

R. v. WILLIAM MULUMBU.

CRIMINAL REVIEW CASE No. 283 OF 1939.

Section 273 (1) Penal Code—storebreaking and theft—correct method of charging.

As it is necessary to prove that a felony was committed as well as that there was a breaking and entering to obtain a conviction under this subsection there should be no reference to section 243 of the Penal Code in the statement of the offence but the details of the felony alleged should be set out in the particulars.

Thomson, A.J.: The accused in this case was charged with store-breaking and theft in contravention of sections 273 (1) and 243 of the Penal Code. . . . The charge, however, should have been laid in contravention of section 273 (1) only. Under that section to constitute an offence it is necessary to establish the commission of a felony in addition to a breaking and entering and it is therefore unnecessary and improper to import into the charge any allegations of a contravention of section 243.