

87/25.

14th May, 1987

ROYAL COURT

(Superior Number)

**Before The Bailiff and the Full Court**

**Her Majesty's Attorney General**

-v-

**Michael Aubin**

(Superior Number Sentencing)

Judgment

**The Bailiff:** We have been invited by the Solicitor General to lay down a bench mark in respect of cases of this nature, and we propose to do so. In general terms we consider that offences of this nature merit sentences of imprisonment, particularly when they are carried out at night, and particularly over a relatively long period of time, and we re-affirm what we (that was the Inferior Number), said earlier, that we think we should have regard if we can to Current Sentencing Practice rather than to Thomas on Sentencing which we have said before is now becoming almost out of date. That being so, we then had to decide whether in this particular case, prison was the appropriate sentence. We gave full weight to the submissions you made Mrs. Pearmain, and we examined very carefully the Probation Officer's recommendations, but it cannot be said that the recommendation was a strong one. It was a suggestion, and it was qualified by the very frank and fair statement in the Probation Report that the risk would be extremely high if we were to place this man on probation. The offences taken together are serious. We have come to the conclusion that looking at the English

cases of Bradley and Smith and the Jersey cases, in so far as they are relevant, we think that this case inclines more towards that of Smith, where of course there was a sentence of four years' imprisonment. We think that the Solicitor General has discounted one year for the circumstances he has mentioned, particularly the cooperation of the accused, and we certainly take into account that you Aubin helped the police as result of which these offences came to light and were traced to you. Nevertheless, you have been involved in a large number of offences over a period of time. We realise that apparently you like to go to prison, but that's not really a matter which we can take into account. We have to balance what we should do with you against the public interest and the fact that people are entitled to expect that their premises are not going to be broken into as and when people like you decide to do it. We note that at some stage you appeared to be working properly and then you became unemployed and homeless; we were not told why, and then you decided, because you started drinking and gambling again, that you would help yourself to other peoples' property. We cannot allow that to continue and we want it to be made clear to those who might be tempted, like you, to do the same that if they do so they will expect to receive, unless there are exceptional circumstances, a sentence of imprisonment. We are sorry to send you to prison for a longish period because you are still a young man, but we think it is our duty to do so. The conclusions are therefore granted and you will serve a total of three years in the proportions outlined by the Solicitor General. In respect of Counts 1 to 9 inclusive, twelve months concurrent; Count 10, eighteen months consecutive, each of Counts 11 to 18 inclusive, eighteen months concurrent, Count 19, three months concurrent, Count 20, six months consecutive, each of Counts 21, 22 and 23, eighteen months concurrent and Count 24 twelve months concurrent. As I have said, a total of three years.

Authorities referred to in the judgment:-

R. -v- Christopher Edward Bradley (1983) 5 Criminal Appeal Reports ('S' Series).

R. -v- John William Smith (1981) 3 Criminal Appeal Reports ('S' Series).

Other authorities referred to:-

A.G. -v- David Hughes et al (27th July, 1985) Jersey Judgments - as yet unreported.

Thomas' current sentencing practice & R -v- Colin David Murdoch and others (1981)

3 Criminal Appeal Reports ('S' Series).