

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

HALLETT, J.A.

The appellant had been charged with a fraud offence. The learned trial judge imposed a conditional discharge. The appellant failed to fully comply with the conditions imposed in the probation order. Although the appellant was not charged with the offence of failing to comply with the conditions of the probation order, the learned trial judge, in the absence of the appellant, fined him for the default.

The Crown agrees that the learned trial judge was in error. He exceeded his jurisdiction in imposing the fine when a charge had not been laid for breach of the probation order.

We agree that the appeal ought to be allowed and that the order of the learned trial judge imposing the fine, the victim surcharge and costs in the cumulative sum of \$333.00 be set aside.

Hallett, J.A.

Concurred in:

Chipman, J.A.

Roscoe, J.A.

