

BETWEEN

DRUMMOND

Appellant

A N D THE POLICE

Respondent

Hearing: 18 July 1984

Counsel: I.G. Mill for Appellant  
N. Scott for Respondent

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ORAL JUDGMENT OF ROPER J.

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This is an appeal against a sentence of six weeks' imprisonment on charges of assault and intentionally damaging police property. At about 3 a.m. on 25th May last the Police were called to the Timaru Hospital where a group was causing a disturbance. However they had left by the time the police arrived, except for one who was receiving medical attention. The Appellant, who was well under the influence of liquor having won and consumed the best part of a bottle of whisky, then returned to the hospital and tried to gain entry to the Accident and Emergency Ward, but he was prevented by a hospital orderly who considered him under the influence. The Appellant retaliated by putting both hands round the orderly's neck and shaking him. It seems the police were still present and they broke the matter up immediately and there was no injury. While in police custody he ripped a sheet and a mattress cover.

The Appellant is 24 with no previous convictions for violence, and it is very obvious that on this night drink was his problem. It has been said that six weeks' imprisonment is manifestly excessive and even the Crown concedes that it is a stern sentence. It appears that the conduct on this early morning was out of character and

I accept Mr Mill's submission that a sentence of imprisonment was manifestly excessive and perhaps inappropriate in the circumstances.

The appeal is therefore allowed and in lieu the Appellant is sentenced to six months' periodic detention to attend at the Centre at 39 High Street at 6 p.m. on Friday of this week and thereafter on such occasions each week as shall be specified by the Warden. He will place himself in the custody of the Warden for 9 hours on one such occasion in each week and up to four hours on every other occasion as the Warden shall direct.

A handwritten signature in black ink, appearing to be 'S. J. [unclear]', written in a cursive style.

Solicitors:

Clark & Mill, Timaru, for Appellant  
Crown Solicitor, Timaru, for Respondent