

# **Criminal Law and Procedure: Cases and Materials, Ninth Edition**

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2004

EMOND MONTGOMERY PUBLICATIONS LIMITED  
TORONTO, CANADA

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Printed in Canada.

Edited, designed, and typeset by WordsWorth Communications, Toronto.

We acknowledge the financial support of the Government of Canada through the Book Publishing Industry Development Program (BPIDP) for our publishing activities.

## CIP STILL TO COME

### National Library of Canada Cataloguing in Publication

Mossman, Mary Jane

Property law : cases and commentary / Mary Jane Mossman,  
William F. Flanagan. — 2nd ed.

ISBN 1-55239-121-3

I. Real property — Canada — Cases. I. Flanagan, W. H. Title.

KE625.A7M68 2004 — 346.710463 — C2004-903029-9  
KF560.M68 2004

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# Preface to the Ninth Edition

Much has changed since the last edition of this casebook was published in 1997. Professor Martin L. Friedland has retired from teaching criminal law and procedure and from his editorship of these materials. The first five editions of this book were prepared by him alone and his exceptional contributions both to the teaching of criminal law and to Canadian criminal justice are still very much reflected in these pages.

A constant from the first edition published by Professor Friedland in 1968 to this edition is a common belief that students should be introduced to the criminal law in its procedural and evidentiary contexts. These materials have never been intended to supplant the need for separate courses on criminal procedure, evidence, and sentencing, but they are designed to provide students with a sense of the complexities and context of the criminal law. As before, instructors who wish to focus simply on the general part can do so by omitting the chapters on police powers, the trial process, and sentencing.

This casebook also reflects one of the most important themes of Professor Friedland's scholarship, namely, the recognition of what he describes in *The Trials of Israel Lipski* as "the inherent fallibility of the criminal trial process and the constant danger of error." From the very first edition of this casebook, Professor Friedland included a case study of a possible miscarriage of justice, the prosecution and conviction of Stephen Truscott. This edition continues this tradition with a case study of the wrongful conviction of Donald Marshall Jr.

Two new editors with decades of experience in both the academy and practice join this edition, Professor Patrick Healy of McGill and Professor Gary Trotter of Queen's. Both have collaborated before on teaching materials, in *Sentencing and Penal Policy in Canada* with Professor Allan Manson, published by Emond Montgomery in 2000.

There is some slight reorganization in this edition. The first two chapters deal with sources and limits of the criminal law, topics we believe will be of general interest. Subsequent chapters on police powers and the criminal trial process have been reduced in length and are, we believe, of interest not only to law students but other students of criminal justice. In recognition of the increasingly contextual nature of criminal law principles, we include separate chapters on homicide and sexual assault. As in previous editions, we include participation and inchoate offences at an early stage because of the importance of these extensions of criminal liability. Separate chapters are now included for each defence and the book concludes with a brief examination of sentencing.

This is an opportune time for a new edition of the casebook. The growing complexity of Canadian jurisprudence has allowed us to focus almost exclusively on Canadian case

law. Recent developments from the Supreme Court such as the decisions in *Malmo-Levine* on the limits of the criminal law, *Burns and Rafay* on miscarriages of justice, *Cinous* and *Fontaine* on air of reality tests, and *Latimer* and *Ruzic* on excuses have all been incorporated, as have Parliament's significant changes and codification of the principles that govern the criminal liability of organizations.

We are extremely grateful to Professor Friedland for his continued advice and for handing off this important project to us. We are also grateful to everyone at Emond Montgomery for their patience, professionalism, and good cheer in producing this book. Particular thanks are due to Peggy Buchan for her excellent coordination of the production of the book.

