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(Byrne, J.) 21/10/94

CRIME SINGLE JUDGE

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2  
3 HIS HONOUR: This is an application pursuant to s.18 of the  
4 Bail Act for an order varying a condition imposed upon a  
5 grant of bail to each of the applicants.

6 Each of the applicants is charged with an offence of  
7 obstructing the lawful carrying out of forest operations.  
8 On 14 October 1994 each was admitted to bail at the Orbost  
9 Magistrates' Court on his own undertaking but subject to a  
10 condition as follows:

11 "The defendant not attend at or interfere with any  
12 logging operation as defined by the Conservation  
13 Forests and Lands Act 1987 or logging equipment in  
14 East Gippsland by act or deed".  
15  
16

17 For the reasons which I have endeavoured to explain  
18 in the course of argument, it seems to me that in a case  
19 of a summary offence such as the present I should allow  
20 the law to take its ordinary course and that it is not  
21 appropriate to seek to achieve, by the application of the  
22 law relating to bail, a collateral purpose, namely an  
23 injunction against the accused men that they not commit  
24 other offences.

25 I leave to one side the question as to whether or  
26 not that part of the undertaking which would prohibit the  
27 accused men from carrying on lawful activities in the  
28 forest is appropriate.

29 I do not wish to be understood by either of the  
30 applicants to be condoning breaches of the law and I have  
31 no doubt that in the event that further breaches of the  
32 law are committed they will be dealt with with the  
33 appropriate rigor.

34 However, in the present application which concerns

1 bail, I am satisfied that there is no appreciable risk  
2 that each of these men will not attend the court when  
3 required to answer the charges before the court and in  
4 those circumstances it would be inappropriate for me to do  
5 other than admit them to bail on their own undertaking  
6 without the condition which the Magistrate imposed.

7 Accordingly, I shall admit each applicant to bail on  
8 his own undertaking.

9 Any further terms required, Mr Prosecutor? What  
10 would be the usual, the place of residence and those sorts  
11 of things, is that a matter of concern here?

12 MR SKELTON: Yes, Your Honour.

13 HIS HONOUR: What conditions would you wish that I insert so far  
14 as residence and the like, if anything? I am not  
15 necessarily encouraging you to think that there are any.  
16 I mean, residential conditions are really only a matter of  
17 concern if there is some apprehension that the men may not  
18 turn up on the appropriate day so maybe there is no need  
19 to do anything except to admit them to bail on their own  
20 undertaking.

1 MR SKELTON: Yes, I concede that, Your Honour.

2 HIS HONOUR: Will you prepare the necessary documentation?

3 MR SKELTON: I think that is a matter for the Prothonotary.

4 HIS HONOUR: Very well. Is there anything further required?

5 MR FARIS: Could Your Honour order the transcript be  
6 transcribed and made available to the parties?

7 HIS HONOUR: Well, I have - - -

8 MR FARIS: The transcript of Your Honour's ruling, that is, as  
9 opposed - - -

10 HIS HONOUR: I am conscious to the fact in the normal course of  
11 the events, certainly in civil cases, transcript is not

