QUEENSLAND LAW REFORM COMMISSION

A BILL TO AMEND THE CRIMINAL CODE IN CERTAIN PARTICULARS

REPORT NO. 17

19 December 1974

A Report of the Queensland Law Reform Commission

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QUEENSLAND

A REPORT OF THE LAW REFORM COMMISSION

ON A BILL TO AMEND THE CRIMINAL CODE IN CERTAIN PARTICULARS

Q.L.R.C. 17

REPORT OF THE LAW REFORM COMMISSION

On a Bill to amend the Criminal Code
in certain particulars

Q.L.R.C. 17

To the Honourable W.E. Knox, M.L.A.,
Minister for Justice and Attorney-General,
BRISBANE.

We forward herewith our Report on two anomalies in the criminal law that we have investigated in consequence of representations that have been made to us. This investigation has been undertaken in accordance with Item 2 of the second programme of the Law Reform Commission, which authorizes us to undertake work of this kind.

The Report contains a draft Bill and a Commentary. It deals with two matters, namely, the adjournment of criminal trials and the joinder of charges in criminal trials. The working paper which preceded the Report has been widely circulated and, in response, we have received several criticisms and suggestions. These have been taken into account by us before adopting the Report.

We wish to acknowledge the assistance gained from information supplied by His Honour Judge Byrne of the County Court of Victoria, who is a former Crown Prosecutor in Victoria, about the functioning of s. 360 of the Victorian Crimes Act 1958. As will be seen, we have adopted the principle embodied in this Victorian provision relating to the postponement of criminal trials. His Honour Judge Gibney of Queensland made it possible for us to obtain this information.

D.G. Andrews [Chairman]
(Hon. Mr. Justice D.G. Andrews)

Raymund Smith [Member]
(P.R. Smith)

J.M. Morris [Member]
(J.M. Morris)

B.H. McPherson [Member]
(B.H. McPherson)

[Member]
(J.B. Rowell)

19th December, 1974.
BRISBANE.

COMMENTARY

PART I - ADJOURNMENT OF TRIALS

The proposed clauses are designed to simplify the procedure of postponing and adjourning criminal trials in the Supreme Court and the District Courts. Submissions made to the Commission by Mr. D.G. Sturgess of Counsel and by Mr. J.M. Robertson, solicitor, have drawn attention to problems arising in this field of the Criminal Law. The existing procedure is governed, for the most part, by ss. 555, 590, 592, 593 and 594 of the Criminal Code.

In response to the working paper which preceded this Report, we have received letters from the Under Secretary of the Department of Justice and the Assistant Crown Solicitor drawing attention to the need to introduce further provisions upon bail. The Chairman of the District Courts has also raised this matter with us. However, we have decided to postpone further consideration of bail until we can deal more comprehensively with the matters of criminal trial practice set out in Item 2 of the second programme of the Commission. In this Report, we have dealt with bail only so far as it is necessary for us to do so in support of the proposed clauses. We believe that the proposed clauses may be safely enacted before a general review of bail is undertaken. The Crown would retain the right to oppose any postponement or adjournment of a trial in the absence of the accused person if there is any doubt that he will later surrender himself into custody. It could insist upon the attendance of the accused person at court before any adjournment is ordered.

The main problem originally drawn to our attention, and with which we deal in this Report, is the inability of the Supreme Court and of the District Courts to postpone or adjourn a criminal trial in the absence of the accused person. A great deal of unnecessary inconvenience and expense is caused when many persons committed or remanded for trial before one of these courts are required to appear at the criminal sittings to which they have been committed or remanded though their cases will not be tried at that sittings. This may well happen, and in fact does frequently happen, when the cases committed or remanded for trial at a criminal sittings exceed the cases than can then be tried. In such circumstances, the appearance of an accused person before the court may be a mere formality to allow the court to adjourn the trial in accordance with the provisions of ss. 592 and 593 of the Criminal Code. Subject to an exception not readily applicable to a case of this kind, s. 617 of the Criminal Code requires the accused person to be present at all stages of his trial. Such a person may have had to travel a long distance to appear before the court and may have jeopardized his employment in doing so, all for no useful purpose. He may also have borne the expense of instructing Counsel to appear on his behalf.