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June 2004

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# Summary Table of Contents

<i>Preface to the Ninth Edition</i> . . . . .	iii
<i>Detailed Table of Contents</i> . . . . .	vii
<i>?????????????Acknowledgments</i> . . . . .	ix
<i>Table of Cases</i> . . . . .	xxi

## **Part One Introduction to Criminal Law and Procedure**

<b>Chapter One Sources of Criminal Law</b> . . . . .	3
<b>Chapter Two Limits on Criminal Law</b> . . . . .	49
<b>Chapter Three Police Powers</b> . . . . .	107
<b>Chapter Four The Trial Process</b> . . . . .	185

## **Part Two Principles of Criminal Liability**

<b>Chapter Five Conduct or Actus Reus</b> . . . . .	289
<b>Chapter Six Absolute and Strict Responsibility</b> . . . . .	373
<b>Chapter Seven Fault or Mens Rea</b> . . . . .	411

## **Part Three Extensions of Criminal Liability**

<b>Chapter Eight Participation</b> . . . . .	483
<b>Chapter Nine Inchoate Offences</b> . . . . .	539
<b>Chapter Ten Corporate Liability</b> . . . . .	593
<b>Chapter Eleven Ignorance of the Law</b> . . . . .	615

## **Part Four The Special Part: Sexual Assault and Homicide**

<b>Chapter Twelve Sexual Assault</b> . . . . .	637
<b>Chapter Thirteen Homicide</b> . . . . .	691

## **Part Five Principles of Exculpation**

<b>Chapter Fourteen</b> Provocation .....	749
<b>Chapter Fifteen</b> Mental Disorder .....	779
<b>Chapter Sixteen</b> Automatism .....	817
<b>Chapter Seventeen</b> Intoxication .....	887
<b>Chapter Eighteen</b> Necessity .....	921
<b>Chapter Nineteen</b> Duress .....	945
<b>Chapter 20</b> Self-Defence .....	969

## **Part Six Disposition**

<b>Chapter Twenty-One</b> Sentencing .....	1017
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# Table of Contents

<i>Preface to the Ninth Edition</i> . . . . .	iii
<i>Summary Table of Contents</i> . . . . .	v
<i>?????????????Acknowledgments</i> . . . . .	ix
<i>Table of Cases</i> . . . . .	xxi

## **Part One Introduction to Criminal Law and Procedure**

<b>Chapter One Sources of Criminal Law</b> . . . . .	3
I. Overview of the Book . . . . .	3
The Criminal Process . . . . .	4
Principles of Criminal Liability . . . . .	4
Principles of Exculpation . . . . .	6
Disposition . . . . .	6
II. The Criminal Law and the Constitution . . . . .	7
The Canadian Charter of Rights and Freedoms . . . . .	7
The Criminal Law and the Division of Powers . . . . .	8
M.L. Friedland, “Criminal Justice and the Division of Power in Canada” . . . . .	9
<i>Switzman v. Elbling</i> . . . . .	14
<i>R. v. Morgentaler</i> . . . . .	15
Reference re Firearms Act (Can.) . . . . .	16
III. Codification: The Criminal Law as a Statute . . . . .	17
History of the Criminal Code . . . . .	17
Alan Mewett, “The Criminal Law, 1867-1967” . . . . .	17
Common Law Defences . . . . .	19
<i>Amato v. The Queen</i> . . . . .	19
Common Law Offences . . . . .	21
<i>Frey v. Fedoruk</i> . . . . .	21
<i>Jobidon v. The Queen</i> . . . . .	23
Vagueness, Overbreadth, and Certainty in the Criminal Law . . . . .	25
<i>R. v. Heywood</i> . . . . .	27
<i>Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General)</i> . . . . .	29

