



ANNO VICESIMO

GEORGII V REGIS.

A.D. 1929.

No. 1909.

An Act to amend the Law relating to Informations in Criminal Cases.

[Assented to, October 30th, 1929.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "Criminal Informations Act, 1929," and shall come into operation on a day to be fixed by proclamation.

Short title and commencement.

2. (1) In this Act—

Interpretation.

"Information" means any criminal information presented to or filed in the Supreme Court or a Circuit Court.

(2) The provisions of this Act relating to informations shall apply to any plea, replication or other criminal pleading, with any modification made by rules under this Act.

3. (1) Every information shall contain, and shall be sufficient if it contains a statement of the specific offence or offences with which the accused person is charged, together with such particulars as are necessary for giving reasonable information as to the nature of the charge.

General provisions as to informations. Cf. 5 and 6, Geo. V, c. 90, s. 3.

(2) Notwithstanding any rule of law or practice, an information shall, subject to the provisions of this Act, not be open to objection in respect of its form or contents if it is framed in accordance with the rules under this Act.

4. (1) When, before trial or at any stage of a trial, it appears to the Court that any information is defective, the Court shall make such order for the amendment of the information as the Court

Orders for amendment of information, separate trial, and postponement of trial.

Cf. *ibid.*, s. 5.

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Court thinks necessary to meet the circumstances of the case unless having regard to the merits of the case the required amendment cannot be made without injustice.

(2) When an information is so amended a note of the order for amendment shall be indorsed on the information, and the information shall be treated for the purposes of the trial and all proceedings in connection therewith as having been presented in the amended form.

(3) When, before trial or at any stage of a trial, the Court is of opinion that the postponement of the trial of a person accused is expedient as a consequence of the exercise of any power of the Court under this Act to amend an information or under any power of the Court to order a separate trial of a count, the Court shall make such order as to the postponement of the trial as appears necessary.

(4) When an order of the Court is made for a separate trial or for the postponement of a trial—

(a) if the order is made during a trial the Court may order that the jury be discharged from giving a verdict on the count or counts the trial of which is postponed, or on the whole information, as the case may be ;

(b) the procedure on the separate trial of a count shall be the same in all respects as if the count had been presented as a separate information, and the procedure on the postponed trial shall be the same in all respects (if the jury has been discharged) as if the trial had not commenced ; and

(c) the Court may make such order as to admitting the accused person to bail and as to the enlargement of recognizances and otherwise as the Court thinks fit.

(5) Any power of the Court under this section shall be in addition to and not in derogation of any other power of the Court for the same or similar purposes.

Saving provisions.

5. Nothing in this Act or the rules under this Act shall affect the law or practice relating to the jurisdiction of any Court or the place where an accused person can be tried, nor prejudice or diminish in any respect the obligation to establish by evidence according to law any acts, omissions, or intentions which are legally necessary to constitute the offence with which the person accused is charged, nor otherwise affect the laws of evidence in criminal cases.

Rules of Court.

6. (1) Subject to subsection (2) of this section the rules contained in the Schedule to this Act, with any variation thereof or addition thereto under this section, shall have effect as if enacted in this Act.

(2) Rules of Court made under the Supreme Court Act, 1878, may revoke, vary, or add to the rules contained in the Schedule hereto, or any other rules for the time being in force under this Act.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

A. HORE-RUTHVEN, Governor.

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THE SCHEDULE.

RULES.

1. (1) Informations and other criminal pleadings may be written or printed or partly written and partly printed, and shall be on white folio foolscap paper on one side only with a quarter margin, and shall be folded lengthwise.

(2) Figures and abbreviations may be used in informations for expressing anything which is commonly expressed thereby.

(3) There shall be indorsed on the back of every information the names of the witnesses intended to be called at the trial.

(4) An information shall not be open to objection by reason only of any failure to comply with this rule.

2. The commencement of an information shall be in the following form:—

SOUTH AUSTRALIA.

The King v. A.B.

COURT OF TRIAL.

[*e.g.*, Supreme Court, Adelaide, or Gladstone Circuit Court.]

.....Sessions.

Information of the Attorney-General.

A.B. is charged with the following offence (offences).

3. Charges for any offences, whether felonies or misdemeanours, may be joined in the same information if those charges are founded on the same facts, or form or are a part of a series of offences of the same or a similar character.

4. (1) A description of the offence charged in an information, or where more than one offence is charged in an information, of each offence so charged, shall be set out in the information in a separate paragraph called a count.

(2) A count of an information shall commence with a statement of the offence charged, called the statement of offence.

(3) The statement of offence shall describe the offence shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the offence, and if the offence charged is one created by statute, shall contain a reference to the section of the statute creating the offence, and if the penalty for the offence charged is fixed by statute may contain a reference to the section of the statute fixing the penalty.

(4) After the statement of the offence, particulars thereof shall be set out in ordinary language in which the use of technical terms shall not be necessary: Provided that where any rule of law or any enactment limits the particulars of an offence which are required to be given in an information, nothing in this rule shall require any more particulars to be given than those so required.

