

6th May, 1986

A.G. -v- STEVEN TOUSEN ROWE

BAILIFF: "The two matters of principle here are, firstly that it is wrong to send a young person under 21 to prison unless there are exceptional circumstances and unless there really is no alternative.

It is perfectly true that the learned Assistant Magistrate did not express himself in so many words, presumably he must have been satisfied that there was no alternative, but we nevertheless think that the principle is there, and secondly the other principle is, of course, as I am sure you realise, that the Court does not sentence people on the probation report, in other words it is not for the Probation Officer to do the sentencing. They make recommendations and of course it is a matter entirely for the Court's discretion whether they accept those recommendations or not. Naturally, they pay them proper regard.

Under the circumstances, we have come to the conclusion that the proper sentence would be one of probation. Stand up Rowe. We are going to place you on probation as if the learned Assistant Magistrate had. That means three things. It means that you must live and work as directed by the Probation Officer. That you must be of good behaviour, for two years you are doing this, and it means that you must come up for sentence should you not keep to your probation, and if you come up for sentence of course it will be sent back to the Magistrates Court and you may well, in fact, find yourself going to prison nevertheless. Therefore we are going to substitute a sentence of probation and hope you will learn during the period of probation the difference between right and wrong no matter what the difficulties are. Do you understand?

.....

Yes, yes. Well you've got Probation to keep an eye on you for the next two years. Right, that's alright, he's released. Legal Aid costs.