



last year in the District Court at Manukau before Judge Singh and a jury. They were both found guilty and the appellant was later sentenced to 15 months imprisonment.<sup>1</sup>

[2] He now appeals against both conviction and sentence.

[3] The case is linked, particularly as to sentence, with another appeal involving the appellant, arising out of his trial in April last year on a charge of indecent assault. He was found guilty on that charge and was later sentenced to eight months imprisonment. The two sentences of imprisonment are to be served cumulatively. For this reason, reference can usefully be made to our judgment on the appellant's appeal against conviction and sentence in relation to the indecent assault trial.<sup>2</sup>

[4] In material filed by the appellant a very large number of complaints about his trial and conviction were raised, but the appeal as argued focused on:

- (a) The contention that the Crown did not prove a relevant use of a document;
- (b) Complaints about interventions by the Judge;
- (c) Arguments as to delay and abuse of process;
- (d) Complaints about the actions of Television New Zealand; and
- (e) Challenges to the sentence imposed.

We will address the case by reference to those grounds of appeal but, before we do this, it is necessary to explain briefly the factual background.

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<sup>1</sup> *Inland Revenue Department v Palmer* CRI-2007-092-8434, 29 May 2009.

<sup>2</sup> *R v Palmer* [2009] NZCA 616.

## **Factual background**

[5] On 20 August 2006, the appellant, acting on behalf of Rexion, submitted an electronic GST return (the internet return) which recorded expenditure of \$732,400, and receipts of \$1,150 giving rise to a GST refund of \$81,250. The internet return, however, incorrectly recorded the period end as 30 June 2006 (instead of 31 July 2006). An Inland Revenue Department operator telephoned the appellant who confirmed that he had incorrectly entered the wrong period date. As a result, a manual return was completed by the Inland Revenue Department operator and re-submitted for processing with the same figures as those originally submitted but with the period end date corrected to 31 July 2006.

[6] Under s 36(3) of the Tax Administration Act 1994, Rexion was required to retain or cause to be retained a hard copy transcript of the internet return and that hard copy transcript was deemed to be the return of Rexion and held by Rexion on behalf of the Commissioner.

[7] At a voluntary interview on 18 September 2006 between the appellant and employees of the Inland Revenue Department, the appellant confirmed the filing of the electronic return and handed to the Commissioner the hard copy version of the return. The hard copy was dated 16 August 2006 and had the period end date correctly recorded. It was the handing over of this document which the Crown relied on at trial as being the relevant use of a document.

[8] The return was primarily based on a transaction apparently entered into between Rexion and Pacific Salvage NZ Ltd on 17 July 2006 under which Rexion purchased from Pacific Salvage materials for a total cost of \$731,250 (including \$81,250 GST). A GST invoice which recorded this transaction was produced by the appellant at the 18 September 2006 interview.

[9] Pacific Salvage was associated with Mr Graham Cann, a long time associate of the appellant. Mr Cann committed suicide on 17 July 2006, ie on the same day as the agreement was allegedly entered into.

[10] Although the formal charge focussed on the GST return, the Crown case focussed very much on the invoice, with the case proceeding on the basis that this invoice was not genuine (ie not a genuine record of a genuine transaction).

[11] Because of the suspicions held by staff of the Inland Revenue Department into the genuineness of the alleged Pacific Salvage/Rexon sale, substantial investigations were made into the substance of the alleged underlying transaction. This extended to forensic examination of both the documents relied on by the appellant and of the late Mr Cann's computer. There was also consideration of the explanations given by the appellant of the alleged transaction and its commercial context, and the largely unsuccessful attempts to identify and locate goods which corresponded to what had allegedly been sold.

[12] In the result, the appellant was not charged until 7 June 2007 and the appellant's trial in the District Court commenced early March 2009. In other words, there was a nine month investigation/pre-charge delay and subsequently a 20 month delay between charge and trial.

[13] For reasons which we will discuss later, the appellant represented himself (and Rexon as well) at trial.

[14] Given the grounds of appeal, we need only provide a brief survey of the competing cases advanced at trial.

[15] The 17 July 2006 invoice purported to record the sale of a miscellany of assets, most of which could be used in the assembly of portable buildings. The price recorded for the purchase of these assets was \$625,000. The invoice also encompassed the sale of a "Hino truck with Hiab" for \$25,000. So the total price net of GST was \$650,000 and the GST component was \$81,250.

