

CHAPTER 136
INDICTMENTS

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Rules as to indictments.
4. General provisions as to indictments.
5. Joinder of charges in the same indictment.
6. Orders for amendment of indictment, separate trial and postponement of trial.
7. Coins and bank-notes may be described as money.
8. Savings.

SCHEDULE

Indictment Rules, 1916

THE LAWS OF BARBADOS

Printed in England by Eyre and Spottiswoode Limited, 2 Serjeants' Inn, London EC4,
by authority of the Government of Barbados

CHAPTER 136**INDICTMENTS**

An Act to amend the Law relating to indictments in criminal cases and matters incidental or similar thereto.

1916-4.
1950-28.
1992-17.
1994-18.
1996-28.

[14th June, 1916] Commence-
ment.

1. This Act may be cited as the *Indictments Act*.

Short title.

2. For the purposes of this Act, the expression "court" means the court before which any indictable offence is tried or prosecuted.

Interpreta-
tion.

3. The rules contained in the *Schedule* with respect to indictments shall have effect as if enacted in this Act.

Rules as
to indict-
ments.
Schedule.

4. (1) Every indictment 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 may be necessary for giving reasonable information as to the nature of the charge.

General
provisions
as to
indictments.

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

5. Subject to the rules, charges for more than one offence may be joined in the same indictment.

Joinder of
charges in
the same
indictment.
1992-17.

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

6. (1) Where, before trial or at any stage of a trial, it appears to the court that the indictment is defective, the court shall make such order for the amendment of the indictment as the court thinks necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

Cap. 127.

(2) Where an indictment is so amended, a note of the order for amendment shall be endorsed on the indictment and the indictment shall be treated for the purposes of the trial and for the purposes of all proceedings in connection therewith as having been signed under the *Criminal Procedure Act* in the amended form.

(3) Where, before trial or at any stage of a trial, the court is of opinion that a person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same indictment or that for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment, the court may order a separate trial of any count or counts of such indictment.

(4) Where, 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 indictment or to order a separate trial of a count, the court shall make such order as to the postponement of the trial as appears necessary.

(5) Where an order of the court is made under this section for separate trial or for the postponement of a trial

- (a) if such an 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 indictment, 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 found in a separate indictment, 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 granting the accused bail and as to the enlargement of recognisances and otherwise as the court thinks fit. 1996-28.

(6) 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.

7. (1) In every indictment in which it is necessary to make any averment as to any money or any bank-note, it shall be sufficient to describe such money or bank-note simply as money, without specifying any particular coin or bank-note. Coins and bank-notes may be described as money.

(2) Such allegation so far as regards the description of the property shall be sustained by proof of any amount of coin or of any bank-note, although the particular species of coin of which such amount was composed or the particular nature of the bank-note is not proved and, in cases of embezzlement and obtaining money or bank-notes by false pretences, by proof that the offender embezzled or obtained any piece of coin or any bank-note or any portion of the value thereof, although such piece of coin or bank-note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same or to any other person and such part has been returned accordingly.

8. (1) Nothing in this Act shall affect the law or practice relating to the jurisdiction of a 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. Savings.

(2) The provisions of this Act relating to indictments shall apply to criminal informations in the High Court sitting for the trial of criminal cases and also to any plea, replication or other criminal pleading, with such modifications as may be made by the rules.

SCHEDULE

*Rules**(Section 3)*

Material,
etc., for
indict-
ments.

1. (1) An indictment may be on parchment or durable paper and may be either written or printed or partly written and partly printed.

(2) Each sheet on which an indictment is set out shall be not more than 17 and not less than 6 inches in length and not more than 14 and not less than 8 inches in width and, if more than one sheet is required, the sheets shall be fastened together in book form.

(3) A proper margin of not less than 2 inches in width shall be kept on the left-hand side of each sheet.

(4) Figures and abbreviations may be used in an indictment for expressing anything which is commonly expressed thereby.

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

Commence-
ment of the
indictment.
1950-28.

2. The commencement of the indictment shall be in the following form:

The Queen v. A.B.

HIGH COURT.

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

Joining of
charges in
one
indictment.
1992-17.

3. Charges for any offences may be joined in the same indictment 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.

Mode in
which
offences are
to be
charged.

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

(2) A count of an indictment 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.

(4) After the statement of the offence, particulars of such offence 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 statute limits the particulars of an offence which are required to be given in an indictment, 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. Appendix.

(6) Where an indictment 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 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. Provisions as to statutory offences.

