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BETWEEN

McCLOY

Appellant

A N D POLICE

Respondent

Hearing: 1 February 1984

Counsel: R.A. Campbell for Appellant
N.W. Williamson for Respondent

Judgment: 1 February 1984

ORAL JUDGMENT OF HOLLAND, J.

The appellant was convicted in the District Court at Christchurch on a charge of cultivating cannabis. There were 27 plants involved of varying degrees of development up to one foot in height. He was fined \$750 and ordered to pay costs of \$20 and there was an order made for immediate payment, in default two months imprisonment.

I am satisfied that the appeal against sentence is entirely without merit. This man had available in cash the amount of the fine and it was accordingly quite appropriate to make an order for immediate payment. It is almost becoming notorious that fines are matters that can simply be deferred. On occasions where without particular hardship immediate payment can be made I certainly do not wish to be a party to discouraging the practice. It is submitted that the amount of the fine is out of order with a number of other fines imposed this month in the District Court at Christchurch. A charge of cultivating cannabis is one that varies considerably in its extent. If, however, as submitted the fines imposed are cases of a similar quantity to this fine, those fines are inadequate. The appellant submits that because his wife is

about to give birth to a child and there will be expenses involved arrangements should have been made to defer payment of the fine. If people cultivate cannabis they must expect to be punished and this man was. Care must be taken to ensure that the thrifty person who is able to save money is not fined beyond the normal level merely because he has the money available. There may be occasions when persons, because of their inadequacies and the extent of their other commitments, are quite unable to pay an adequate fine and in those circumstances it is proper that a lesser fine be imposed. It is not proper to impose an excessive fine because a person has the ability to pay but I am satisfied that this fine was far from excessive. The appeal will be dismissed.

A D Holland