[16] The invoice, as it stood, was impossible to defend. Even if new, the items listed on the invoice would have been worth no more than around \$310,000 (excluding GST). But, in any event, nothing like the quantities of items referred to in the invoice could ever be accounted for and, as well, Pacific Salvage had never

owned a truck which corresponded to the description of the truck given on the invoice.

[17] The appellant's explanation for the transaction was, broadly, as follows:

- (a) He had, in early 1987, lent Mr Cann \$50,000 in cash. This was to fund the salvage of a fishing boat in Gisborne,
- (b) By 17 July 2006, the amount owing (including rather a lot of interest) in relation to this loan was \$706,000.
- (c) His initial contention, made to the Inland Revenue department investigator, was that this represented an accumulative calculation at 10 per cent interest. Mathematically, however, this analysis did not stand up as it would have produced only \$346,718.63.
- (d) At trial the appellant contended that there were other components to the loan agreement, including penalties for unpaid interest.
- (e) He also contended that the invoice was worked out between him and Mr Cann with a view to enabling him to come up with material to a value which would extinguish the debt. Although not necessarily accepting all challenges to the makeup of the invoice, the appellant's position was that Rexon had received other goods which he appropriated to the contract and this in particular included 2,900 panels (whereas the invoice referred to only 800).

[18] The Crown's case at trial did not proceed exclusively on the basis that there had been no agreement at all between Pacific Salvage and Rexon. Rather, it contended that whatever deal may have been struck, it was not as recorded on the invoice and that the value of any goods which may have been supplied was significantly less than what was recorded on the invoice. Accordingly, on the Crown case, the invoice and the GST return were prepared and later used with a view to

securing for Rexon a GST refund in circumstances where the appellant knew that Rexon was not entitled to that refund.

[19] The nature of the defence and Crown cases meant that the issues for the jury were reasonably diffuse, but obviously the greater the variance between the deal as recorded on the invoice and the extent to which the appellant (and Rexon) could credibly claim to have acquired goods from Mr Cann and Pacific Salvage, the stronger the case that the invoice and the GST return were fraudulent.

### **The contention that the Crown did not prove a relevant use of a document**

[20] In support of the appeal Mr Tennet argued that the Crown could not rely on the handing over by the appellant of the hard copy GST return at the meeting on 16 September 2006 as a use of the document.

[21] Mr Tennet conceded that the 16 September 2006 meeting was voluntary but, because the appellant could have been required under the Commissioner's statutory powers (which in fact had not by then been invoked) to hand over the document, he maintained that the appellant's handing over of the GST return was not, relevantly, a use of the document.

[22] We disagree. We are satisfied that when the appellant handed over the hard copy GST return, he was indeed using it. In relation to this we note, in particular, that as at September 2006 the appellant was seeking to justify the GST return and was pressing for payment of the refund to which Rexon was, ostensibly, entitled to under the return. His handing over of the GST return was, in every sense therefore, a use of the document.

### **Complaints about interventions by the Judge**

[23] This point of appeal relates to interventions on the part of the trial Judge when the appellant was cross-examining the Inland Revenue Department's primary investigator, Ms Sandra McRae.

[24] Many of the questions asked by the appellant were of a legal nature, essentially relating to Ms McRae's interpretation of the indictment and the gravamen of the charge faced by the appellant. In the course of these questions, the appellant secured an acknowledgement that it was the hard copy of the GST return handed over at the meeting on 16 September 2006 which was the document relied on by the Crown.

[25] We have looked through the transcript of Ms McRae's evidence and we agree that there were many occasions when the appellant was interrupted in his cross-examination. However, there was nothing untoward in the Judge's interventions. Often they involved the Judge assisting the appellant in obtaining the answers from Ms McRae that he was seeking. On other occasions the Judge attempted to facilitate the course of cross-examination by ensuring that the witness had copies of the documents to which the appellant was referring. Sometimes the Judge simply sought clarification of what the appellant was endeavouring to achieve.

[26] We see nothing improper or untoward in the interventions. They were not of a hectoring or bullying nature. Rather they were entirely benign. We do not accept that they had the effect of putting the appellant off his stride when he was cross-examining. They were, in the main, of assistance to him as they resulted in the points which he was seeking to make being made with clarity and in a way that would be understood by the jury with particular reference to the documents to which the questions related.

