

ROYAL COURT

10th January, 1992

4,

Before: The Bailiff, and
Jurats Orchard and Hamon

The Attorney General

- v -

John Elliott Sproule

Larceny as a Servant: 1 Count (Count 1)
Falsification of Accounts: 4 Counts (Counts 2-5)
Fraudulent Conversion: 1 Count (Count 6).

PLEA:

Guilty.

DETAILS OF OFFENCE:

Manager's assistant at Lloyds Bank (grade 3 and then grade 4 clerk). Defendant stole a total of £24,846.10 by diverting money which was properly due to the Bank from customers for arrangement fees, charges, etc., to three fictitious accounts or to his own Access account. In two cases he inflated an amount of interest payable to the customer and then transferred the element of overpayment to his own account. He telephoned the relevant customer to explain so that they would not be surprised. 23 separate transactions over one and threequarter years. He spent £18,000 on a new car, balance on general living. £12,000 recovered on the sale of car. Discovered after unrelated investigation.

DETAILS OF MITIGATION (INCLUDING DOMESTIC CIRCUMSTANCES):

Complete frankness on investigation and guilty plea; only medium level of responsibility for moderate pay (£11,500 pa). Tempted by the ease with which he could commit the offences. Had lost his job. Brought great shame and sorrow to his family. Alleged that car should have been sold for a greater sum so that loss would be less. Offence compared to Hamon and therefore sentence of 15 months appropriate.

PREVIOUS CONVICTIONS:

Minor offence for forgery (fined £100).

CONCLUSIONS:

21 months concurrent on each count.

SENTENCE AND OBSERVATIONS OF THE COURT:

Conclusions granted. Facts very different to Hamon. Court conscious of shame to family but offences were over a considerable period. The fact that it was easy to commit the offences exacerbated the offence rather than provided mitigation. Sentence must be sufficient to deter others. Conclusions of 21 months were not excessive.

NOTES:

Probation report had accepted Community Service not appropriate as lack of Jersey connections.

M.C. St. J. Birt, Esq., Crown Advocate
Advocate Mrs. S.A. Pearmain for the accused.

JUDGMENT

BAILIFF: We have listened very carefully, Mrs. Pearmain, to everything you have said and have examined all the matters which were recited in the previous cases, particularly that of A.G. -v- Hamon (8th January, 1990) Jersey Unreported, as being the kind

of matters to which the Court must have regard in deciding on sentence. You have rightly and quite properly in our opinion conceded that there has to be a prison sentence in this case.

At this stage I think I should say that the Court is conscious of the shame that you, Sproule, have brought upon your family, who have supported you during this unhappy episode in your life. The Court is conscious that they have been extremely shocked at your behaviour.

On the other hand, the Court cannot overlook the fact that these acts of dishonesty took place over quite a considerable period. You were paid a sum adequate for your grade. According to the Probation Report, you regarded yourself as not having been adequately paid, because of your having undertaken a certain amount of extra responsibility. That is not a matter the Court could go into and it is certainly not a reason for reducing the sentence.

This was a deliberate fraud against your employers. It so happens that they happened to be a bank, but fraud by any person placed in a position of trust, as you were, is exacerbated if there is an easy way of defrauding the employer without his finding out. That in fact makes the offence worse not better.

Under all the circumstances and particularly having regard to the effect on other employees, not only of your bank but of other banks, it is necessary that the sentence should be substantial, sufficient at any rate, to deter people from embarking on this form of behaviour.

We have looked very carefully at your argument, Mrs. Pearmain, about the actual amount lost and compared the figures with those in Hamon, but it is not really a very fair

comparison. The effect of what Hamon did was totally different from what this man did and it was fortuitous that he was found out and fortuitous that some of the money from the original theft was recovered.

Under all the circumstances we cannot say that the Crown Advocate has asked for an excessive figure and therefore, Sproule, you are sentenced to 21 months' imprisonment on each count concurrent.