

**ROYAL COURT**  
**(Samedi Division)**

18th March, 1994

59.

**Before: The Bailiff, and**  
**Jurats Bonn and Hamon**

---

**The Attorney General**

- v -

**Daniel McLean,**  
**Kevin Andrew Lochhead**

---

**McLean & Lochhead**

**I count of**        **breaking and entering and larceny (count 1 of the indictment).**

**McLean**

**1 count of**        **receiving stolen property (count 2).**

**AGE:**            McLean: 25.  
                     Lochhead: 27.

**PLEA:**            Guilty.

**DETAILS OF  
OFFENCE:**

**Count 1**        £10,500 retail value clothing.  
                     Returned to scene to steal more.

**Count 2**        £70.

**DETAILS OF MITIGATION:**

**McLean:**        Relatively good record; Age; Probation recommended probation and alcohol study group.

**Lochhead:**      Relatively good record.

**PREVIOUS CONVICTIONS:**

**McLean:**        4.1.85 - Theft by housebreaking.  
                     Admonished.  
                     29.8.91 - Larceny from shop display.  
                     Fine £75.

**Lochhead:**      20.5.91 - Drink/Driving.  
                     Fined £250.

No licence.  
Fined £25.

**CONCLUSIONS:**

McLean: count 1: 18 month's imprisonment.  
count 2: 1 month's imprisonment (consecutive).

Lochhead: count 1: 18 months' imprisonment.

**SENTENCE:**

McLean: count 1: 12 months' imprisonment.  
count 2: 1 month's imprisonment (consecutive).

Lochhead: count 1: 12 months' imprisonment.

---

**A.J. Dessain, Esq., Crown Advocate.  
Advocate S.J. Habin for McLean.  
Advocate J. Melia for Lochhead.**

---

**JUDGMENT**

**THE BAILIFF:** Breaking and entry by night even of commercial premises is a serious offence which normally carries with it a sentence of imprisonment. Nonetheless we have seriously considered whether it would be possible to impose an alternative to a custodial sentence and had it not been for the fact that you both returned a second time when clearly the excuse of intoxication could not apply, we might well have imposed a non-custodial sentence.

There were two visits to these premises and in spite of what your counsel have said and notwithstanding what is in the Probation Report, which we have of course considered most carefully, the Court is unanimous that its duty is to impose a sentence of imprisonment, with all the consequences that flow from it for you.

The Court is conscious that neither of you have received this sort of sentence before, but the amount taken was considerable. Alcohol is not a mitigating factor; it is an aggravating factor. The Court cannot but stress that point as it seems to be increasingly a practice to suggest otherwise.

Having said that there are number of matters which counsel have quite fully urged on the Court in respect of the length of the sentence and the Court feels able to make some reduction in the conclusions asked for by the Crown. Accordingly, both of you are sentenced to 12 months' imprisonment in respect of count 1; and McLean, in addition, you are sentenced to 1 month's imprisonment consecutive, on count 2.

### Authorities

- A.G. -v- Reucroft, Middleton, Mason & Wainer (30th April, 1990)  
Jersey Unreported.
- A.G. -v- Lynch, Barclay (24th May, 1991) Jersey Unreported.
- A.G. -v- McDonough, Dring (25th October, 1991) Jersey Unreported.
- A.G. -v- Saven (3rd April, 1992) Jersey Unreported.
- A.G. -v- Cooke (25th June, 1992) Jersey Unreported.
- A.G. -v- Kehoe, McCarthy, McMillan, Wakeham, Waugh (18th June,  
1993) Jersey Unreported.
- A.G. -v- Falle, Hendry, Hartas (25th June, 1993) Jersey  
Unreported.