

12/85

## SUPREME COURT OF VICTORIA — COURT OF CRIMINAL APPEAL

***R v GREAVES*****Crockett, O'Bryan and Gray JJ****6 March 1985****SENTENCING – PARITY OF SENTENCING.**

The defendant appealed from a decision in which he was sentenced to 8 years' imprisonment, minimum 5 years, in respect of 16 counts of burglary. Crockett J (with whom the other Judges agreed) held that there was nothing incorrect in the sentence selected by the Judge, in view of the circumstances that the requirements of retribution and deterrence outweighed any consideration of any factors of reformation and the defendant's future rehabilitation. As to parity of sentencing of co-offenders, Crockett J said:

**CROCKETT J: [6]** "The third ground relates to the Judge's failure to give consideration to the fact that there was a co-offender and the manner in which that co-offender was dealt with. This is a ground of substance, and but for one matter may, in my view, have well justified this Court's interference.

The fact is that there was a co-offender in respect of some of the offences. The co-offender had been dealt with before the present applicant was sentenced, and the Crown's duty was to have been that the sentencing Judge was provided with the details of that co-offender's convictions and sentences. That matter has been attended to before this Court. It appears, as a result of those enquiries that were made for the benefit of this Court, that the co-offender had been dealt with on his pleading guilty to three counts of burglary and three counts of theft which relate to certain of the offences with which this applicant had to be dealt, and the co-offender was, at the Magistrates' Court in August of last year, granted probation for five years in respect of those offences.

However, it appears that the co-offender had no prior convictions. At the time he was dealt with he was only seventeen years of age, and it would [7] appear only fifteen or sixteen years of age at the time of the commission of the offences. In those circumstances it is plain that the factors governing the selection of an appropriate sentence for the present applicant were so vastly different from those which govern the sentence to be determined as the appropriate sentence for the co-offender, that it must be said that, even if the Judge did have that information before him, he could not possibly have used it for the purposes of deciding upon a different sentence from that which, in fact, he chose to pass.

For those reasons, it appears to me that the third ground relied upon cannot afford a foundation for this Court's interference with the trial Judge's sentence."