(5) The forms set out in the appendix to these rules or forms conforming thereto as nearly as may be shall be used in cases to which they are applicable, and in other cases forms to the like effect or conforming thereto as nearly as may be shall be used, the statement of offence and the particulars of offence being varied according to the circumstances in each case.

(6) Where an information contains more than one count, the counts shall be numbered consecutively.

5. (1) Where an enactment constituting an offence states the offence to be the doing or the omission to do any one of any different acts in the alternative, or the doing

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doing or the omission to do any act in any one of any different capacities, or with any one of any different intentions, or states any part of the offence in the alternative, the acts, omissions, capacities, or intentions, or other matters stated in the alternative in the enactment, may be stated in the alternative in the count charging the offence.

(2) It shall not be necessary, in any count charging a statutory offence, to negative any exception or exemption from or qualification of the operation of the statute creating the offence.

6. (1) The description of property in a count in an information shall be in ordinary language, and such as to indicate with reasonable clearness the property referred to, and if the property is so described it shall not be necessary (except when required for the purpose of describing an offence depending on any special ownership of property or special value of property) to name the person to whom the property belongs or the value of the property.

(2) Where property is vested in more than one person, and the owners of the property are referred to in an information, it shall be sufficient to describe the property as owned by one of those persons by name with others, and if the persons owning the property are a body of persons with a collective name, such as "Inhabitants," "Trustees," "Commissioners," or "Club," or such other name, it shall be sufficient to use the collective name without naming any individual.

7. The description or designation in an information of the accused person, or of any other person to whom reference is made therein, shall be such as is reasonably sufficient to identify him, without necessarily stating his correct name, or his abode, style, degree, or occupation; and if, owing to the name of the person not being known, or for any other reason, it is impracticable to give such a description or designation, such description or designation shall be given as is reasonably practicable in the circumstances, or the person may be described as "a person unknown."

8. Where it is necessary to refer to any document or instrument in an information, it shall be sufficient to describe it by any name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof.

9. Subject to any other provisions of these rules, it shall be sufficient to describe any place, time, thing, matter, act, or omission whatsoever to which it is necessary to refer in any information, in ordinary language in such a manner as to indicate with reasonable clearness the place, time, thing, matter, act or omission referred to.

10. It shall not be necessary in stating any intent to defraud, deceive, or injure, to state an intent to defraud, deceive, or injure any particular person where the statute creating the offence does not make an intent to defraud, deceive, or injure a particular person an essential ingredient of the offence.

11. Any charge of a previous conviction may be made either by a separate information or at the end of the information by means of a statement that the person accused has been previously convicted of that offence at a certain time and place without stating particulars of that offence.

APPENDIX TO RULES.

FORMS OF INFORMATION.

1.

STATEMENT OF OFFENCE.

Murder (section 5, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B., on the
murdered J.S.

day of

at

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2.

STATEMENT OF OFFENCE.

Accessory after the fact to murder.

PARTICULARS OF OFFENCE.

A.B., well knowing that one, H.C., did, on the _____ day of _____ murder C.C., did, on the _____ day of _____, at _____ and on other days thereafter receive, comfort, harbour, assist, and maintain the said H.C.

3.

STATEMENT OF OFFENCE.

Manslaughter (section 16, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B., on the _____ day of _____ at _____ unlawfully killed J.S.

4.

STATEMENT OF OFFENCE.

Rape (section 60, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B., on the _____ day of _____ at _____ had carnal knowledge of E.F. without her consent.

5.

STATEMENT OF OFFENCE.

1st Count.—Wounding with Intent (section 28, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B., on the _____ day of _____ at _____ wounded C.D. with intent to do him grievous bodily harm or to maim, disfigure, or disable him or to resist the lawful apprehension of him the said A.B.

STATEMENT OF OFFENCE.

2nd Count.—Maliciously Wounding (section 30, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____ maliciously wounded C.D.

6.

STATEMENT OF OFFENCE.

Larceny by a Servant (section 188, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B., on the _____ day of _____ at _____ being clerk or servant to M.N. stole from the said M.N. 10 yards of cloth.

7. STATEMENT

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7.

STATEMENT OF OFFENCE.

Robbery with violence (section 163, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
 robbed C.D. of a watch and at the time of or immediately before or immediately
 after such robbery used personal violence to the said C.D.

8.

STATEMENT OF OFFENCE.

1st Count.—Larceny (section 135, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
 stole £10 the property of M.N. and others.

STATEMENT OF OFFENCE.

2nd Count.—Receiving (section 216, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
 received (the money mentioned in the 1st count) knowing it to have been stolen.

9.

STATEMENT OF OFFENCE.

Burglary (section 172, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. in the night of the _____ day of _____ at _____
 broke and entered the dwelling-house of C.D. with intent to steal therein.

10.

STATEMENT OF OFFENCE.

1st Count.—Shop breaking and larceny (section 178, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
 broke and entered the shop of the Co-operative Grocery Company and stole therein
 25 tins of jam.

STATEMENT OF OFFENCE.

2nd Count.—Receiving (section 216, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
 received the goods mentioned in the 1st Count knowing them to have been stolen.

