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SUPREME COURT OF VICTORIA — COURT OF CRIMINAL APPEAL

R v WRIGHT and POPE

Young CJ, Menhennitt and Jenkinson JJ

25 June 1979 — [1980] VicRp 5; [1980] VR 41 (Noted 4 Crim LJ 127)

CRIMINAL LAW – SENTENCING – ACCUSED FINED AND PLACED ON PROBATION IN RESPECT OF ONE ASSAULT CHARGE – WHETHER COURT IN ERROR.**HELD:** Leave to appeal granted.**Power is not conferred by law to make upon conviction for a single offence both a probation order and an order for the payment of a fine.**

THE COURT: Each of the applicants, Richard Sidney Wright and Alexander Ian Pope, was convicted on a separate count of assault in a presentment on which they and others were tried in the County Court at Ballarat. Each was fined \$500 in default of payment of which sum order was made for his imprisonment for a term of fifty days, and in respect of each of them a probation order was also made. In each application there is the one ground:

"The Judge was wrong in law in imposing a fine of \$500 and placing me on probation for two years."

Counsel for each applicant submitted that power is not conferred by law to make upon conviction for a single offence both a probation order and an order for payment of a fine. In our opinion the submission is correct.