### **Arguments as to delay and abuse of process**

#### *Overview*

[27] On the basis that the offence was committed on 16 September 2006, the delay between the offence and charge was a little under nine months. If we take a slightly broader view and treat the offence as having been in substance committed on 20 August 2006 when the appellant attempted to file an electronic version of the

return, the delay is a little under 10 months. And, as noted, the delay between charge and trial was 20 months.

[28] These periods of delay are not in themselves untoward and indeed similar periods of delay are far from uncommon in the criminal justice system.

[29] The appellant's argument on this point was more directly addressed to what he claimed was prejudice associated with both the overall delay and, as well, what he contended was the selective way in which the case against him was investigated.

[30] We note that a similar argument was addressed in the District Court and was rejected by Judge Wade in a pre-trial ruling. At that time the appellant complained that two possible defence witnesses, Mark Chatwin and Robert Kawiti had died post-charge but before trial. In the course of the appeal, the appellant mentioned three other people in this regard, Graham Cann, Lindsay Taft and Richard Prangley.

[31] Mr Cann died on 17 July 2006, the date on the invoice which the appellant relied on to justify the GST refund. We see his death as being immaterial to this ground of appeal. Similar considerations apply in the case of Mr Prangley. He died on 16 April 2003 (more than three years prior to the commission of the alleged offence). His death is thus entirely irrelevant to the present context. It is, however, appropriate to discuss briefly the position in relation to the other three men mentioned by the appellant.

#### *Mark Chatwin*

[32] Mr Chatwin was an employee of Rexon and had, to some extent, dealt with Inland Revenue Department investigators, particularly on 18 December 2006 when he took the investigation team around Rexon's premises. According to the appellant, Mr Chatwin also witnessed the appellant making a cash loan to Mr Cann in 1987. It will be recalled that it was this cash loan which was at the heart of the appellant's explanation for the commercial context of the 17 July 2006 transaction.

[33] The Inland Revenue Department investigators did not interview Mr Chatwin. In part at least, this was because he was associated with the appellant and the investigators were not satisfied that he would give “creditworthy” explanations. At trial the Crown did not specifically challenge the appellant’s contention that he had lent Mr Cann money in 1987.

[34] Mr Chatwin died on 15 September 2007.

*Robert Kawiti*

[35] Mr Kawiti was never mentioned by the appellant in connection with the case until after his death (which was on 7 August 2007).

[36] The appellant maintains that if the investigators had interviewed Mr Kawiti, he could have provided the evidence as to goods which were subject to the agreement between Rixon and Pacific Salvage. Mr Kawiti was a labourer and driver employed by Envirotech Industries Ltd, another company associated with the appellant. Mr Kawiti also knew the late Mr Cann. There was evidence given at trial by other witnesses as to deliveries Mr Kawiti made that were said to be referable to the 17 July 2006 transaction. The quantity surveyors whose evidence was called by the Crown at trial gave the appellant and Rixon credit for this material.

*Lindsay Taft*

[37] Mr Taft gave a depositions statement for the Crown and was available for cross-examination at the depositions hearing. He was not cross-examined and died on 28 August 2008.

[38] At trial, his depositions statement was read by consent with the deletion of two paragraphs which the appellant claimed were contentious. He was a relatively formal witness who gave evidence because he was paying Mr Cann’s Telecom account.

[39] There is no specific evidence of any prejudice suffered by the appellant by reason of his death.

*Evaluation*

[40] We considered carefully the judgment of this Court in *R v Harmer*<sup>3</sup> and of the Supreme Court in *Williams v R*.<sup>4</sup>

[41] As is apparent from what we have already said, the delay between charge and trial did not breach the guarantee to a trial without undue delay provided by s 25(b) of the New Zealand Bill of Rights Act 1990. Nor do we see anything improper in the way in which the Inland Revenue Department investigators approached the case. There is a limit to the resources which a law enforcement agency can sensibly invest in any investigation and we can see nothing improper in the decisions made by the Department in this regard.

[42] On occasion, the death of a critical witness before trial (associated perhaps with a judicial refusal to allow that person's witness statement or the like to be relied on evidentially) may result in an evidential lacuna which renders a trial impracticable. And where there has been undue delay, the death of a potential witness during that period of delay may be of importance to the question whether there has also been prejudice. All of that said, however, the vagaries of human life mean that the death of a potential witness before trial is far from uncommon and is therefore something which the criminal justice system is required to accommodate.

