

A.G. -v- Richard Edward Manning.

28th May, 1985.

DEPUTY BAILIFF:- "I give my decision first on the appeal against conviction. It is quite true, as you have said, Mr. Jeune, that it is desirable and indeed necessary that accused persons should be present during their trial unless there are exceptional circumstances which were not present here. Having said that of course, having looked at the transcripts, the Court is quite satisfied that every possible latitude was given to your client and it is equally satisfied that every possible opportunity was taken by your client of such latitude offered by the Court. Had the Court not re-heard the evidence which had been heard in the absence of your client, we might have taken a different view but we are satisfied so far as that point is concerned that the failure to have your client present during the hearing on the 29th of November was rectified or cured by the hearing on the 18th of December when he was present and when we are satisfied he had every opportunity of putting questions to the witnesses and conducted his own defence satisfactorily, from the point of view of our being satisfied, that he put all the relevant questions that could be expected to be put to the witnesses. And therefore we are not satisfied there has been any miscarriage of justice, there is sufficient evidence on which the Magistrate could convict and the conviction against the conviction is dismissed. When we come to the question of sentence, it is quite true to have said that any matters of mitigation were not put and therefore we have to consider whether had they been put, the Magistrate would inevitably have imposed a prison sentence. We note that these offences, so far as the Third Party Insurance Law is

concerned, this offence was the third one and so far as the offence against Article 9(4) that was the first one, we have come to the conclusion that a proper sentence in respect of these offences would be a heavy fine but in reducing the sentence or changing it we want to make it clear to your client that if he goes on offending against the road traffic laws of this Island, the next time, I think a prison sentence will be more or less inevitable. So far, therefore, as the appeal against sentence is concerned we are going to allow it and substitute as regards the third party offence, a fine of £150 or 1 month, and so far as the infraction of Article 9(4) of the Road Traffic Law is concerned, a fine of £100 or 1 month and to be concurrent."