

27th June, 1985

E -v- E

BAILIFF: The Court considers that this is a serious matter; in fact, although the previous breaches have not come before the Court, this is the fourth time in which there has been a breach, spread over a period of two months, the last three, of course, being in a short space of each other, and the Court considers that - as I said in the last case - the plaintiff must be protected and the child and that therefore the Court is going to sentence you, E to three months' imprisonment ... sorry, three weeks' imprisonment.

Now, we have been told that you are serving a sentence of imprisonment at your option in place of a fine; now, we wish the three weeks' imprisonment to start at the end of the period of imprisonment that you are serving in default of payment of the fine.

Now, of course, the period of sentence which you are serving in default of the fine is at your option and you, in fact, can put an end to that sentence of imprisonment at any time by paying the fine and we don't know whether you intend ... we're told you don't intend to do that but you're entitled to change your mind, and, therefore, what we want to do is to say that at whatever time your sentence ends in default of paying the fine, you will then serve three weeks' imprisonment.

Now, I have to say that I wish, during the afternoon, to make enquiries to make sure that that is a sentence which we can impose.

I believe that we can but it is a technical point and I have to make sure by seeking advice, by looking up textbooks; I cannot do that at this time of the day. And therefore I think the situation is this - we will make the decision, we have made a decision - you will serve three weeks' imprisonment, to start at the expiration of the sentence you serve which is at your option for non-payment of a fine. If, during the afternoon, we find that that particular sentence is one which we are not entitled to impose in that it must be concurrent, then we will have to get you back and make it right; it's just that I have a slight doubt as to whether we can do it; we probably can but I must check. What I propose to do is to consult the Prison Governor but I don't think I can do that at this time of the day. I propose to consult the Prison Governor because he's an expert

and to ask him whether, in fact, this is a sentence we can properly impose.

ADVOCATE: (indistinct)

BAILIFF: No, not at all. Obviously we have the right to change our sentence today and we would do it today; we have a right to change it today and I will try to make sure the necessary enquiries are made. Do you understand the situation? The Court will be sitting again at half past two anyway so that means we will have the opportunity to change the situation if we find that we have to. Thank you.