If the accused person is in custody, the case is somewhat different. It is desirable that a court should keep under constant review the case of each person held in custody pending trial. However it is doubtful whether upon every postponement of a trial it is desirable to make the accused person appear in court at the time of the postponement. For such an appearance, he must be taken from the place of custody to the court of trial under guard. When the place of custody is far removed from the court of trial, it will be necessary for him to be taken a long distance under guard. This procedure would be better avoided in any case where it contributes nothing to the proper surveillance of the custody of an accused person by a court.

Under existing law, there is little that the prosecution can do to alleviate the problem. In planning for a criminal sittings of a court, the prosecution must maintain a high degree of flexibility. The duration of any particular criminal trial cannot be predicted by the prosecution with certainty. The witnesses needed for any particular trial are not always readily available. The defence is not under any obligation to reveal beforehand what tactics it intends to pursue and in fact rarely does so. With more and more emphasis being quite properly placed upon the defence, including the public defence, of accused persons, the prosecution's ability to plan for a particular criminal sittings has become more and more circumscribed.

Yet the time limits within which the prosecution must work are quite narrow. It must bring an accused person to trial before a court at the sittings to which he has been committed. If it does not do so, the accused person will be entitled to go free. This is the result of the provisions of the Justices Act 1886-1974 and certain forms authorized under that Act. Upon committing a person for trial, a Stipendiary Magistrate (or Justices) may, pending the trial, commit the person to gaol or admit him to bail. Under s. 108 of that Act, a person committed to gaol must be "safely kept until the sittings of the court before which he is to be tried, or until he is delivered by due course of law or admitted to bail". This form of committal does not extend beyond the sittings of the court to which the accused person is committed to be tried. That this is so is made clear by the terms of the warrant of commitment for trial authorized under the Justices Act. See the third schedule, form No. 51. Such a warrant records that the defendant has been committed to take his trial at a criminal sittings of the Supreme Court or of a District Court to be held at a place, and to commence on a date, specified in the warrant. The warrant further specifies that the defendant is to be kept in a gaol or a place of legal detention "until the said Sittings of the said Court, or until he shall be thence delivered by due course of law."

The words "delivered by due course of law" in the warrant of commitment and in s. 108 of the Justices Act would include the discharge of a prisoner under s. 28 of the Supreme Court Act of 1867 when the Attorney-General declines to present an indictment (i. e. when there is "no true bill"). However it would seem that the authority for the warrant does not extend beyond the sittings of the court specified in the warrant. If the prosecution does not bring the accused person to trial before the end of that sittings, the keeper of the gaol would no longer have any authority to detain him.

Very frequently, of course, an accused person committed for trial will be admitted to bail on his own recognizance and perhaps also the recognizances of sureties. The recognizance of bail authorized under the Justices Act may be executed by both the accused person and his sureties. See the third schedule, form No. 23. A condition of the recognizance, which if not observed will render the accused person and his sureties liable to the Crown for the sums respectively set out in the recognizance, is that the accused person shall appear to take his trial for the offence charged against him at the next criminal sittings of the Supreme Court or, as the case may be, a District Court to be held at a place, and to commence at a date and time, specified in the recognizance. If the prosecution does not bring the defendant to trial at those sittings, the recognizance would lapse.

It can be seen, therefore, that the Justices Act and the process issued under it are designed to ensure that a person committed for trial will be brought to trial by the prosecution at a time no later than the criminal sittings specified at the time of the committal. If the prosecution delays beyond this sittings, the accused person is entitled to go free.

The problem mentioned earlier in this paper could be solved by breaking down these restraints of the Justices Act so as to give the prosecution the power to postpone criminal trials. For example, the prosecution could be empowered to postpone a trial by giving a notice of postponement to the accused person and to the court. However, we do not favour such a course. For obvious reasons, such a power would be dangerous to persons committed to gaol pending trial. For people admitted to bail, the power would also be objectionable. We feel that the power to postpone a criminal trial to be held in the Supreme Court or a District Court must reside in the courts themselves.

