

Criminal Procedure Handbook (Second edition)

Edited by Tertius Geldenhuys & JJ Joubert

Juta & Co Ltd (1996)

ix & 362 pages

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Unlike most of the available handbooks on criminal procedure, this book is not a commentary on the sections of the Criminal Procedure Act 51 of 1977. Written, largely, for students, it seeks to orient the reader into the milieu of criminal trials in South Africa by tracing the course of the criminal process step by step, from securing the attendance of the accused at the trial up to the ultimate exercise of lodging petitions to the State President for clemency or reopening a case which has run its full course. The text is refreshingly succinct and down to earth and assumes little prior legal knowledge on the part of the reader.

The introductory chapter furnishes the reader with a brief history and description of the dynamics of criminal procedure in South Africa, with the emphasis heavily on the effects of the new constitutional dispensation

and the results which it has had and must have upon the approach of the courts. This chapter is in itself an essay well worth reading. References to relevant sections of Chapter 3 (Fundamental Rights) of the Interim Constitution Act 200 of 1993, are included in each of the indexes to the subsequent chapters and the import of each of these sections as it affects criminal procedure has been inserted into the text. This second edition has also been furnished with an appendix in which the full text of the relevant fundamental rights contained in the Interim Constitution is set out. A further useful adjunct to the second edition is an appendix which enables the reader to ascertain where in the text specific sections of the Criminal Procedure Act are discussed. The second edition has also been brought up to date by the inclusion of references to case law and statutory amendments up to 31 December 1995. Of particular importance in this regard is the inclusion of the amendments brought about by Act 75 of 1995, relating to bail applications, and decisions of the Constitutional Court, such as *Makwanyana* 1995 3 SA 391 (CC), *Shabalala v At-*

orney-General 1996 1 SA 725 (CC) and *Zuma* 1995 1 SACR 568 (CC). It is emphasised by the writers that this work is confined to criminal procedure and is not concerned with the law of evidence. An unfortunate result of this approach, however, is that a vitally important element of many, if not most, criminal trials in the Supreme Court, namely the trial-within-a-trial in order to determine the admissibility of statements made by accused persons, is not dealt with. This omission detracts considerably from the value of this work as a handbook for the young practitioner.

In general, however, the authors, Professors Peet M Bekker; Tertius Geldenhuys; JJ Joubert; JP Swanepoel; SS Terblanche; Stef E van der Merwe and Jan H van Rooyen, all lecturers in the department of Criminal Law and Procedure of the University of South Africa (though Tertius Geldenhuys and Steph van der Merwe have since sought greener pastures), are to be congratulated on an eminently readable introduction to criminal procedure.

John Middleton
Pretoria Bar



Sonde met die bobbejane

Ingestuur deur regter FC Kirk-Cohen

Die volgende relaas van betekening van die adjunk-balju, Viljoenskroon, was onlangs deel van stukke voor die hoë hof in Pretoria:

"Ek het by die SA Polisie navrae gedoen hoe om die plaas X, distrik Viljoenskroon te bereik. Ek is aangesê om met die Viljoenskroon/Orkney teerpad te reis, oor die brug (Vaalbrug) oor die Vaalrivier, dan na Orkney daarna verby Vaalreefs en Buffelsfontein tot by 'n enkelbaanbrug weer oor die Vaalrivier terug in Viljoenskroon. Ek het so gemaak. Toe ek die enkelbrug wou oorsteek om in Viljoenskroon te kom, is ek in die middel van die brug gekonfronteer deur 'n groep van vyf bobbejane. Een was aggressief en duidelik 'n mannetjie en dié het op my motor se dak geklouter en daarop geslaan. 'n Ander jonge het op my motor se kap gesprong en vir my deur die voorruit gegluur en tande gewys. Na twintig minute



"...is ek in die middel van die brug gekonfronteer deur 'n groep van vyf bobbejane."

het ek die groep verwilder en Viljoenskroon distrik binnegegaan. Op die plaas X, die Verweerder se aangegewe woonplek, het ek 'n winkel en woning aangetref. By die woning het ek gepoog om die dagvaarding te beteken en het die tuinier Johannes Y daar aangetref. Ek het navrae gedoen aangaande die Verweerder maar die tuinier het geantwoord dat hy 'nie so 'n mens ken nie'. Ek het dus onverrig-

ter sake na my kantoor teruggekeer."

Na 'n verdere poging het die adjunk-balju uiteindelik die dagvaarding beteken, met die volgende nota by sy rekening:

"Ek het die tariewe ingevolge Hofreël 68 nagegaan maar kan geen item vind in terme waarvan ek gelde moet debiteer vir my onderfinding met die bobbejane en gevolglike tydsverlies nie."