Construction or Interpretation of the Criminal Code . . . . .	37
<i>R. v. Goulis</i> . . . . .	37
<i>R. v. Paré</i> . . . . .	41
<b>Chapter Two Limits on Criminal Law</b> . . . . .	49
I. Perspectives on the Role of Criminal Law and “Consensual” Sex . . . . .	49
The Report of the Committee on Homosexual Offences and Prostitution (The Wolfenden Report) . . . . .	50
Devlin, “The Enforcement of Morals” . . . . .	52
Special Committee on Pornography and Prostitution in Canada (The Fraser Committee) . . . . .	58
<i>Reference Re ss. 193 and 195.1(1)(c) of the Criminal Code</i> . . . . .	62
II. Pornography . . . . .	68
<i>R. v. Butler</i> . . . . .	68
<i>R. v. Sharpe</i> . . . . .	71
III. Marijuana and the Harm Principle . . . . .	78
<i>R. v. Malmo-Levine; R. v. Caine</i> . . . . .	78
IV. Hate Speech . . . . .	93
<i>R. v. Keegstra</i> . . . . .	93
<i>R. v. Zundel</i> . . . . .	98
<b>Chapter Three Police Powers</b> . . . . .	107
I. Models of the Criminal Process . . . . .	107
Kent Roach, <i>Due Process and Victims’ Rights:     The New Law and Politics of Criminal Justice</i> . . . . .	107
II. Questioning Suspects . . . . .	112
The Common Law Governing Confessions . . . . .	112
Confessions and the Right to Counsel . . . . .	113
<i>Clarkson v. The Queen</i> . . . . .	113
<i>R. v. Manninen</i> . . . . .	119
<i>R. v. Brydges</i> . . . . .	123
<i>R. v. Prosper</i> . . . . .	125
III. Entrapment . . . . .	129
<i>Amato v. The Queen</i> . . . . .	132
<i>R. v. Mack</i> . . . . .	135
<i>R. v. Barnes</i> . . . . .	141
IV. Search and Seizure . . . . .	144
<i>Hunter v. Southam Inc.</i> . . . . .	144
<i>Thomson Newspapers Ltd. v. Canada (Director of     Investigations, Restrictive Trade Practices Commission)</i> . . . . .	148
Reasonable Expectation of Privacy . . . . .	150
<i>R. v. LeBeau and Lofthouse</i> . . . . .	150
<i>R. v. Wong</i> . . . . .	152
Prior Judicial Authorization of Search and Seizure . . . . .	155



Electronic Surveillance and the Charter . . . . .	156
<i>R. v. Duarte</i> . . . . .	156
V. Arrest and Detention . . . . .	160
The Deaths of Helen Betty Osborne and John Joseph Harper . . . . .	160
Detention Powers . . . . .	162
Arrest Powers . . . . .	164
Powers Incident to Arrest . . . . .	166
<i>Cloutier v. Langlois</i> . . . . .	166
<i>R. v. Golden</i> . . . . .	169
VI. A Case Study of the Investigation of Drunk Driving . . . . .	173
<i>R. v. Therens</i> . . . . .	173
<i>R. v. Dedman</i> . . . . .	175
<i>R. v. Thomsen</i> . . . . .	177
<i>R. v. Hufsky</i> . . . . .	179
<i>R. v. Ladouceur</i> . . . . .	181
<i>R. v. Mellenthin</i> . . . . .	182
Additional Reading . . . . .	184
<b>Chapter Four The Trial Process</b> . . . . .	<b>185</b>
I. The Wrongful Conviction of Donald Marshall Jr. . . . .	185
Marshall's Appeals . . . . .	186
<i>R. v. Marshall</i> . . . . .	186
<i>R. v. Marshall</i> . . . . .	192
Royal Commission on the Donald Marshall Jr. Prosecution . . . . .	198
<i>United States of America v. Burns and Rafay</i> . . . . .	211
II. The Role of the Prosecutor and Defence Counsel . . . . .	219
Crown Counsel . . . . .	219
<i>Boucher v. The Queen</i> . . . . .	219
Disclosure . . . . .	221
<i>R. v. Stinchcombe</i> . . . . .	223
Plea Bargaining . . . . .	225
Defence Counsel . . . . .	226
Law Society of Upper Canada, "Defending a Criminal Case" . . . . .	227
III. Pre-Trial Release and Bail . . . . .	230
<i>R. v. Bray</i> . . . . .	233
<i>R. v. Pugsley</i> . . . . .	234
<i>R. v. Pearson</i> . . . . .	235
<i>R. v. Morales</i> . . . . .	236
<i>R. v. Hall</i> . . . . .	239
IV. Pre-Trial Publicity and Change of Venue . . . . .	243
<i>R. v. Bryant</i> . . . . .	243
<i>R. v. Ebsary</i> . . . . .	245
V. The Jury . . . . .	246
Requiring Trial by Jury . . . . .	247