It should be noticed that if the restraints of the Justices Act were abolished, the prosecution would still be subject to the limits upon postponement contained in s. 590 of the Criminal Code. This section is derived from the English Habeas Corpus Act 1679 (31 Car. 2 c. 2) s. 6, which dealt with the situation that arose when a person committed to prison for high treason or felony was not indicted at the term or sessions of court next following his commitment. The Queensland provision, s. 590, has been broadened to apply to persons committed for trial for any indictable offence. It confers on such persons a right to be brought to trial. By virtue of its third paragraph, a person committed for trial may make application to be brought to trial; and if he is not brought to trial at the second sittings of the court after his committal for trial, he is entitled to be discharged. The obvious purpose of this provision is to prevent any lengthy postponement of a criminal trial by the prosecution.

Though s. 590 of the Criminal Code may be a useful ancillary provision (it will be further considered below), it does not by itself provide an adequate safeguard against an otherwise unlimited power by the prosecution to postpone a criminal trial. An accused person would not come to the notice of a court under s. 590 unless he makes the appropriate application. Some people may be too weak or too ill-informed to make such an application. It is for this reason that we feel that the power to postpone a criminal trial to be held in the Supreme Court or a District Court must reside in the courts themselves.

We therefore recommend that the power to postpone the criminal trial of a person committed or remanded for trial be vested in the court to which the person has been committed or remanded. This is the principle embodied in s. 360 of the Victorian Crimes Act 1958, which we have endeavoured to adapt to the idiom of the Queensland Criminal Code. It is a step that we think ought to be taken to achieve greater flexibility in the management of criminal trials in the Supreme Court and District Courts without undue inconvenience or loss of legal rights by the parties concerned. We feel that the increased emphasis now placed upon the defence of accused persons makes a more flexible procedure very desirable.

The Queensland courts have a general power to adjourn criminal trials but probably not to postpone them. Under ss. 592 and 593 of the Criminal Code, a trial may be adjourned and ancillary orders may be made accordingly. Section 592 specifies that a trial may be adjourned at any period of the trial, whether a jury has or has not been sworn, and whether evidence has or has not been given. However s. 594 provides that the trial is deemed to begin only when the accused person is called upon to plead to the indictment. The

trial does not begin with the presenting of the indictment under s. 560. It begins with the arraignment, the calling on of the accused person to plead under s. 594. It is only then that issue is joined in the court of trial. An indictment may be presented long before the accused person is called upon to plead to it, as s. 591 of the Criminal Code clearly shows. There seems to be no general power in a Queensland court to postpone a criminal trial that has not yet been begun. If the accused person has not been called upon to plead to an indictment, the court cannot postpone his trial. The accused person must be brought to the court and called upon to plead to enable the court then to adjourn the trial. Only then can the court make the necessary ancillary orders to prevent the accused person from going free. This is so though the accused person has been committed to that court for trial and an indictment there presented against him. It is for this reason that he must be made to attend a proceeding that may be a mere formality.

Even after a criminal trial has been begun, the court does not have any general power to adjourn the trial in the absence of the accused person. Section 617 of the Criminal Code states that a court may, in any case, if it thinks fit, permit a person charged with a misdemeanour to be absent during the whole or any part of the trial. However this seems to be an insufficient exception to the general rule requiring an accused person to be present. A more general exception is needed to meet the case of adjournments.

The facts of a Victorian case, R. v. McGill [1967] V. R. 683, will serve to illustrate the problems that may arise under Queensland law. There the accused was committed on 4 November, 1966 for trial at the December sittings of the court of general sessions at Geelong. On 7 December, his trial was adjourned to the sittings of that court in February 1967 and in February the matter was further adjourned to the March general sessions sittings. On 24 February, the accused personally was warned by an officer of the Crown Solicitor's office that the case would come on in the week beginning on 6 March. On 7 March, his solicitor was warned that the case would be in the list on 9 March and on 8 March the accused himself was given the same warning. On 9 March, the case came on for trial, the accused was arraigned and the trial was begun.

