

Royal Court  
(Superior Number) 138

6th August, 1992.

Before: The Bailiff and Jurats Coutanche, Vint, Myles,  
Bonn, Orchard, Hamon, Gruchy, Le Ruez and Rumfitt.

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The Attorney General  
-v-  
Robert Christopher Dowden,  
James Vincent Blair,  
Dennis Edmund Barbet.

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Sentencing, following guilty pleas by the accused to the following counts in the indictment laid against them on 3rd July, 1992.

Dowden:

- 2 counts of illegal entry and larceny. (Count 1 [with Blair], and Count 2 of the indictment.)
- 3 counts of receiving stolen property. (Counts 4,7,9.)
- 1 count of attempting to obtain property by false pretences. (Count 5.)
- 1 count of larceny. (Count 6.)
- 1 count of obtaining property by false pretences. (Count 8.)

Blair:

- 1 count of illegal entry and larceny. (Count 1 of the indictment [with Dowden].)

Barbet:

- 1 count of illegal entry and larceny. (Count 3 of the indictment.)
- 1 count of conduct likely to cause a breach of the peace. (Count 10.)
- 1 count of larceny. (Count 11.)

**AGE:**

- Dowden 36
- Blair 30
- Barbet 53

**DETAILS OF OFFENCE:**

Over a two/three month span the accused entered an attic storeroom in the States Building and removed hundreds of documents concerning the administration of Jersey under German occupation during the last World War. These documents contained sometimes sensitive information and included documents of singular modern historical interest. The accused sold them to local dealers for a total sum of about £2,500.

Also taken were occupation stamps and banknotes and more modern items of memorabilia including framed pictures.

**DETAILS OF MITIGATION:**

Defence counsel described these men as itinerant drunks looking for nothing more than the price of the next drink. This was not a sophisticated or cynical heritage loot. All were co-operative after arrest. 90% of material recovered.

**PREVIOUS CONVICTIONS:**

Dowden and Barbet had the records of recidivists. Blair had a rather less depressing record. Each man had a history of drink and dishonesty.

**CONCLUSIONS:**

Dowden (leader): counts 1,2: 2y 6m; counts 4,5,7,8: 9m; counts 6,9: 3m: counts 1,2: concurrent; counts 4,5,6,7,8,9: concurrent, but consecutive to counts 1,2: Total: 3y 3m; Blair (first lieutenant) 2y; Barbet (tail-ender): count 3: 1y; count 10: 6w; count 11: 9m: counts 10,11: concurrent, but consecutive to count 3: Total: 1y 9m.

**SENTENCE AND  
OBSERVATIONS OF THE COURT:**

No direct precedent of assistance. On counts 1 and 2, Crown had tentatively suggested benchmark of 4 yrs. Court considers slight reduction to 3 yrs 6m appropriate. Therefore Dowden: counts 1,2: 2yrs; remaining counts: conclusions granted: Total 2y 9m; Blair 12m; Barbet adjourned to consider placement in a U.K. home for drunks.

19 AUG'92: Barbet: 2 yrs probation subject to residence at Glyndhurst Hostel, Gloucester.

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C.E. Whelan Esq., Crown Advocate.  
Advocate R.G.S. Fielding for Dowden.  
Advocate J.C. Gollop for Blair.  
Advocate M. St.J. O'Connell for Barbet.

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**JUDGMENT**

**THE BAILLIFF:** In cases of this nature, and I am referring of course to the entering of the room in the States' building over a long period of time, by day, there is no benchmark available; and understandably so as that particular type of offence is not common. Therefore the Court has had to examine earlier cases to see whether it was possible to arrive at a benchmark, and whether it could agree with the figure of four years suggested by the Crown.

We have decided that we have to differ from that figure. We think that having regard to the case of AG -v- Marie (11th June, 1992) Jersey Unreported, where a figure of three years was appropriate for breaking and entering private accommodation by night, the proper benchmark to start with in this case is one of 3<sup>1</sup>/<sub>2</sub> years.

Having done that, we then have to consider - dealing first with the case of Dowden and to a lesser extent with Blair as regards the entry and removal of items from this building - whether the figures asked for by the Crown are correct.

Under all the circumstances we think that the proper sentence for Dowden in respect of counts 1 and 2 is a sentence of two years' imprisonment, and we arrive at that figure by taking into account that there were numerous visits to this "Aladdin's Cave", as Counsel described it. Although Dowden did not benefit very much commercially, there was potential benefit there; it is also true that he was extremely cooperative when eventually caught.

Nevertheless, as I have said, we think the proper sentence in respect of counts 1 and 2 of the indictment, as set out in the Act of Court of 3rd July, 1992, is one of two years' imprisonment, concurrent with each other.

As regards the other counts laid against you, Dowden, we think the appropriate sentence of imprisonment on count 4 to be 9 months; on count 5, 9 months; on count 6, 3 months; on count 7, 9 months; on count 8, 9 months; and on count 9, 3 months, as asked for by the Crown, to run concurrent with each other, but to follow consecutively the sentences passed on counts 1 and 2. Therefore, you are sentenced to a total of two years and 9 months' imprisonment.

As regards Blair, we cannot overlook the fact that although there might well be said to be a 'jump effect' and that he has a drink problem, he has in the past been placed on probation, in an attempt to solve his drink problem, and he did not succeed with what was offered then. We have come to the conclusion that a prison sentence is appropriate in his case as well. Having regard to the reduction in the conclusions we have made in respect of Dowden, we think the proper sentence in respect of you, Blair, is 12 months' imprisonment and you are sentenced accordingly on count 1 of the indictment. We further order that the Probation Order made against you in the Magistrates' Court on 10th September, 1991, be discharged.

As regards Barbet, we have accepted that he is an alcoholic, which is a form of disease, and we are going to postpone sentencing him on counts 3, 10, and 11 until 10 o'clock on the 19th August, 1992, in order that the Probation Office can pursue the possibility of getting him into a hostel. In the meantime he will remain on Bail.

### Authorities

AG -v- Drew (2nd July, 1986) Jersey Unreported; (1985-86)  
JLR N.19.

AG -v- Aubin (1987-88) JLR N.6.

AG -v- Marie (11th June, 1992) Jersey Unreported.

Thomas: Principles of Sentencing (2nd Ed'n): pp.147-151;  
197-205; 209-211.

AG -v- McDonough, Dring (25th October, 1991) Jersey Unreported.

AG -v- Saven (3rd April, 1992) Jersey Unreported.

AG -v- Le Monnier (13th March, 1987) Jersey Unreported; (1987-88)  
JLR N.21.

James Morton: A Guide to Sentencing: p.74.