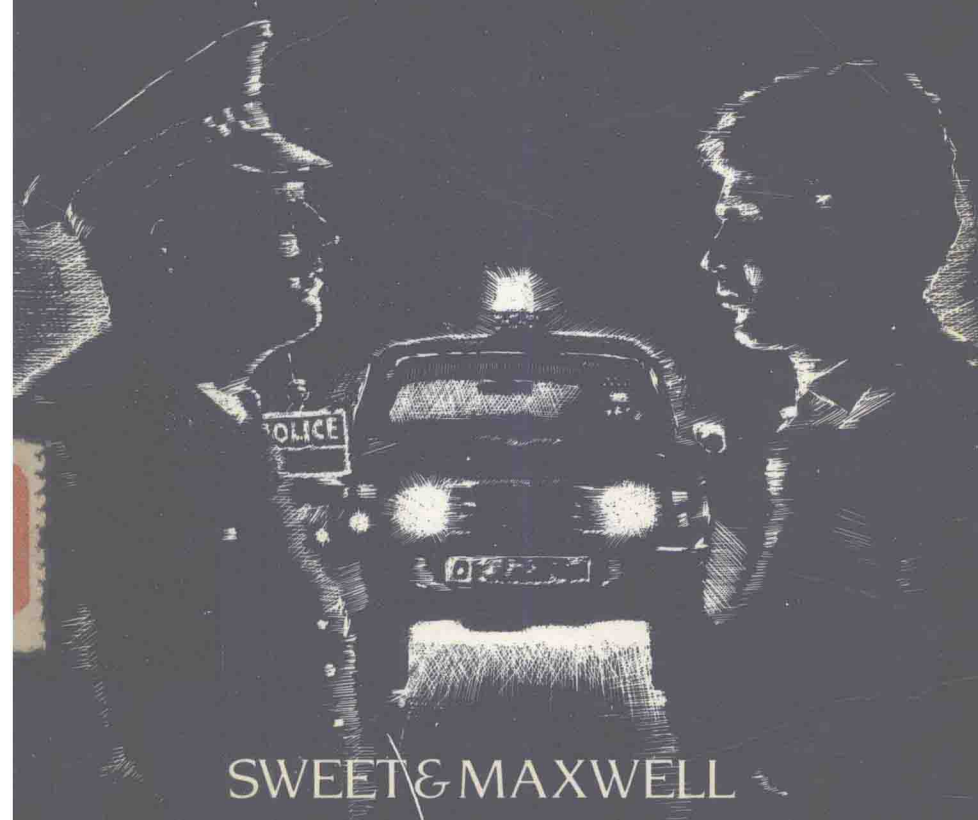


DRINK, DRUGS & DRIVING

SECOND
EDITION

H. J. WALLS & A. R. BROWNLIE



SWEET & MAXWELL

DRINK, DRUGS AND DRIVING

Second Edition

By

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PREFACE

When the first edition of this book appeared in 1970 the whole field of drink-and-driving law enforcement had a short time previously been revolutionised: the Road Safety Act 1967 had created the completely new offence of driving or attempting to drive with more than a prescribed concentration of alcohol in the blood stream, regardless of whether or not driving ability was impaired. As is now well known, the concentration chosen for legislative enforcement was 80 milligrams of alcohol per 100 millilitres of blood, a figure representing in the opinion of the legislators a reasonable compromise between an unduly oppressive restriction of freedom and an unacceptable increase in liability to accident.

While the new law (later consolidated in the Road Traffic Act 1972) at first went a long way towards achieving its objective of reducing the toll of death and injury on the roads, it was perhaps inevitable that its very novelty brought problems. The chief of these were that faults in drafting were complicated by the description of the offence and left unforeseen loopholes to legally permissible but sometimes unmeritorious defence pleas, while the question of how to deal with recidivist alcoholic or problem drinkers remained unsolved, and where the repetitive blood or urine analyses which the law made essential took up a great deal of skilled analysts' time.

These and other problems were examined by the Departmental Committee on Drinking and Driving (the Blennerhassett Committee) which reported to the Minister for Transport in 1976 and recommended a number of solutions, most of which were included in the Transport Act 1981 and incorporated in the restated code of law. It is noteworthy that in neither the Report nor the Act was any change recommended or enacted in the permissible maximum blood-alcohol level; the figure of 80mg/100ml had and has apparently been accepted as the best compromise, and it seems unlikely that it will be changed now. There has however been a well publicised major change in analytical methodology. Of all the changes

introduced by the 1981 Act the most far-reaching in its effects on the practice of law enforcement is the substitution of breath for blood or urine as the body substance of first choice for analysis. This, while not revolutionary in the sense that the 1967 enactment of a maximum permissible figure was, has nevertheless resulted in a situation comparable with that following the 1967 Act as far as general comprehension of the scientific background is concerned.

Just, therefore, as the present authors tried in their first edition to give some helpful guidance to non-scientists enmeshed in the toils of that new legislation, they have attempted in this second to give similar help to those concerned with the understanding of the changes made by the 1981 Act. The general plan of the book, with its natural division into legal and scientific sections, has necessarily remained unaltered. In the legal section, to avoid constant repetition, we cite the Road Traffic Act 1972 in its amended form following the substitutions of the Transport Act 1981. We describe the two principal offences in their original and amended forms, and we deploy so much of the case law as seems likely to remain relevant despite the altered definition of the prescribed-level offence and the seeming abolition of the principle of *Scott v. Baker* [1969] 1 Q.B. 659.

In the scientific section, considerable changes have been made. Notice has been taken of the changes in the law about alcoholic drinks consequent upon British entry into the E.E.C. Less space has been given to the now less often necessary collection, transport and analysis of blood or urine specimens, and more to the now more important subject of the correct relationship of blood and breath alcohol. Some account is given of the theory and practice of the new analytical techniques. Finally, the extensive new researches since 1970 into the effects of drugs on driving have entailed the complete re-writing and considerable enlargement of the chapter on that topic.

Proper names appearing in the text in italics indicate authorities cited by us; a complete list of all such scientific authorities appears as Appendix IV, and legal citations as Appendix III. Lists of suggested further reading appear at the end of each scientific chapter for those wishing to obtain more information on any topic than it has been possible to include in a book of this size.

The authors hope that this book will enable drivers and members of the public generally better to understand the effect of alcohol and other drugs on driving ability, and the procedures

which must follow when these are abused, so making some small contribution to the improvement of road safety and the saving of life on the roads.

November 1984

H. J. Walls
Alistair R. Brownlie

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H. J. Walls
Alistair R. Brownlie

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