

NOTES ON THE STYLE OF THE LAW

Criminal appeals: a modest proposal

by

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≈ appeals ≈ stylings ≈ case law ≈ order ≈ reform



C RIMINAL stylings start out very clear. The Crown, regardless of if the prosecution is public or private, will take action against a defendant or defendants, and the style, therefore, is *R v Smith, vel sim*. The utility of the abbreviation *R* does not change with the gender of the monarch, and thus, we have a consistent beginning.

In appeals, however, things become complicated.¹ When the defendant appeals, he becomes the first party on the headnote, and thus, there is a common tactic of reversing stylings, such that one gets *Smith v R* or (this being more common in other parts of the Commonwealth) *Smith v the King*. This is well-meaning, but creates more problems than it solves. The styling, as a quick reference for how to say the case, becomes muddled, for the case cannot be ‘*Smith against the Crown*’ (which sounds like *Smith* has turned prosecutor). The use of the title of the Sovereign also creates issues, not least because it requires one to remember the year of a case to get the gender of the Sovereign right! It also creates issues for indexing, and implies, wrongly, that the Crown is not a continuous prosecuting institution.

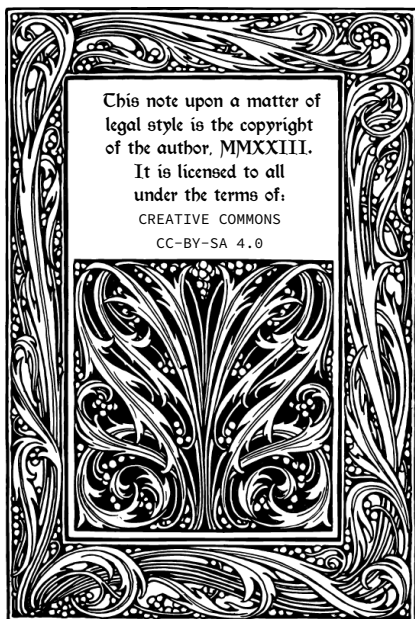
Worst of all, this ignores that, particularly in the case of any criminal case which reaches an apex court, that both parties are very likely to be cross-appealing, and therefore it’s arbitrary how one orders the two depending on which cross-appeal is given priority.

Remember, the styling is not a complete listing of parties to the case. It is a convenient mnemonic for referring to a case and remembering it, and is there to help us, not hinder us. For this reason, let us not leave the styling order at the mercy of which party is appealing which ruling. The result of doing so is, at different appellate levels, having a case’s order flip-flopping about like a beached salmon, which benefits no one.

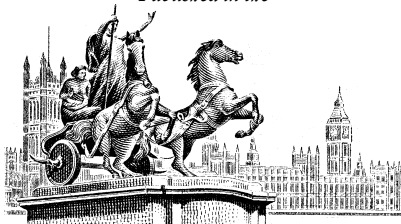
¹ Substantively and stylistically, though here let’s confine ourselves to style.

Therefore, this publication solemnly proposes the following rule: always, in short stylings, style criminal cases at all levels as *R v Smith*.





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