Selecting the Jury . . . . .	247
Challenging the Array . . . . .	249
<i>R. v. Kent et al.</i> . . . . .	249
Peremptory Challenges . . . . .	251
<i>R. v. Pizzacalla</i> . . . . .	252
Challenges for Cause . . . . .	254
<i>R. v. Parks</i> . . . . .	255
<i>R. v. Williams</i> . . . . .	256
Jury Unanimity . . . . .	260
VI. Quantum and Burden of Proof . . . . .	261
Burden of Proof . . . . .	261
<i>Woolmington v. D.P.P.</i> . . . . .	261
<i>R. v. Oakes</i> . . . . .	266
<i>R. v. Whyte</i> . . . . .	272
<i>R. v. Downey</i> . . . . .	276
Quantum of Proof . . . . .	280
<i>R. v. Lifchus</i> . . . . .	280
<i>R. v. Starr</i> . . . . .	281

## Part Two Principles of Criminal Liability

<b>Chapter Five Conduct or Actus Reus</b> . . . . .	289
I. Voluntariness . . . . .	290
<i>R. v. Ruzic</i> . . . . .	290
II. Contemporaneity . . . . .	292
<i>Fagan v. Commissioner of Metropolitan Police</i> . . . . .	292
<i>R. v. Miller</i> . . . . .	295
III. Action, Inaction, and Status . . . . .	299
Action . . . . .	299
Inaction (Omissions) . . . . .	300
<i>Moore v. The Queen</i> . . . . .	301
<i>R. v. Thornton</i> . . . . .	307
Status . . . . .	315
<i>R. v. Terrence</i> . . . . .	317
IV. Circumstances . . . . .	322
V. Consequences and Causation . . . . .	326
<i>Smithers v. The Queen</i> . . . . .	327
<i>R. v. Cribbin</i> . . . . .	332
<i>R. v. Nette</i> . . . . .	343
<i>R. v. Menezes</i> . . . . .	361
<i>R. v. Reid &amp; Stratton</i> . . . . .	366
Additional Reading . . . . .	372

<b>Chapter Six Absolute and Strict Responsibility</b> . . . . .	373
I. Public Welfare or True Criminal Offences . . . . .	374
<i>Beaver v. The Queen</i> . . . . .	374
<i>R. v. Pierce Fisheries Ltd.</i> . . . . .	380
II. The Emergence of Strict Liability . . . . .	384
<i>R. v. City of Sault Ste. Marie</i> . . . . .	384
III. Constitutional Considerations . . . . .	390
<i>Reference Re Section 94(2) of the B.C. Motor Vehicle Act</i> . . . . .	390
<i>R. v. Pontes</i> . . . . .	393
<i>R. v. 1260448 Ontario Inc. (c.o.b. William Cameron Trucking);</i> <i>R. v. Transport Robert (1973) Ltée</i> . . . . .	397
<i>R. v. Wholesale Travel Group Inc.</i> . . . . .	403
Additional Reading . . . . .	410
 <b>Chapter Seven Fault or Mens Rea</b> . . . . .	 411
I. Legislative Definitions of Fault . . . . .	413
American Law Institute, <i>Model Penal Code</i> . . . . .	413
English Law Commission, <i>The Mental Element in Crime</i> . . . . .	415
Law Reform Commission of Canada, <i>Recodifying Criminal Law</i> . . . . .	416
II. Subjective States of Fault . . . . .	418
<i>R. v. Buzzanga and Durocher</i> . . . . .	418
<i>R. v. Tennant and Naccarato</i> . . . . .	418
Intention and Knowledge . . . . .	419
<i>R. v. Lewis</i> . . . . .	419
<i>R. v. Steane</i> . . . . .	422
<i>Hibbert v. The Queen</i> . . . . .	426
<i>R. v. Buzzanga and Durocher</i> . . . . .	430
<i>R. v. Theroux</i> . . . . .	438
Recklessness and Wilful Blindness . . . . .	444
<i>R. v. Sansregret</i> . . . . .	444
<i>R. v. Duong</i> . . . . .	447
<i>R. v. Cooper</i> . . . . .	450
III. Objective States of Fault . . . . .	454
<i>R. v. Tutton and Tutton</i> . . . . .	454
<i>R. v. Creighton</i> . . . . .	462
IV. Constitutional Considerations . . . . .	474
<i>R. v. Finta</i> . . . . .	476
Additional Reading . . . . .	480

