

more persons of the same name reside in a settlement, care should be taken to distinguish the one intended; at all events the officer having the execution of the process should be instructed in this particular.

OF THE NATURE AND DESCRIPTION OF THE OFFENCE, AND THE TIME AND PLACE AT WHICH IT WAS COMMITTED.

The complaint or information should contain an exact and a legal description or statement of the offence, and with the same certainty as in an indictment, in order that the deft. may know what he is called upon to answer, and also be entitled to defend himself against a second accusation; and that the Justices may be aware of the precise nature of the charge, and from the statement of it perceive that the offence comes within their jurisdiction by the Statute under which it is laid. (6)

It was formerly the practice to insert several different Counts in the information or complaint, much in the same manner as in an indictment; but now under the 16th Vic., ch. 178, every complaint must be for one matter of complaint only, and every information for one offence only—sec. 9 enacting that every complaint upon which a Justice of the Peace is authorised by law to make an order shall be for one matter of complaint only, and not for two or more matters of complaint, and that every information for any offence punishable on summary condition shall be for one offence only and not for two or more offences. But since the deft. cannot (see 1st sec. of same statute) take any objection to the information for defects therein, there seems to be no necessity for varying the statement of the offence. Sec. 9 limits the complaint as one matter only, but does not seem to disable a complainant from joining several parties, if jointly concerned in the subject matter of complaint.

As the provisions of the Statute 16th Vic., c. 17, s. 2, that no objection shall be allowed to any information, &c., for any alleged defect in substance, (7) or in form, or for any variances between the information and evidence, will in general apply to proceedings for summary conviction, it will suffice briefly to mention what has been decided respecting a *description of the offence*. For though Magistrates, before the passing of this Act, would be obliged to give effect to such objections, they have now, in cases within the operation of the Statute, ample power to amend a defective information.

Facts must be stated in a direct and positive manner, (8) and not in the alternative. (9) The description of the charge must include in express

terms every ingredient required by the Statute to constitute the offence, nothing being left to intendment, inference, or argument. (10) Where the gist of the offence is a guilty knowledge, its existence must be directly averred, (11) The information should not state the legal result of facts, but *the facts themselves*; (12) and this although the words of the Statute are general, stating merely the legal effect. (13) It is not necessary to use the actual words of a Statute, provided those words are equivalent. (14)

ON THE DUTIES OF CORONERS.

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II.—PROCEEDINGS IN RELATION TO INQUESTS.

The Depositions.—As far as possible it is desirable that the Coroner should take down the evidence in the very words used, and afterwards read it over to the witness, in order that he may make corrections or explanation if he has been misunderstood, and so that when the evidence is deliberated upon, no misapprehension may exist on the part of the Jury as to his meaning. The following form may be used:—

County of ———, } Information of the Witnesses severally
To wit: } taken and acknowledged on the behalf
of our Sovereign Lady the Queen touching the death of H. H.
at the dwelling house of N. N., in the Township of ———,
in the County of ———, on the ——— day of ———, in the
year of our Lord one thousand eight hundred and ———,
before A. B., Esquire, one of the Coroners of said County
of ———, on an Inquisition then and there taken on view
of the body of the said H. H., then and there lying dead, as
follows, to wit:—
J. C. of the Township of ———, in the County of ———,
Yeoman, being Sworn, saith that, &c.

After the examination is fully taken down it is carefully read over and signed by the witness. The Coroner then adds:—"Taken and acknowledged before me, the day and year and at the place above named," and signs his own name as Coroner. If several witnesses are examined, the same attestation is made at the end of each.

WHERE INQUEST ADJOURNED.

Power to adjourn.—Where the witnesses are not all present and sufficient has not been elicited to

(9) Reg. v. Middlehurst, 1 Burr. 399; Reg. v. Morley, 1 You. & Jer. 22; Reg. v. Marshall, 1 Mo. C. C. 153—2 Hawk, c. 23, s. 56.

(10) Reg. v. Turner, 4 Bald. 510; Reg. v. Daman, 1 Chit. Rep. 162; Reg. v. Jukes, 3 T. R. 538; Reg. v. Trelawney, 1 T. R. 222; Reg. v. Pearce, 2 Ad. & Ell. 375; Charter v. Greamer et al., 11 L. J. 73 M. C.; 18 Q. B. 216.

(11) Reg. v. Stewellyn, 1 Show. 48; Reg. v. Jukes, 3 T. R. 608; Reg. v. Marsh, 2 B. & C. 717; Chacey v. Payne, 2 Q. B. 713; Ex parte Hawkes, 2 B. & C. 21.

(12) Reg. v. Sparling, 1 Str. 497; Reg. v. Daman, 1 Chit. Rep. 147; Reg. v. Rowe, 3 Q. B. 180.

(13) Reg. v. Jarvis, 1 East 642, n.; Reg. v. Neild, 6 East 417; Reg. v. Ridgway, 5 B. & Ald. 627; Reg. v. Daman, 2 B. & Ald. 379; Fletcher v. Callthrop, 14 L. J. 16 M. C.

(14) Stamp v. Sweetland, 2 New Ser. cas. 30 8 Q. F. 13

(6) Ex parte Pain 5 B. & C. 381. Re Emy and Sawyer, 1 Ad. & Ell. 644. Reg. v. Marsh, 4 D. & R. 297

(7) See note J, page 108 ante.

(8) Reg. v. Bradley, 10 Mod. 106; Reg. v. Fuller, 1 Ld. Raym. 309; Reg. v. Pearce, 2 Ad. & Ell. 375.