[43] The appellant cannot rely on the deaths of Messrs Chatwin and Kawiti as prejudice associated with undue delay for the simple reason that there was no undue delay. In the overall context of the case as a whole, we also simply do not accept that his inability to call evidence from Messrs Chatwin and Kawiti meant that he was deprived of a fair trial.

[44] Accordingly, this ground of appeal fails.

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<sup>3</sup> *R v Harmer*<sup>3</sup> CA324/02, 26 June 2003.

<sup>4</sup> *Williams v R* [2009] NZSC 41, [2009] 2 NZLR 750.

## **Complaints about the actions of Television New Zealand**

[45] On 20 March 2009, the last day of the trial, Mr Christopher Lynch of Television New Zealand, accompanied by a camera man, went to the Manukau District Court. Mr Lynch wished to secure film footage of the appellant to use in conjunction with a story which Close Up planned to broadcast addressing complaints made by disgruntled customers of Mr Palmer's company, Envirotech Industries Ltd, who had contracted the company through the internet auction site Trade Me.

[46] In the course of the closing address by the Crown prosecutor, Mr Lynch handed a note to the court taker in which he requested permission to film the appellant. The Judge dealt with this request in open court at the end of the closing address for the Crown and he dismissed the application. At some stage there was a discussion between the appellant and Mr Lynch in the foyer of the Court. In the course of this discussion Mr Lynch's camera man obtained some footage of the appellant, and the appellant and Mr Lynch discussed the possibility of him participating in an interview with Close Up. The programme which was subsequently broadcast on 30 March 2009 forms part of the background to the appellant's appeal in relation to the indecent assault account.<sup>5</sup> It is, however, immaterial for present purposes because it was broadcast after the conclusion of the trial.

[47] What is more material is a contest as to whether Mr Lynch's actions on 20 March 2009 prejudiced the appellant in the eyes of the jury.

[48] The appellant's complaints about this were addressed in his affidavit of 27 August 2009 in this way:

13. During the final days of proceedings at the Manukau Court the producer for TVNZ "Close Up" boldly interjected and demanded an audience with the judge, asking in front of the jury, if he could film me while addressing the jury.
14. I believe that a more robust judge would have ordered them out of the Court and told the producer to have a TVNZ solicitor make a proper application to the Court.

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<sup>5</sup> See *R v Palmer* [2009] NZCA 616.

15. Whereas, the TVNZ producer dropped the equivalent of a bombshell into the courtroom right at a vital moment for the defence. His whole attitude was that of superiority and that TVNZ were the real judge and jury, and wished to put my closing speech to the nation over TVNZ news. Without question, the TVNZ intervention would have changed the whole aspect of the case in the eyes of the jury – from a case which was about a document that was never filed and no money missing – to one of national importance that TVNZ wished to feature on the news. Suddenly in the eyes of the jury, my perspective had changed, from the operator of a small business to a villain – who needed to be castigated on nationwide news.
- 15.1 I firmly believe that the jury was totally intimidated by the intervention in the proceedings by TVNZ and that the verdict was not reflective of the evidence – but was the jury endorsing the view of a TVNZ producer.
- 15.2 When the Court adjourned I was assailed by the TVNZ producer outside of the courtroom, at that time the jury was existing the courtroom for lunch.
- 15.3 Under duress I agreed to be interviewed in the courtyard outside the entrance doors to the Manukau District Court. I was told by the producer that they were going to screen the interview that night.
- 15.4 Whilst outside being interviewed, a number of jurors, including the foreperson, gathered around for a cigarette. (The foreperson did not smoke she was in attendance to listen to the interview). At the end of the interview the producer said, ***“Is this another GST fraud case? You have been done for GST fraud and sex offences beforehand, haven’t you?”*** The comments were overhead by a least six members of the jury, especially the foreperson.
- 15.5 Up until the TVNZ intervention I had the eye of the jury, they were all paying attention and were reflective in their expressions of the defence case. During my address all jurors except the foreperson, were looking elsewhere. Throughout my address the foreperson continually made facial expressions of disbelief and incredulity. I considered stopping and raising the foreperson’s attitude with the Judge, I opted not to as it may have increased the bias and predetermination that had encapsulated the collective mind of the jury following the TVNZ intervention.
16. I had prepared part of my address to establish that evidence had been given, that about half of the panels purchased from Cann/Pacific Salvage had been used in the units purchased by the clients who had given evidence.
- 16.1 When TVNZ demanded an immediate interview outside the courtroom, I did not know what the substance of that interview was, and wrongly presumed that it related to the court case (the same presumption may have been made by the jury). So I took some of my notes, in particular, the ten pages which went to establish the number of panels purchased from Pacific Salvage and used in the

construction of the units supplied to the witnesses. When I reached that part of my address, I could not find the notes.

