

2nd October, 1987

**Before the Bailiff, assisted by Jurats Lucas and Baker.**

**Her Majesty's Attorney General**

**-v-**

**Peter Henri Francis Botrel and Terence Roy Hutchings.**

**Botrel: Conspiracy to defraud (one count)**

**Hutchings: Conspiracy to defraud (one count)**

**Obtaining money by false pretences (one count)**

THE BAILIFF: I start by referring to the case which you Mr. Michel were kind enough to provide the Court with, that is to say the case of the R -v- Stewart, and on page 385 at letter 'H' the Lord Chief Justice says this:-

"These offences, that is to say welfare offences (and that is what this one is), involve the dishonest abstraction of honest tax payers money and are not to be treated lightly. They are easy to commit and difficult and expensive to track down. However, it must be remembered that they are non-violent, non-sexual and non-frightening crimes."

And there are other observations to which you drew our attention in that case. These are serious offences and we have no doubt that the Attorney General was perfectly entitled to ask for custodial sentences and as he said, it is a question of balancing the seriousness of these cases, which indeed were frauds on public funds, against the needs of the individual offenders. Having read the papers and

considered your letter Hutchings as well and the reports of individual doctors and having regard to the circumstances that you each find yourself in, but also particularly to the fact that generally speaking you have managed to attempt to pull yourself together, Hutchings not quite so well as Botrel, over the past seven or eight years, we think that factor entitles us to exercise our discretion and differ from the conclusions of the Attorney General. Because of the present legislation, we are bound if we wish to impose a sentence of Community Service as an alternative to prison (which is what Community Service is), to attach also a Probation order. It may help you, it may not, that entirely depends on you two, but what will happen when we impose our sentence is that you will have to fulfill your Community Service hours to the satisfaction of the Community Service Officer and the Probation Officer, and if you don't, and I want to make it clear, you will be sentenced both of you to imprisonment even though it is quite clear to us that you are both institutionalized and it might not do much good. Therefore, we are going to accede to your counsels request by imposing the equivalent of a Community Service order in each case. Botrel, you are placed on probation for two years and you will carry out 210 hours Community Service. Hutchings, you are placed on probation for two years on counts 2 and 3 concurrent. In respect of count 2 you will do 120 Community Services hours and in respect of count three, 90 hours making a total consecutively of 210 hours as well.

**Authorities referred to in the judgment:-**

R -v- Stewart 1987 2AER p. 383 - at page 385 (letter 'H').

**Other authorities referred to:-**

D.A. Thomas (2nd edition) p. 200 - "The effect of a gap in the offender's record".

A.G. -v- Peter Gerald Marriott; Jersey Judgments 5th February, 1987 - as yet unreported.

A.G. -v- Alan Edgar Talibard; Jersey Judgments 25th September, 1987 -unreported.

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