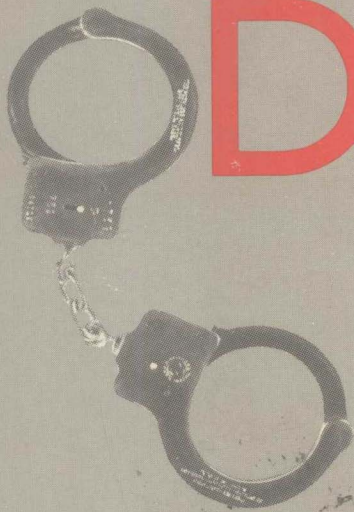


CASES
ON
THE
CRIMINAL
CODE



Third Edition

ERIC J. EDWARDS / RICHARD W. HARDING

Cases on The Criminal Code

being

Cases and material on the criminal law
in Queensland, Western Australia
and Papua New Guinea

by

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FOREWORD TO THE FIRST EDITION

The legal profession of Queensland and of Western Australia take pride in the part played by the Criminal Code of their States in the administration of justice. Although Queensland, Western Australia and Papua New Guinea have had their Codes for nigh on seventy years, this book is the first Australian attempt to publish a collection of cases and materials of particular application in Code jurisdictions. It is significant that one author is a leading academic from Western Australia, another a practitioner in Papua New Guinea and a lecturer at the Law School of the recently established University at Port Moresby, and the third now on the staff of Monash University but formerly a law lecturer at the University of Queensland. The book is not a collection of cases and materials merely from these three jurisdictions; it contains, very wisely both in relation to general principles such as criminal responsibility and to specific offences decisions of the courts of Tasmania which also has a Code, and of the common law jurisdictions of England, New Zealand and of the other Australian States.

As with all casebooks a major consideration in its planning and execution has been to provide teachers and students of criminal law with a comprehensive and readily accessible set of materials. By reason of its helpful explanatory notes and cross-references, the clarity of its format and the materiality of its content its value to the student cannot be over-emphasised. It will also prove extremely useful to those members of the profession who practise in the criminal courts. The criminal court advocate carries a heavy burden which is the more onerous by reason of the facts that jury trials require speedy resolution of points of law and that access to adequate law libraries, particularly at circuit towns and in courts of summary jurisdiction, may often be difficult if not impossible. Here the practitioner will have at hand not merely headnotes or summaries of the important cases but the *ipsissima verba* of the judges, and the student will likewise benefit because the casebook will more readily enable him to read the reports and do his own searching for, and analysis of, the principles of law contained therein.

A Committee of the Law Council of Australia, after a great deal of careful work and research, has prepared a draft Criminal Code for submission to the Attorney-General of the Commonwealth. Not surprisingly the bulk of the work involved in this task has been undertaken by experienced lawyers drawn from the bench, the bar, solicitors and law teachers of Queensland. It is anticipated that a Code based on this draft will be in force before long in all Commonwealth Territories, e.g., the Australian Capital Territory and the Northern Territory, and its introduction may well have the effect of encouraging codification of the criminal law (in whole or in part) in some or all of the non-code States. Indeed, the second programme of law reform of The Law Commission (England, 14 November, 1967) states the Commission's considered view that there should be a comprehensive examination of the criminal law with a view to its codification.

These recent trends towards codification can but increase the general worth of this casebook, the present utility of which in Queensland, Western Australia and Papua and New Guinea is considerable. Its wide application is also enhanced by the inclusion of a chapter dealing with police offences (Police Acts, Traffic Acts, Vagrancy Acts, Liquor Acts, etc.) in which legislation is broadly similar throughout the States of Australia. A book of this type is long overdue and its careful preparation together with the skill shown in case selection will ensure that it will become a most helpful volume.

W. B. CAMPBELL

Chambers
21 February, 1969.

PREFACE TO THE THIRD EDITION

The main purpose of this edition is to bring the casebook up to date. We have taken the opportunity to include a chapter on Drug Offences. Though not Code offences, these offences are as important in the Code jurisdictions as they are elsewhere. Because of space limitations, to off-set this inclusion, we have taken out the chapter on Police Offences, but included a section on Police Offences in the Synopsis of Other Offences (Chapter 15).

Regarding Papua New Guinea, much of what was contained in the second edition has been retained but we have not introduced any new cases or materials. References to the Papua New Guinea Code too have not been included. The section numbers in the new Papua New Guinea Code (see Revised edition of the Laws of Papua New Guinea, Chapter 262) do not coincide with the numbers of the similar sections in the Queensland Code, but, as an Appendix to the new Code, there is a table showing the previous reference of each of the sections in the new Code.

Robert Hayes and Robin O'Regan who were involved as editors in the production of the first two editions of the case book, were, because of other commitments, not available to take part in the production of this third edition when work on it began. We hope that one or other or both of them will be able to participate when the next edition becomes due.

We would like to record our thanks to The Law Book Company Limited for having undertaken the publication of this third edition, and to Sweet & Maxwell Ltd. and to Stevens & Sons for permission to include extracts from copyright material. A list of acknowledgments relating to other copyright material follows.

ERIC J. EDWARDS
RICHARD W. HARDING

January 1984

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We also record our thanks once again to all the judges and former judges who so kindly permitted extracts from their reasons for judgment in

unreported cases to be included in the Casebook. Their names appear in the acknowledgments in the second edition. Many of the extracts from these unreported cases appear once again in this edition.

And finally we acknowledge with thanks the permission granted to us to reprint extracts from the following copyright material not included in earlier editions.

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