Elle n'a pas une conduite fameuse**, confiait-il à qui voulait l'entendre.

Il assurait, à tort ou à raison, que sa femme profitait de ses absences (car il fut plusieurs fois veilleur de nuit pour un entrepreneur de Sauvenière) pour recevoir des visites de ses amis.

Un ménage désuni ?

Effectivement, le ménage fut plus d'une fois désuni. Thérésia retourna même en Allemagne, d'où elle fut rappelée par son mari. Tout dernièrement, elle quitta à nouveau la rue Haute pour s'installer à Namur.

— **Elle n'était pas seule**, dira le mari.

Mais à Sauvenière, l'opinion publique en doutait, attribuant à la brutalité du mari cette séparation, car le juge de paix de Gembloux avait été saisi d'une demande de séparation qui avait fortement affecté Delattin.

— **Elle en veut à ma pension**, disait-il

Vendredi dernier, devant le juge de paix, eut lieu une entrevue en conciliation. Des témoins nous ont dit que Delattin était parfaitement calme : il plaida sa cause auprès de sa femme, qui accepta de reprendre sa place au foyer conjugal. Ce devait être sa perte

Au milieu du carrelage, des signes de départ

Que s'est-il passé entre les époux depuis vendredi ?

Lorsque les gendarmes de Gembloux pénétrèrent lundi dans la petite demeure dévastée de la rue Haute, après avoir constaté que Thérésia avait été tuée de plusieurs coups de hachette au visage et à la tête, après avoir constaté que son meurtrier s'était fait justice en se pendant à la rampe d'escalier, les gendarmes purent se rendre compte qu'une nouvelle fois Thérésia s'apprêtait à partir : ses valises étaient faites. Des effets féminins étaient rassemblés dans la cuisine. C'était un départ définitif, un départ que Thérésia n'a pas eu le temps d'exécuter. Elle fut tuée sauvagement. Que.s étaient ses torts ?

Dans une lettre rédigée en flamand et adressée au procureur du roi de Namur, Gustave Delattin indique que sa femme se méconduisait avec un certain Malfroid, qui venait de sortir de prison, et que lui, le mari bafoué, s'était chargé de faire justice. Il en demandait pardon à sa femme qui, indiquait-il, vivait encore à ce moment-là.

Car le meurtrier, après avoir frappé à plusieurs reprises et avec une grande sauvagerie s'était changé : il avait les vêtements maculés de sang, puis il s'était lavé avant de rédiger sa lettre, alors que sa victime agonisait. Il cacha ensuite la hachette derrière le divan de la cuisine et alla se pendre dans la cage d'escalier.

On a raison de dire à Sauvenière qu' « il avait un caractère à part » ce meurtrier.

S. H.

The story.

Case n° 5. From "Le Peuple"

Après le drame de Sauvenière

Dans une lettre posthume, adressée au Procureur du Roi de Namur, l'assassin de Sauvenière — dont on se souvient qu'il s'est fait justice après avoir tué sa femme — met en cause M. André Malfroid. Celui-ci nous signale que contrairement aux allégations reprises dans cette lettre, il n'entretenait pas des relations coupables avec la victime de ce drame passionnel.

Dont acte.

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The Rectification.