- 16.2 Furthermore, I had a pulse of over 150 and angina brought on by the pressure of the trial, address to the jury, and the malicious intervention of TVNZ to the judicial process.
17. I also did not get to traverse my first line of defence; in that the GST return that the Crown relied upon as “*the document used to obtain a pecuniary advantage*” had not been filed for processing with the Inland Revenue, therefore the essential element of uttering was absent from the act. My notes traversing my first line of defence were lost when I attended the TVNZ interview outside the courtroom.

(Emphasis in original.)

[49] We had the advantage of hearing the appellant cross-examined on this affidavit. We also heard evidence from Mr Robert Nicol (an Inland Revenue Department Officer who was involved in the proceedings and witnessed all phases of what happened as between the appellant and Mr Lynch) and from Mr Lynch himself. As well, we also had before us the District Court log of what happened on 20 March and the Judge’s minute in which he addressed the media application.

[50] Based on that material, we conclude as follows:

- (a) The Judge dealt with Mr Lynch’s request in open court at the end of the closing address for the Crown. Contrary to what Mr Palmer said in his affidavit, this was not in the presence of the jury. On this point Mr Palmer’s oral evidence slightly from that recorded in his affidavit. Before us, he maintained that three or four members of the jury heard what Mr Lynch was saying. We do not accept that that is plausible. It is inconsistent with the evidence of Mr Nicol. It is practically inconceivable that the Judge would have allowed that situation to have occurred or that it could have happened without complaint by Mr Palmer at the time or a record made of this by the Judge.
- (b) In the course of what was said when the jury was absent, Mr Lynch made it clear that the Close Up programme related to activities of the appellant (and Envirotech) via Trade Me. This is what Mr Nicol says

in his affidavit and it is also consistent with the terms of the Judge's minute as to the application. In the course of this discussion the appellant indicated that he would be prepared to speak to Mr Lynch outside the Court to make an arrangement for an interview after trial.

- (c) The appellant then addressed the jury starting at approximately 12.10 pm and concluding just before 1.00 pm. The adjournment was taken at just after 1.00 pm. This timing is apparent from the log. It means that, contrary to what the appellant said in his affidavit, the discussion he had with Mr Lynch outside the Court occurred after his closing address and not before it (although we note the appellant was permitted to make an additional comment just before the Judge summed up in the afternoon).
- (d) The discussion between the appellant and Mr Lynch occurred during the luncheon adjournment and was observed by Mr Nicol. The layout of the court, the way in which jurors came and went during adjournments and the timing mean that there was an opportunity for jurors leaving the Court at lunch time to have seen what was happening and, perhaps, to have heard what was said. We, however, simply do not accept the appellant's evidence that the interview was in fact overheard by jurors. This is not consistent with the evidence of Mr Lynch and is contrary to the drift, at least, of the evidence of Mr Nicol. More importantly, however, we are perfectly satisfied that if the appellant believed that the interview had been overheard by jurors he would have immediately raised that with the Judge, as he did in relation to the interview itself: see [50](f) below.
- (e) We accept that in the course of the discussion Mr Lynch raised with the appellant the fact that he had previously been convicted. In this regard, we accept the appellant's evidence, supported as it is by what he did after the luncheon adjournment and reject Mr Lynch's denial.

- (f) After the luncheon adjournment the appellant advised the Judge (in the absence of a jury) that he had been interviewed outside the Court and that a conviction (one that he claimed had been quashed on appeal) had been raised. He also expressed his concern that the TVNZ programme might screen that night.
- (g) As a result of these concerns Mr Nicol contacted Mr Lynch and obtained confirmation that the programme was not to be shown that night.