Unfortunately the full circumstances of the adjournments in this case do not appear in the report. However it is clear that under s. 360 of the Victorian Crimes Act 1958 both adjournments could have been ordered in the absence of the accused person and before he had been called upon to plead. If these facts had occurred in Queensland, it would have been necessary for the accused person to appear in court at the December sittings to plead to the indictment and to have the matter adjourned until February. The accused would have had to appear in court again at the February sittings to have the matter adjourned until March. A Queensland court could not have postponed the trial until the accused person had been called upon to plead, and it could not have later adjourned the trial in his absence. As will be seen below, the difficulties of the accused person may have been made still worse in Queensland by a requirement that upon each adjournment he should be committed to custody while his recognizance of bail, together with those of others in a like situation, was renewed.

592. Adjournment of trial. - In accordance with the above reasoning, we recommend that a new s. 592 be inserted into the Criminal Code in the form that appears in the Draft Bill. The essential feature of the proposed new s. 592 is that the term "adjourn the trial" is defined to include the postponement of a trial not yet begun by calling upon the accused person to plead to an indictment. The proposed section expressly states that a trial may be adjourned whether the accused person is present or not and whether or not he has been called upon to plead to an indictment.

The power to adjourn would be conferred on the court "to which a person has been committed or remanded for trial on indictment or before which an indictment is presented". We envisage that the power would be exercised by a court that has an indictment, though not necessarily an accused person, before it. A memorandum of any exercise of the power could be endorsed on the indictment as a record to be retained by the court. It is true that the words "committed for trial on indictment" might be extended to a case where there has been a committal for trial but an indictment has not yet been presented. However, we feel that it would be unlikely that a court would exercise the power before an indictment has been presented except in most unusual circumstances.

The words "remanded for trial" are needed so as to extend the power to cases that are to come before a court by virtue of orders made at some earlier time under s. 592 itself (in the form now proposed) or under O. IX r. 34 of the Criminal Practice Rules of 1900 (where a new trial is ordered after an appeal). Because of its third paragraph, there is no need to make special provision in relation to s. 559 (which deals with the change of place of trial). The words "before which an indictment is presented" would be sufficient to extend the power to a case where an ex officio indictment is presented under s. 561.

Once the trial is adjourned, the accused person may be remanded accordingly. We shall deal below with the matter of bail. If the accused person is to remain in custody, it will be necessary for the court to remand him in custody until the sittings of the court to which the trial is adjourned. At this stage, the court may have before it only the indictment presented against the accused person. If the accused person is not present, the court may need to be assured that he is already in custody. This could be done verbally by the crown prosecutor. However, the registrar of the court will have in his possession the prison calendar which should contain the name of the accused person. The first paragraph of s. 29 of the Prisons Act 1958-1969 provides:

> The Superintendent of any prison shall make out in triplicate a list or calendar of all prisoners confined in that prison who are to be tried or dealt with at any sittings of the Supreme Court or a Circuit Court or a District Court and shall send the same in duplicate to the registrar or district registrar of the Supreme Court or, as the case may be, the District Court at the place where the sittings is to be held.

The judge may feel free, indeed he may feel he is under an obligation, to refer to the prison calendar. See the reasoning of Lukin J. in R. v. Dunn [1932] Q. W. N. 8. However, if there is any doubt that a

judge is entitled to refer to the prison calendar to assure himself that an accused person not present before him is already in custody, it is suggested that the following paragraph could be added to s. 29 of the Prisons Act:

> A document purporting to be a list or calendar made out by the Superintendent of a prison of prisoners confined in the prison who are to be tried or dealt with at a sittings of the Supreme Court or a Circuit Court or a District Court shall be evidence that the persons referred to in the calendar are confined in the prison to be tried or dealt with at the sittings of the Court to which reference is made.

