



Mrs. Quénault has three children aged 13, 11 and 10. The driving, in this case, did in fact result in an accident in that she apparently drove into the back of another car, but subsequently drove away from the scene without reporting the matter to the police.

The ground of appeal put forward on her behalf by Mrs. Pearmain was essentially that the Magistrate did not approach the matter of sentence with an open mind. The submission was based upon the following passage from the transcript of the proceedings:

*JUDGE DOREY: "This is a very serious case. It is not merely the fact that you had consumed so much alcohol that you had a very high breath reading but the fact that you were so affected by the alcohol that your driving was seriously impaired so that not only did you have an accident, but also you drove away afterwards to avoid detection and that I am sure was also the result of the alcohol that you had consumed. Dealing first with the Article 16 charge I cannot avoid a prison sentence in a case where the amount of alcohol in the breath is as high as that. It is the Court's policy, and I would also say it is the Court's duty, to impose severe penalties on people with a very high level of alcohol in the breath. So on count 3 of the second charge sheet you will go to prison for one week."*

Mrs. Pearmain put it to us that the use of the words "I cannot avoid a prison sentence" indicated that the Magistrate did not consider other options which were available to him.

We do not agree. We cannot find that this passage from the transcript of the proceedings in the Police Court indicates that the learned Relief Magistrate approached the matter with a closed mind. Indeed the passage which we have cited indicates that the Magistrate did have in his mind all the relevant circumstances of the offence.

We have considered very carefully the question of the children because, as we have indicated, it is a consideration to be taken into account when sentence is imposed. In this case the children are of an age where they might be expected more readily to understand the absence of their mother for a short period. Furthermore there is an extended family with whom, we were told, the appellant enjoys a reasonable relationship, who would be able to offer support so far as the children are concerned.

Taking all those factors into account we do not consider that the same factors which caused us to exercise mercy in relation to the previous case are applicable here and the appeal of Mrs. Quénault is therefore dismissed.

Counsel will, no doubt, wish to apply for costs. Insofar as the first three cases are concerned, counsel shall have their legal aid costs.