

imprisonment. On the principal charge, the appellant was sentenced to imprisonment for a period of 18 months and on the subsidiary charges to imprisonment for 3 months. I note that the subsidiary charges, which related to Breach of Probation and Theft of the chequebook were such as to carry the maximum prison sentence of 3 months and under those circumstances the appellant has been sentenced to the maximum penalty for offences which do not come into that category. I note, further, that in arriving at that conclusion, the learned District Court Judge undoubtedly had in mind the effect of the principal sentence.

I find this a concerning matter.

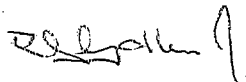
It is clear that the appellant is a nuisance to the community, that he had little concern for other people in what he did, and that his response on previous occasions to reasonably lenient treatment has not been particularly good. I note, in particular, that further oversight by way of Probation was not recommended. It also appears that on a previous occasion when Periodic Detention was imposed, the appellant failed to report, and there appears to be some confusion over exactly what happened in respect of that sentence.

It seems to me that apart from imposing a penalty which is designed to convince the appellant that behaviour of this kind is unacceptable to the community and is likely to result in severe penalties, the community is entitled to some degree of recompense. There seems to be little point at simply supporting him at community expense for a lengthy period when he has already had the

advantage of the money which he has obtained. Bearing that in mind, I am prepared to allow the appeal and to consider an alternative sentence. I am concerned over the possibility that the appellant may not respond to a further period of Periodic Detention, but the Probation report does indicate that he has not so far had any real opportunity to respond to such a penalty.

Having regard to all the circumstances, on the principal charge I am prepared to substitute a penalty of 6 months Periodic Detention, and 12 months Probation. One of the conditions of the Probation is that the appellant is to pay, by way of restitution, the maximum sum which the Probation Officer considers it reasonable to take from whatever source of income he may have during the period of Probation until such time as the total amount which he has obtained by these offences has been repaid.

In imposing that sentence of Periodic Detention, I make the observation that if the appellant should in any sense fail to respond to the opportunities which are given to him, then no doubt he could expect a substantial sentence of a different nature. In respect of the two other charges, in view of the alternative penalty which has been imposed, he is convicted and discharged.



Solicitors:

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