[51] It follows that we reject the appellant's complaints that:

- (a) Mr Lynch's in court intervention occurred in the presence of the jury;
- (b) The discussion between the appellant and Mr Lynch outside the Court was prior to his closing address to the jury (which we are satisfied he had concluded before he had a discussion with Mr Lynch);
- (c) The out of court discussion was witnessed by jurors.

[52] On this basis, this ground of the appeal must fail.

[53] We should note, however, that we do not approve of the actions of Television New Zealand. The purpose of the intended filming of the appellant had nothing to do with proposed coverage of the GST trial. Rather, it was for collateral purposes. The application was thus well-removed from what is appropriate in terms of in-court television coverage. Further, the filming of the discussion between Mr Lynch and the appellant which took place within the precincts of the court had the potential to prejudice the appellant and could easily have resulted in a situation where the trial may have been required to have been aborted.

## **A post-script to the conviction appeal**

[54] We note that after the hearing of the appeal, Mr Palmer lodged with (and caused to be sent to) the Court a good deal of material. Aspects of this material we have taken into account (for instance in relation to the physical layout of the District Court at Manukau). He also provided another version of what happened on 20 March 2009, an account of events which accommodates, at least in part, the District Court log. We do not regard that account of events as convincing.

[55] As well, the Court received email communications from the appellant's partner which included what is apparently an acknowledgment by Television New Zealand that it holds raw footage of the discussion between the appellant and Mr Lynch in the District Court at Manukau. As a result of this, the Court asked Mr Burns to make inquiry of Television New Zealand with a view to locating the footage. An exchange of emails filed with the Court by Mr Burns indicated that Television New Zealand still maintains that it does not have this footage. That being the case, and having given the appellant notice of our intention to release our judgment, we see no point in delaying the delivery of judgment any further.

## **Challenges to the sentence imposed**

### *The section 30 argument*

[56] It will be recalled that the appellant appeared for himself at trial and, in the course of the appeal, we heard argument as to s 30 of the Sentencing Act 2002. That section relevantly provides:

- (1) No court may impose a sentence of imprisonment on an offender who has not been legally represented at the stage of the proceedings at which the offender was at risk of conviction, except as provided in subsection (2).
- (2) Subsection (1) does not apply if the court is satisfied that the offender—

- (a) was informed of his or her rights relating to legal representation, including, where appropriate, the right to apply for legal aid under the Legal Services Act 2000; and
- (b) fully understood those rights; and
- (c) had the opportunity to exercise those rights; and
- (d) refused or failed to exercise those rights, or engaged counsel but subsequently dismissed him or her.

...

- (4) For the purposes of this section, an offender refuses or fails to exercise his or her rights relating to legal representation if the offender—
  - (a) refuses or fails to apply for legal aid under the Legal Services Act 2000 or applies for it unsuccessfully; and
  - (b) refuses or fails to engage counsel by other means.

[57] The appellant was well aware of his entitlement to apply for legal aid and his ability to obtain legal aid. He did in fact obtain legal aid for his indecent assault trial which took place in April 2009. He did not do so in respect of the current charge primarily (as far as we can tell) because his company was not eligible for legal aid. The logical connection between Rexon's ineligibility for legal aid and the appellant's decision to represent himself is not entirely clear but we suspect that he may have elected to represent himself on the assumption that if he did so he would also be permitted to represent his company. Whatever the appellant's reasoning, he is well within ss 30(2) and (4) and this ground of appeal fails.

*The merits of the sentence appeal*

[58] By the time the appellant appeared for sentence on this charge (29 May 2009) he had already (on 26 May 2009) been sentenced to eight months imprisonment on the indecent assault charge which is the subject of the appeal in *R v Palmer* [2009] NZCA 616. This sentence, in a practical sense, limited the options available to Judge Singh.

[59] In this case, the Judge adopted a starting point sentence of 15 months. He took the view that the appellant's previous convictions (of which there are many)

warranted a three month uplift which was cancelled by a three month discount for his personal circumstances including health. This sentence was cumulative to the eight months imprisonment imposed on the indecent assault count.

[60] The offending in the present case was reasonably complex and, in its own way, sophisticated. It represented a cynical attempt to defraud the Inland Revenue Department. In view of the sophistication of the offending, the amount of money involved and the appellant's prior history, an appreciable sentence of imprisonment was inevitable and we have no difficulty with the length of the sentence imposed by the Judge.

### **Disposition**

[61] The appeal against conviction and sentence is dismissed.

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