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

6. (1) The description of property in a count in an indictment 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. Description of property.

(2) Where property is vested in more than one person and the owners of the property are referred to in an indictment, 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 other such name, it shall be sufficient to use the collective name without naming any individual.

7. The description or designation in an indictment 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 such person may be described as "a person unknown". Description of persons.

8. Where it is necessary to refer to any document or instrument in an indictment, 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. Description of document.

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 General rule as to description.

THE LAWS OF BARBADOS

which it is necessary to refer in any indictment, in ordinary language in such a manner as to indicate with reasonable clearness the place, time, thing, matter, act or omission referred to.

Statement
of intent.

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.

Charge of
previous
convictions,
etc.

11. Any charge of a previous conviction of an offence or of being a habitual criminal shall be charged at the end of the indictment by means of a statement—in the case of a previous conviction, that the person accused has been previously convicted of that offence at a certain time and place without stating the particulars of the offence, and, in the case of a habitual criminal, that the offender is a habitual criminal.

Duty to
furnish
copy of
indictment.
Cap. 127.

12. It shall be the duty of the Registrar, after a bill of indictment has been signed under the Criminal Procedure Act, to supply to the accused person, on request, a copy of the indictment free of charge.

Application
of Inter-
pretation
Act.
Cap. 1.

13. The Interpretation Act applies for the interpretation of these rules as it applies for the interpretation of an Act.

Short title.

14. These rules may be cited as the Indictment Rules, 1916.

rule 5(5).

APPENDIX

FORMS OF INDICTMENT

1.

STATEMENT OF OFFENCE

Murder.

PARTICULARS OF OFFENCE

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

day of

2.

STATEMENT OF OFFENCE

Accessory after the fact to murder.

PARTICULARS OF OFFENCE

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

3.

STATEMENT OF OFFENCE

Manslaughter.

PARTICULARS OF OFFENCE

A.B., on the
unlawfully killed J.S.

day of

4.

STATEMENT OF OFFENCE

Rape.

PARTICULARS OF OFFENCE

A.B., on the
knowledge of E.F., without her consent.

day of

had carnal

5.

STATEMENT OF OFFENCE

First Count

Wounding with intent, contrary to section 16 of the Offences Against the Person Act, Chapter 141. 1994-18.

PARTICULARS OF OFFENCE

A.B., on the
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.

day of

wounded C.D.,

STATEMENT OF OFFENCE

Second Count

Wounding, contrary to section 17 of the Offences Against the Person Act, Chapter 141.

PARTICULARS OF OFFENCE

A.B., on the
wounded C.D.

day of

maliciously

6.

STATEMENT OF OFFENCE

Cruelty to a child, contrary to section 5 of the Prevention of Cruelty to Children Act, Chapter 145.

PARTICULARS OF OFFENCE

A.B., between the _____ day of _____ and the _____ day of _____, being a person over the age of sixteen years having the custody, charge or care of **C.D.**, a child, ill-treated or neglected the said child, or caused or procured the said child to be ill-treated or neglected in a manner likely to cause the said child unnecessary suffering or injury to its health.

PARTICULARS OF OFFENCE

A. B., on the day of , did receive a bag, the property of *C. D.*, knowing the same to have been stolen.

A. B., has been previously convicted of felony, to wit, burglary, on the day of at the High Court.

10.

STATEMENT OF OFFENCE

Burglary and larceny, contrary to section 50 of the Larceny Act, Chapter 139.

PARTICULARS OF OFFENCE

A. B., in the night of the day of , did break and enter the dwelling-house of *C. D.*, with intent to steal therein, and did steal therein one watch, the property of *S. T.*, the said watch being of the value of dollars.

11.

STATEMENT OF OFFENCE

Sending threatening letter, contrary to section 34 of the Larceny Act, Chapter 139.

PARTICULARS OF OFFENCE

A. B., on the day of , 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 OF OFFENCE

Obtaining goods by false pretences, contrary to section 76 of the Larceny Act, Chapter 139.

PARTICULARS OF OFFENCE

A. B., on the day of , with intent to defraud, obtained from *S. P.* five yards of cloth by falsely pretending that he, the said *A. B.*, was a servant to *J. S.* and that he, the said *A. B.*, had then been sent by the said *J. S.* to *S. P.* for the said cloth and that he, the said *A. B.*, was then authorised by the said *J. S.* to receive the said cloth on behalf of the said *J. S.*

THE LAWS OF BARBADOS

13.