593. Adjournment to another Sittings. - The proposed new s. 593 is derived in part from the existing s. 593. The Draft Bill makes separate provision for bail and recognizances. (See the proposed ss. 593A and 593B below). The provision that the time and place for the commencement of any later sittings to which a trial is adjourned shall be stated in open court has been adopted from s. 360 of the Victorian Crimes Act 1958. It seems to us to be desirable that the time and place to which a criminal trial is adjourned should be stated publicly, as it is at present.

The fourth paragraph of the proposed new s. 593, which is derived from s. 359(3) of the Victorian Crimes Act 1958, has been inserted to protect the interests of an accused person in custody at the time of the application for a postponement and not present on the hearing of the application. It would extend to such an accused person the right that he has under s. 616 of the Queensland Criminal Code to make his defence at his trial by his counsel. The paragraph also provides that the Crown must notify such an accused person in writing that an application for an adjournment is to be made and that he may forward to the court a statement in writing in relation to the application.

593A. Bail and recognizances when trial adjourned. - The proposed new s. 593A deals with the admission of an accused person to bail and, if he has already been admitted to bail, with the enlargement of his recognizance of bail upon the adjournment of a trial. It also allows the enlargement of the recognizances of the witnesses. The proposed section is derived in part from the existing s. 593. However, it has three new features which require further explanation.

Firstly, because of the provisions of the proposed new s. 593, set out above, the recognizance of bail to which the proposed s. 593A refers would include a recognizance of bail allowed by a Stipendiary Magistrate (or Justice of the Peace) at or after the committal proceedings. In other words, this provision would enable a Judge of the Supreme Court or of a District Court to enlarge the recognizance of bail allowed at or after the committal proceedings by the Stipendiary Magistrate (or Justices). There is nothing exceptionable about this in principle. Under the existing s. 593, such a Judge may enlarge the recognizances of witnesses entered into by virtue of orders made at the committal proceedings. This new power is essential if persons on bail are to be spared the necessity to appear at court before their trials are to begin.

Before enlarging a recognizance of bail, the Judge may need to be assured that such a recognizance exists. This could be done verbally by the crown prosecutor. Nevertheless, we suggest it would be better to ensure the production of the recognizance by adding the following rule (rule 6) to Order VI of the Criminal Practice Rules of 1900:

> 6. Enlargement of recognizance of bail. - When application is made to a Court to enlarge a recognizance of bail by which an accused person or a surety is bound, the recognizance shall be produced to the Court.

A memorandum of any enlargement of a recognizance of bail may be endorsed on the indictment as a record to be retained by the court.

The second feature to be noticed about the proposed new s. 593A is that, unlike the existing s. 593, it makes express provision for the enlargement of the recognizance of bail of a surety. It also provides that a court may enlarge the recognizance of any surety without the consent of the surety in any case where the recognizance contains a provision in that behalf. There is a similar provision in s. 360(3) of the Victorian Crimes Act 1958. To facilitate the operation of this provision, we suggest that the following sentence should be inserted into recognizances of bail, whether allowed by Stipendiary Magistrates (or Justices) or by Judges of the Supreme Court or District Courts:

> Each person bound hereunder also acknowledged that upon any adjournment of the trial referred to herein this Recognizance may without his/her further consent be enlarged by a Court to extend to the time and place to which the trial is adjourned.

Unless this sentence is struck out, the recognizance could be enlarged upon an adjournment without the consent of the surety.

The third feature to be noticed is that the third paragraph of the proposed new s. 593A would keep a recognizance on foot, and therefore capable of being enlarged, though the accused person has surrendered himself into custody in accordance with its condition. It may be argued that a recognizance of bail becomes void once the accused person appears in court in accordance with its condition. See, for example, the reasoning of Hood J. in R. v. Desmond (1896) 22 V.L.R. 621. The form of recognizance of bail on committal authorized under the Justices Act 1886-1974 (form No. 23) requires not only that the defendant shall appear at Court at a specified time and place and surrender himself into the custody of the keeper of the gaol there. It also requires that the defendant shall plead to the "information" and "take trial upon the same, and not depart from the said Court without leave". The form of recognizance of bail used in the Supreme Court and District Courts also requires that the defendant shall not only appear and answer an indictment but also shall "personally attend from day to day on the trial of the said indictment and not depart until he shall be discharged by the Court before which such trial shall be held". This wording is authorized by O. VI r. 3 of the Criminal Practice Rules of 1900. With both forms of recognizance, therefore, the condition of the recognizance is not fulfilled until the accused person is given leave by the Court to depart. The third paragraph of the proposed new s. 593A is intended to keep the recognizance on foot until such leave is given so that it may be enlarged in the meantime. The surrender of the accused person into custody would not, by itself, make the recognizance incapable of enlargement.

