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SUPREME COURT OF SOUTH AUSTRALIA

CHANNING v MATTEO

Walters J

3 July 1981

PRACTICE AND PROCEDURE - PROSECUTION WITNESS UNABLE TO ATTEND COURT DUE TO SUDDEN ILLNESS - APPLICATION FOR ADJOURNMENT OF CASE BY PROSECUTOR - APPLICATION REFUSED - WHETHER COURT IN ERROR.

On opening his case in the court of summary jurisdiction, the prosecutor indicated that he would call two constables as witnesses for the prosecution. After the evidence of one had been taken, the prosecutor was advised that the other was not present due to a sudden illness. The prosecutor applied for an adjournment which was opposed by counsel, but after hearing argument, the justices refused the application. The prosecutor appealed.

HELD: Appeal allowed. The interests of justice involve something more than convenience and expedition. In the case where a party seeks an adjournment which will create no injustice to the other side and which can adequately be remedied by an appropriate order for costs, then unless there are compelling reasons, such as manoeuvring or deliberate dilatoriness or inaction, ordinarily the discretion to grant an adjournment ought not to be exercised adversely to the party applying for it.

Hansen v Huffa (1976) 15 SASR 36; and
Walker v Eves (1976) 13 SASR 249, referred to.