STATEMENT OF OFFENCE

Conspiracy to defraud.

PARTICULARS OF OFFENCE

A. B. and *C. D.*, on divers days between the _____ day of _____ and the _____ day of _____, conspired together and with other persons unknown to defraud such persons as should thereafter be induced to part with money to the said *A. B.* and *C. D.*, by false representations that *A. B.* and *C. D.* were then carrying on a genuine business as jewellers at _____ and that they were then willing and prepared to supply articles of jewellery to such persons.

14.

STATEMENT OF OFFENCE

First Count

Arson, contrary to section 3 of the Malicious Injury to Property Act, Chapter 140.

PARTICULARS OF OFFENCE

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

STATEMENT OF OFFENCE

Second Count

Arson, contrary to section 4 of the Malicious Injury to Property Act, Chapter 140.

PARTICULARS OF OFFENCE

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

15.

STATEMENT OF OFFENCES

A. B., arson, contrary to section 4 of the Malicious Injury to Property Act, Chapter 140.

C. D., accessory before the fact to the same offence.

PARTICULARS OF OFFENCES

A. B., on the _____ day of _____, set fire to a house with intent to injure or defraud.

C. D., on the same day, _____ did counsel, procure and command the said *A. B.* to commit the said offence.

16.

STATEMENT OF OFFENCE

Damaging trees, contrary to section 20 (1) of the Malicious Injury to Property Act, Chapter 140.

PARTICULARS OF OFFENCE

A. B., on the day of maliciously damaged a mahogany tree.

A. B., has been twice previously convicted of an offence under section 20 (3) of the Malicious Injury to Property Act, Chapter 140, namely, at , on the day of , and at , on the day of .

17.

STATEMENT OF OFFENCE

First Count

Forgery, contrary to section 9 of the Forgery Act, Chapter 133.

PARTICULARS OF OFFENCE

A. B., on the day of , with intent to defraud, forged a certain will purporting to be the will of *C. D.*

STATEMENT OF OFFENCE

Second Count

Uttering forged document, contrary to section 9 of the Forgery Act, Chapter 133.

PARTICULARS OF OFFENCE

A. B., on the day of , uttered a certain forged will purporting to be the will of *C. D.*, knowing the same to be forged and with intent to defraud.

18.

STATEMENT OF OFFENCE

Uttering counterfeit coin, contrary to section 9 of the Coinage Offences Act, Chapter 124.

PARTICULARS OF OFFENCE

A. B., on the day of , at the public house called "The Red Lion", in the parish of uttered a counterfeit twenty-five cents piece, knowing the same to be counterfeit.

THE LAWS OF BARBADOS

19.

STATEMENT OF OFFENCE

Uttering counterfeit coin, contrary to section 12 of the Coinage Offences Act, Chapter 124.

PARTICULARS OF OFFENCE

A. B., on the _____ day of _____, at a public house called "The Red Lion" in the parish of _____, uttered a counterfeit fifty cents piece, knowing the same to be counterfeit.

A. B. has been previously convicted of a misdemeanour under section 9 of the Coinage Offences Act, Chapter 124, on the _____ day of _____ at _____

20.

STATEMENT OF OFFENCE.

Perjury.

PARTICULARS OF OFFENCE

A. B., on the _____ day of _____, being a witness upon the trial of an action in the High Court, in which one _____ was plaintiff and one _____ was defendant, knowingly falsely swore that he saw one M. N., in the street called the Roebuck, on the _____ day of _____

21.

STATEMENT OF OFFENCE

Libel.

PARTICULARS OF OFFENCE

A. B., on the _____ day of _____, published a defamatory libel concerning W. Y., in the form of a letter addressed to J. B., which said letter contained the following defamatory matters concerning the said W. Y.—

1. Do you know that about the year 1966 your friend W. Y. was in the employ of L. and J. and that his accounts were found to be all wrong? (meaning thereby that W. Y. was guilty of acts of dishonesty and falsification of accounts whilst he was in the employ of L. and J.).

2. As soon as his defalcations were discovered and a warrant was applied for he fled to Rio (meaning thereby that the said W. Y. was a fugitive from justice).

3. Some time after this he appears to have returned to Barbados, for he was found to be keeping a disorderly house in Bridgetown (meaning thereby that the said W. Y. had committed the criminal offence of keeping a disorderly house).

22.

STATEMENT OF OFFENCE

First Count

Publishing obscene libel.