593B. Effect of enlarged recognizance when trial adjourned. - The proposed new s. 593B, which is derived in part from the existing s. 593, sets out the effect of an enlarged recognizance when a trial is adjourned. Unlike the existing s. 593, it makes express provision for the enlargement of the recognizance of a surety.

It will be seen that neither the existing s. 593 nor the proposed s. 593B make any provision for notice to be given to persons whose recognizances are enlarged. However, it must be remembered that these recognizances specify only the date of the commencement of the sittings during which the trial is to be held. The accused person and the witnesses are obliged to attend the trial whenever it may be held during those sittings. (In fact, they are informed through the crown prosecutor's office of the date of the trial.) The proposed s. 593B will extend this obligation to attend into a later sittings. Indeed, even under the existing law, a witness whose recognizance is enlarged is required to attend during a later sittings though he has not formally been given notice of the adjournment.

555A. Revocation of bail. - The proposed new s. 555A is derived from s. 362 of the Victorian Crimes Act, which we have endeavoured to adapt to the idiom of the Queensland Criminal Code. It would enable a Judge of the Supreme Court or a Judge of the District Court to which an accused person is committed or remanded to revoke his bail and to issue a warrant for his apprehension and committal to gaol pending trial. The application for the revocation of the bail could be made either by a surety or by the Crown.

We see this provision as a desirable adjunct to the provisions recommended above which would allow the enlargement of the recognizance of a surety. Section 96 of the Justices Act 1886-1974 enables sureties who have reasonable ground for suspecting that the principal will not voluntarily surrender himself to apprehend the principal; and provides that any police officer, if required by the sureties to do so, shall assist the sureties in such apprehension. The difficulty with this provision, however, is that it requires the sureties to play an active part in the apprehension of the principal.

In the working paper which preceded this Report, we suggested that a rule be added to Order VI of the Criminal Practice Rules of 1900 to govern applications for the revocation of bail by sureties. We are now of the opinion that such a rule is undesirable.

For the purposes of this paper, we have not undertaken a general review of the law of bail or a detailed examination of the provisions relating to bail in the English Criminal Justice Act 1967.

590. Right to be tried. - As stated earlier in this paper, s. 590 of the Queensland Criminal Code is derived from the English Habeas Corpus Act 1679 (31 Car. 2 c. 2) s. 6. Section 590 enables a person committed for trial before any court to make application during the first sittings of that court held after his committal to be brought to his trial. If, having made such an application, he is not brought to trial at the second sittings of the court held after his committal, he is entitled to be discharged.

It will be noticed that there are two important limits upon the ambit of this provision in s. 590. Firstly, the application necessary to invoke the provision must be made during the first sittings of the relevant court held after the committal of the accused person. An application made during any later sittings is not sufficient. Secondly, the provision requires only that the accused person shall be "brought to trial" at the second sittings after his committal. Although the matter is not free from doubt, an accused person is probably "brought to trial" if the trial has been begun in the sense indicated in s. 594, that is, if the accused person has been called upon to plead to the indictment. Section 590 does not appear to require that the trial should have been completed before the end of the second sittings held after the committal.

In view of our proposals to enable the Supreme Court and the District Courts to adjourn trials in the absence of the accused person, we think s. 590 should be amended so that an accused person may apply to be brought to trial during any sittings of the relevant court held after his committal, not only during the first sittings. The proposed new s. 590 has been worded accordingly. We also propose that it should be made clear that the application may be made in person or in writing. By virtue of the third paragraph of s. 590 in the proposed form, an accused person who has made such an application and who has not been brought to trial by the end of the sittings of the court next following the sittings during which the application was made would be entitled to be discharged. "Brought to trial" would mean "called upon to plead to the indictment" as we presume it does at present. In the Draft Bill we recommend an amendment to s. 594 so as to make it clear that "brought to trial" has this meaning.