## Part Three Extensions of Criminal Liability

<b>Chapter Eight Participation</b> .....	483
I. Principals .....	484
<i>R. v. Thatcher</i> .....	484
<i>R. v. H. (L.I.)</i> .....	490
<i>R. v. Berryman</i> .....	501
II. Aiding and Abetting .....	508
<i>R. v. Kulbacki</i> .....	508
<i>Dunlop and Sylvester v. The Queen</i> .....	511
III. Common Intention .....	515
<i>R. v. Kirkness</i> .....	515
<i>R. v. Maier and Clark</i> .....	520
<i>R. v. Logan</i> .....	521
IV. Counselling .....	524
<i>R. v. Lacoursière</i> .....	524
V. Accessory After the Fact .....	530
<i>R. v. Camponi</i> .....	530
Additional Reading .....	537
 <b>Chapter Nine Inchoate Offences</b> .....	 539
I. Attempt .....	540
Actus Reus .....	540
<i>R. v. Cline</i> .....	540
<i>Deutsch v. The Queen</i> .....	541
Mens Rea .....	542
<i>R. v. Ancio</i> .....	542
<i>R. v. Logan</i> .....	545
Impossibility .....	547
<i>United States v. Dynar</i> .....	547
II. Incitement .....	557
<i>Ford v. The Queen</i> .....	557
<i>R. v. Gonzague</i> .....	563
<i>R. v. Janeteas</i> .....	566
<i>R. v. Hamilton</i> .....	576
III. Conspiracy .....	586
<i>United States v. Dynar</i> .....	586
Additional Reading .....	592

<b>Chapter Ten Corporate Liability</b> . . . . .	593
I. The Old Common Law of Directing Minds . . . . .	593
<i>R. v. Waterloo Mercury Sales Ltd.</i> . . . . .	593
<i>Canadian Dredge and Dock Co., Ltd. et al. v. The Queen</i> . . . . .	594
<i>R. v. Safety-Kleen Canada Inc.</i> . . . . .	600
A Note on Vicarious Liability and the Charter . . . . .	601
II. The New Statutory Provisions for Organizational Liability . . . . .	602
T. Archibald, K. Jull, and K. Roach, “The Changed Face of Corporate Criminal Liability” . . . . .	603
Additional Reading . . . . .	613
<b>Chapter Eleven Ignorance of the Law</b> . . . . .	615
I. Mistaken Beliefs About the Law and Particular Fault Elements . . . . .	615
<i>R. v. Howson</i> . . . . .	615
II. Mistake of Fact and Mistake of Law . . . . .	617
III. The Emerging Defence of Officially Induced Error . . . . .	619
<i>R. v. Jorgensen</i> . . . . .	621
IV. Mistake of Law and Constitutional Considerations . . . . .	627
<i>Jones and Pamajewon v. The Queen</i> . . . . .	627
<i>R. v. Pontes</i> . . . . .	628
V. Statutory Reform . . . . .	632
Additional Reading . . . . .	634