11.

STATEMENT OF OFFENCE.

Sending threatening letter with intent to extort money (section 166, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
 sent delivered or uttered to or caused to be received by C.D. a letter accusing or
 threatening to accuse the said C.D. of an infamous crime with intent to extort
 money from the said C.D.

12. STATEMENT

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12.

STATEMENT OF OFFENCE.

Obtaining goods by false pretences (section 213, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
with intent to defraud obtained from C.D. 5 yards of cloth by falsely pretending
that he the said A.B. was a servant to J.S. and had been sent by the said J.S. to
C.D. for the said cloth and was authorised by the said J.S. to receive such cloth on
behalf of the said J.S.

13.

STATEMENT OF OFFENCE.

Conspiracy to defraud (section 389, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. and C.D. on the _____ day of _____
and on divers days between the _____ day of _____ and the _____
together with intent to defraud by means of an advertisement inserted in the H.S.
newspaper falsely representing that A.B. and C.D. were carrying on a genuine
business as jewellers at _____ and that they were then able to
supply certain articles of jewellery to whomsoever would remit to them the sum
of £2.

14.

STATEMENT OF OFFENCE.

1st Count.—Arson (section 82, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
maliciously set fire to a dwelling-house one F.G. being therein.

STATEMENT OF OFFENCE.

2nd Count.—Arson (section 83, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
maliciously set fire to a dwelling-house with intent to injure or defraud.

15.

STATEMENT OF OFFENCES.

A.B.—Arson (section 83, Act 38/1876).

C.D.—Accessory before the fact to the same offence (section 325, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
maliciously set fire to a dwelling-house with intent to injure or defraud.
C.D. on the same day at _____ counselled procured and com-
manded the said A.B. to commit the said offence.

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16.

STATEMENT OF OFFENCE.

1st Count.—Obstructing Railway (section 112, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
 displaced a rail belonging to the S.A. Railways Commissioner with intent to obstruct
 overthrow injure or destroy any engine tender carriage or truck using the said
 railway.

STATEMENT OF OFFENCE.

2nd Count.—Obstructing Railway (section 113, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
 by unlawfully displacing a sleeper belonging to the S.A. Railways Commissioner
 did obstruct or cause to be obstructed an engine or carriage using the said railway.

17.

STATEMENT OF OFFENCE.

Damaging a tree after previous conviction (section 101, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
 having been previously summarily convicted on the day of _____ at _____
 of maliciously damaging a tree did maliciously destroy or
 damage certain underwood (the injury done being less than £1).

18.

STATEMENT OF OFFENCE.

1st Count.—Forgery (section 233, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
 with intent to defraud forged a cheque for £10 on the Bank of Adelaide.

STATEMENT OF OFFENCE.

2nd Count.—Uttering (section 233, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
 uttered the forged cheque mentioned in the 1st Count knowing it to be forged with
 intent to defraud.

19.

STATEMENT OF OFFENCE.

Uttering counterfeit coin (section 271, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the _____ day of _____ at _____
 uttered a false and counterfeit half-crown knowing same to be false or counterfeit.

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20.

STATEMENT OF OFFENCE.

Perjury (section 291, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the day of at
 being a witness upon the trial of an action in the Local Court of Adelaide in which
 one was plaintiff and was defendant knowingly
 falsely swore that he saw one M.N. at Port Adelaide on the day of

21.

STATEMENT OF OFFENCE.

Libel (section 304, Act 38/1876).

PARTICULARS OF OFFENCE.

A.B. on the day of at
 maliciously published a defamatory libel concerning E.F. in the form of a letter
 [book, pamphlet, or as the case may be]

[Innuendoes should be set out where necessary.]

22.

STATEMENT OF OFFENCE.

1st Count.—Fraudulent conversion (section 1 (1) (a), Act 791/1902).

PARTICULARS OF OFFENCE.

A.B. on the day of at
 fraudulently converted to his own use and benefit £100 entrusted to him by J.S.
 in order that he the said A.B. might retain the same in safe custody.

STATEMENT OF OFFENCE.

2nd Count.—Fraudulent conversion (section 1 (1) (b), Act 791/1902).

PARTICULARS OF OFFENCE.

A.B. on the day of at
 fraudulently converted to his own use and benefit £100 received by him for and on
 account of L.M.

23.

STATEMENT OF OFFENCE.

Riot.

PARTICULARS OF OFFENCE.

A.B. on the day of at
 participated in a riot.

24.

STATEMENT OF OFFENCE.

Carnal knowledge of a girl over 13 and under 16 (section 4 (1), Act 358/1885).

PARTICULARS OF OFFENCE.

A.B. on the day of at
 had carnal knowledge of C.D. a girl of 15 years.

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25.

PREVIOUS CONVICTIONS.

A.B. has been previously convicted of—

1. *Larceny*, at the Supreme Court, Adelaide, on the day of
2. *Shopbreaking and Larceny*, at the Circuit Court, Gladstone, on the
day of
3. *Receiving*, at the Supreme Court, Adelaide, on the day of