



The reasons for judgment of the Court were delivered orally by:

**CLARKE, C.J.N.S.:**

Leave is sought by the appellant and if granted to appeal from a sentence of two years imprisonment for perjury imposed by His Honour Judge Archibald of the Provincial Court on October 8, 1992.

The appellant was charged that he committed perjury at the preliminary hearing of Michael Merlin Fillmore by giving false testimony with intent to mislead the court contrary to section 131(1) of the **Criminal Code**. He pled guilty to the charge.

Mr. Fillmore was a co-accused in a break, enter and theft in which the appellant was also involved. The break occurred at a garage at which the appellant had been employed. The theft included cigarettes, chips and money. It appears from the record that the false evidence given by the appellant was undoubtedly a factor that led to Fillmore's acquittal.

The appellant contends the sentence of two years was excessive and too harsh. The Crown agrees and says in its factum that "the sentence imposed was manifestly excessive".

It is argued on behalf of the appellant, who is twenty-five years old, that he felt intimidated, that the perjured evidence was not given for his own benefit and that he had no criminal record other than his own conviction for the break, enter and theft out of which this proceeding is a part.

These factors, notwithstanding, the trial judge in considered reasons stated the very serious nature of this offence. We agree with his observations that perjured evidence undermines the effective administration of justice and simply cannot be tolerated. People must know that the oath or affirmation to tell the truth in a judicial proceeding is a solemn commitment to honesty. Parliament has spoken clearly on the seriousness of this matter by providing a maximum sentence of fourteen years imprisonment.

The opinion of this court was stated in **R. v. Crawford** (1988), 81 N.S.R. (2d) 88 at page 89, as follows:

"The integrity of our system depends upon the honesty of those who are involved in it and the truthfulness of those who testify in its proceedings. Not only the appellant but the general public must be deterred from committing the offence of perjury."

While we find that the trial judge committed no error in principle, we have concluded after reviewing the sentences imposed by this court and others that the upper end of the range of sentences for this offence does not appear to have reached two years. The aggravating factors here, while serious, appear to fall within a lower classification of time to be served. For this reason our review of the fitness of the sentence imposed upon the appellant persuades us that leave to appeal ought to be granted and the appeal should be allowed. Accordingly we vary the sentence imposed upon the appellant to nine months.

C.J.N.S.

Concurred:

Matthews, J.A.

Pugsley, J.A.