## **Part Four The Special Part: Sexual Assault and Homicide**

<b>Chapter Twelve Sexual Assault</b> . . . . .	637
I. Sexual Assault . . . . .	638
<i>R. v. Chase</i> . . . . .	638
<i>Pappajohn v. The Queen</i> . . . . .	639
II. Consent . . . . .	646
III. Mistake . . . . .	649
<i>Sansregret v. The Queen</i> . . . . .	649
<i>R. v. Seaboyer</i> . . . . .	652
<i>R. v. Darrach</i> . . . . .	659
<i>R. v. Ewanchuk</i> . . . . .	668
Additional Reading . . . . .	690
<b>Chapter Thirteen Homicide</b> . . . . .	691
I. Second-Degree Murder . . . . .	692
Section 229(a): Intentional or Reckless Killing . . . . .	692
<i>R. v. Simpson</i> . . . . .	692
<i>R. v. Cooper</i> . . . . .	694

Section 229(b): Transferred Intent . . . . .	698
<i>R. v. Fontaine</i> . . . . .	698
Section 229(c): Unlawful Object . . . . .	703
<i>R. v. Tennant and Naccarato</i> . . . . .	703
<i>R. v. Vasil</i> . . . . .	705
Constitutional Considerations . . . . .	709
<i>Vaillancourt v. The Queen</i> . . . . .	709
<i>R. v. Martineau</i> . . . . .	717
II. First-Degree Murder . . . . .	722
Section 231(2): “Planned and Deliberate” . . . . .	723
<i>R. v. More</i> . . . . .	723
Section 231(4): Murder of Police Officer, etc. . . . .	725
<i>R. v. Collins</i> . . . . .	725
Section 231(5): “While Committing” . . . . .	731
<i>R. v. Russell</i> . . . . .	731
Constitutional Considerations . . . . .	736
<i>R. v. Arkell</i> . . . . .	736
<i>R. v. Luxton</i> . . . . .	738
III. Manslaughter . . . . .	742
Additional Reading . . . . .	745

## Part Five Principles of Exculpation

<b>Chapter Fourteen Provocation</b> . . . . .	749
I. Applying the Provisions . . . . .	750
<i>R. v. Hill</i> . . . . .	750
<i>R. v. Thibert</i> . . . . .	760
II. Provocation and Intent . . . . .	770
<i>R. v. Campbell</i> . . . . .	770
<i>R. v. Cameron</i> . . . . .	772
<i>R. v. Parent</i> . . . . .	774
Additional Reading . . . . .	777
<b>Chapter Fifteen Mental Disorder</b> . . . . .	779
I. Procedural Elements of the Mental Disorder Defence . . . . .	780
Unfitness to Stand Trial . . . . .	780
<i>R. v. Whittle</i> . . . . .	780
Who Can Raise the Mental Disorder Issue? . . . . .	781
<i>R. v. Swain</i> . . . . .	781
Burden of Proof . . . . .	784
<i>R. v. Chaulk and Morrissette</i> . . . . .	784
Consequences of Mental Disorder as a Defence . . . . .	787
<i>Winko v. British Columbia (Forensic Psychiatric Institute)</i> . . . . .	787