PARTICULARS OF OFFENCE

E. M., on the day of , sold, uttered and published and caused or procured to be sold, uttered and published an obscene libel the particulars of which are deposited with this indictment. [Particulars to specify pages and lines complained of where necessary, as in a book.]

STATEMENT OF OFFENCE

Second Count

Procuring obscene libel [or thing] with intent to sell or publish.

PARTICULARS OF OFFENCE

E. M., on the day of , procured an obscene libel [or thing], the particulars of which are deposited with this indictment, with intent to sell, utter or publish such obscene libel [or thing].

23.

STATEMENT OF OFFENCE

First Count

Falsification of accounts, contrary to section 62 of the Larceny Act, Chapter 139.

PARTICULARS OF OFFENCE

A. B., on the day of , being clerk or servant to *C. D.*, with intent to defraud, made or concurred in making a false entry in a cash book belonging to the said *C. D.*, his employer, purporting to show that on the same day \$100 had been paid to *L. M.*

STATEMENT OF OFFENCE

Second Count

Same as first count.

PARTICULARS OF OFFENCE

A. B., on the day of , being clerk or servant to *C. D.*, with intent to defraud, omitted or concurred in omitting from or in a cash book belonging to the said *C. D.*, his employer, a material particular, that is to say, the receipt on the said day of \$50 from *H. S.*

THE LAWS OF BARBADOS

24.

STATEMENT OF OFFENCE

First Count

Fraudulent conversion of property, contrary to section 64 (1) (a) of the Larceny Act, Chapter 139.

PARTICULARS OF OFFENCE

A. B., on the day of , fraudulently converted to his own use and benefit certain property, that is to say, \$100 entrusted to him by *H. S.*, in order that he, the said *A. B.*, might retain the same in safe custody.

STATEMENT OF OFFENCE

Second Count

Fraudulent conversion of property, contrary to section 64 (1) (b) of the Larceny Act, Chapter 139.

PARTICULARS OF OFFENCE

A. B., on the day of , fraudulently converted to his own use and benefit certain property, that is to say, the sum of \$200 received by him for and on account of *L. M.*

25.

STATEMENT OF OFFENCE

Obstructing coroner in the execution of his duty (Common Law Misdemeanour).

PARTICULARS OF OFFENCE

A. B. and *G. C.*, on the day of , intending to prevent the coroner of from holding an inquest in the execution of his duty upon view of the dead body of *S. C.*, who died a violent or an unnatural death or a sudden death of which the cause was unknown or, intending to obstruct the said coroner in the holding of such inquest, did bury the said dead body in a certain place called the Reef.

26.

STATEMENT OF OFFENCE

Conspiracy to incite women to procure their own miscarriage.

PARTICULARS OF OFFENCE

A. B. and *C. D.*, on divers days between the day of and the day of , conspired together and with other persons unknown to incite women being with child to administer to themselves noxious things with intent to procure their own miscarriage.

27.

PLEA OF JUSTIFICATION OF *A. B.* IN ANSWER TO THE INDICTMENT AGAINST
HIM FOR LIBEL

(See Form 21)

A. B. says he is not guilty, and for a further plea he says that all the defamatory matters alleged in the indictment are true.

Particulars

1. On the day of 1966, *W. Y.* received the sum of \$10.60 from *T. S.* and, on the day of 1966, *W. Y.* received the sum of \$1,100 from *C. F.* and the sum of \$500 from *W. D.*, on behalf of his employers, *L.* and *J.*, which he fraudulently omitted to enter in their books or to account for in any way.

2. On the day of 1966, soon after *W. Y.*'s defalcations were discovered and a warrant was applied for against him upon charges of embezzling his employers' money and falsifying their books, *W. Y.* left Barbados on a ship called the *Eagle* bound for Rio de Janeiro.

3. On the 19th September and on other days in the year 1969, *W. Y.* kept a house at Street, Bridgetown, for the purpose of prostitution, contrary to the Suppression of Brothels Act, Chapter 155.

And *A. B.* says it was for the public benefit that the defamatory matters charged in the said indictment should be published by reason of the fact that *W. Y.* was, at the time of the publication thereof, a candidate for the public office of Member of Parliament for the constituency of Saint Michael West.

(For Replication to Form 27, see Form 28.)

28.

REPLICATION TO THE PLEA OF JUSTIFICATION OF *A. B.*

(See Form 27)

L. H., Registrar, joins issue on behalf of our Lady the Queen.

THE LAWS OF BARBADOS