

ROYAL COURT

(Police Court Appeals)

13th January, 1988

Before: Sir P.L. Crill, K.T., C.B.E., Bailiff of Jersey
assisted by Jurats Baker and Orchard

Police Court Appeal: David Ronald Manning

Appeal against conviction and sentence in
respect of one charge of causing an obstruction
to the free passage of a footpath under
Article 2(f) of the Policing of Roads
(Jersey) Regulations, 1959.

Advocate S.C. Nicolle for the Crown
Mr Manning on his own behalf

THE BAILIFF: This appeal arises out of an incident in the town on the 3rd April, 1987, when the appellant was convicted by the learned Assistant Magistrate of obstruction, in contravention of Article 2(f) of the Policing of Roads (Jersey) Regulations, 1959, by placing a large safe on the footpath outside No. 4, The Parade. The first thing I want to say is that the Parade is a busy area and Friday afternoon is a particularly busy time for people in that area. Therefore, we agree with Miss Nicolle that just as time has to be

taken into account as a material circumstance in deciding whether there has been an obstruction, so also must the place and the amount of people using the area. It appears to us that the learned Assistant Magistrate may have been under a misapprehension that in fact before Mr Stievenard, who was in fact the complainant in the sense that he saw the safe there, came along, the safe had remained there for some thirty minutes. It would appear to be the inference drawn from P.C. De La Cour's evidence and it was not clarified or challenged by the appellant. However it has to be remembered that he was not defended and appeared for himself and allowance must be made for this fact.

Every case, of this sort particularly, must be decided on the facts concerned. It is impossible to lay down a principle which would cover every case, except of course, as I have said, time and the place and the amount of people who will be effected have to be considered in deciding whether there is an obstruction or not. I have already referred in Court to the definition of obstruction in the Australian case in words and phrases legally defined at page 9 where the question of an appreciable practical extent is considered, and that is the point. Was there an obstruction to an appreciable practical extent? We think that had the matter of the actual time been clearly before the learned Assistant Magistrate there would have been some doubt in his mind as to whether what was there was in fact to an appreciable practical extent interference with the right of free passage. We therefore think it would be unsafe to allow the conviction to stand. The appeal is allowed with costs.

Authority referred to in the judgment:

Butterworths words and phrases legally defined - second edition - Volume 4:
0-R.p.9 - Haywood -v- Munford (1908), 7 CL.R. 133.

Other authorities referred to:

Jarrod's Dictionary of English Law - the definition of "obstruction"
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