II. Mental Disorder as a Defence . . . . .	790
Mental Disorder or Disease of the Mind . . . . .	790
<i>R. v. Simpson</i> . . . . .	790
<i>Cooper v. The Queen</i> . . . . .	791
Appreciating the Nature and Quality of the Act . . . . .	794
<i>Cooper v. The Queen</i> . . . . .	794
<i>R. v. Abbey</i> . . . . .	797
Knowing That the Act Is Wrong . . . . .	800
<i>R. v. Chaulk and Morrissette</i> . . . . .	800
<i>R. v. Oommen</i> . . . . .	806
Considering the Two Alternative Arms of the Mental Disorder Defence Together . . . . .	813
III. Possible Statutory Reform . . . . .	814
Additional Reading . . . . .	815
<b>Chapter Sixteen Automatism</b> . . . . .	817
<i>Rabey v. The Queen</i> . . . . .	817
<i>R. v. Parks</i> . . . . .	834
<i>R. v. Stone</i> . . . . .	837
Additional Reading . . . . .	885
<b>Chapter Seventeen Intoxication</b> . . . . .	887
I. The Common Law Defence of Intoxication . . . . .	888
<i>D.P.P. v. Beard</i> . . . . .	888
II. The Intoxication Defence: Capacity or Intent? . . . . .	890
<i>R. v. Robinson</i> . . . . .	891
Air of Reality and the Intoxication Defence . . . . .	896
III. Intoxication and Specific Intent . . . . .	897
<i>R. v. George</i> . . . . .	897
<i>Bernard v. The Queen</i> . . . . .	901
<i>R. v. Penno</i> . . . . .	911
<i>R. v. Daviault</i> . . . . .	912
Additional Reading . . . . .	919
<b>Chapter Eighteen Necessity</b> . . . . .	921
I. Necessity and Abortion . . . . .	921
<i>Morgentaler v. The Queen</i> . . . . .	921
<i>R. v. Morgentaler et al.</i> . . . . .	925
II. The Conceptualization of Necessity as an Excuse or Justification . . . . .	927
<i>Perka v. The Queen</i> . . . . .	927
III. Necessity and the Latimer Case . . . . .	933
<i>Latimer v. The Queen</i> . . . . .	933
IV. Necessity and Codification . . . . .	942
Additional Reading . . . . .	944

<b>Chapter Nineteen Duress</b> .....	945
I. The Common Law Defence of Duress .....	946
<i>Paquette v. The Queen</i> .....	946
<i>R. v. Mena</i> .....	949
II. Duress and Mens Rea .....	950
<i>Hibbert v. The Queen</i> .....	951
III. Duress and the Charter .....	958
<i>R. v. Ruzic</i> .....	958
IV. Duress and Excluded Offences .....	966
V. Duress and Statutory Reform .....	967
Additional Reading .....	968
<b>Chapter 20 Self-Defence</b> .....	969
I. Introduction .....	969
<i>People v. Goetz</i> .....	970
II. Applying the Criminal Code Provisions .....	973
<i>R. v. Bogue</i> .....	974
<i>R. v. Pawliuk</i> .....	977
<i>R. v. Cinous</i> .....	986
III. Self-Defence and Domestic Violence .....	993
<i>R. v. Lavallee</i> .....	993
<i>R. v. Pétel</i> .....	1002
<i>R. v. Malott</i> .....	1005
IV. Proposals for Reform .....	1012
Additional Reading .....	1014

## Part Six Disposition

<b>Chapter Twenty-One Sentencing</b> .....	1017
I. Purpose and Principles of Sentencing .....	1017
<i>R. v. M.(C.A.)</i> .....	1019
II. Fact Finding and the Sentencing Process .....	1022
<i>R. v. Ebsary</i> .....	1022
<i>R. v. Gardiner</i> .....	1024
III. Constitutional Considerations .....	1026
<i>Reference Re Section 94(2) of the B.C. Motor Vehicle Act</i> .....	1026
<i>R. v. Smith</i> .....	1028
<i>R. v. Latimer</i> .....	1031
IV. Sentencing Options Other than Imprisonment .....	1034
Absolute and Conditional Discharges .....	1035
Probation .....	1035
<i>R. v. Preston</i> .....	1036
Conditional Sentence of Imprisonment .....	1038
<i>R. v. Proulx</i> .....	1039



Restitution .....	1053
Fines .....	1054
<i>R. v. Hebb</i> .....	1054
V. Sentencing of Aboriginal Offenders .....	1059
<i>R. v. Gladue</i> .....	1059
Additional Reading .....	1068

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# Table of Cases