The recommended amendments to s. 590 of the Criminal Code would not effect a radical alteration of the existing law. However, they would enable an accused person whose trial has been postponed in his absence to insist, by making the appropriate application, that his trial shall be begun by the process of calling upon him to plead. He is then in a stronger position, should he wish to do so, to request that his trial should proceed to completion without further adjournment.

594. Accused person to be called upon to plead to indictment. - This section of the Criminal Code provides that at the time appointed for the trial the accused person is to be called upon to plead to the indictment. It then provides, by its concluding sentence, that "the trial is deemed to begin when he is so called upon". As foreshadowed above, we recommend that this concluding sentence be amended to read:

> The trial is deemed to begin and the accused person is said to be brought to his trial when he is so called upon.

1. Construction of terms. - The Draft Bill contains a clause which would amend s. 1 of the Criminal Code by adding to that section the following provision:

> The term "trial" includes the sentencing of a person who has been committed by a justice for sentence for an offence; and the term "committal for trial" includes committal for sentence.

Such a provision would have a bearing upon other aspects of criminal procedure besides the adjournment of trials, the matter with which we are here concerned. However, during the preparation of this paper, we have noticed that some sections of the Criminal Code appear to have been drawn upon the assumption that the terms "trial" and "committal for trial" include the meanings set out above. See, for example, ss. 553 (jurisdiction), 554 (preliminary proceedings on charges of indictable offences), 557 (place of trial), 560 (nature of indictments), 561 - as it was before it was amended in 1956 (ex officio informations), 590 (right to be tried), 592 (adjournment of trial), 616 (defence by counsel) and 617 (presence of accused). We think the matter ought to be put beyond doubt by an amendment of s. 1 in the form recommended.

Of course, the construction of terms set out in s. 1 applies only "unless the context otherwise indicates". There are sections of the Criminal Code whose context does indicate a narrower meaning for the terms "trial" and "committal for trial". See, for example, ss. 604 and 608. However, it seems that in the absence of such a contrary indication it would be better to construe these terms so as to include the meanings set out above. This would be so even though it has previously been assumed that the terms in particular sections have only the narrower meaning, that is, trial of issues of fact by a jury and committal for such a trial. An assumption in favour of such a narrower meaning appears to have been made with ss.555 (bail) and 559 (change of place of trial). Yet both of these sections could conveniently and justly be extended to persons committed for sentence as well as those committed for trial.

PART II - JOINDER OF CHARGES

The proposed clauses are designed to broaden the provisions of the Criminal Code that permit the joinder of charges in the one indictment. The need for a review of these provisions has been drawn to the attention of the Commission by the remarks of Mr. Justice Williams in R. v. Wilkinson [1973] Qd. R. 125 at p. 127, by a letter from Mr. Justice Hoare and two submissions by Mr. R. N. Miller, Assistant Senior Crown Prosecutor. The provisions of the Criminal Code with which we are principally concerned are those of s. 567.

The rules of joinder are important from the practical point of view because they serve to limit the number of charges that need to be considered during any one criminal trial. If an indictment charges only one offence, the attention of the jury is confined entirely to that charge (subject only to the rules allowing alternative verdicts on the charge). If an indictment charges two or more offences, the jury's task is greater. The jury has to make a greater number of decisions and it may have to examine a greater body of evidence. More than that, however, the jury may have to make the mental effort of sorting out the evidence before it, so that only the evidence admissible with respect to a particular charge is considered in relation to that charge.

It must be emphasized that we are not here primarily concerned with the joinder of offenders in the one indictment. Under the Criminal Code, two or more offenders may be charged in the one indictment, and may be tried together, in the circumstances specified by s. 568(5) & (6) and s. 569. These rules of joinder apply if there are two or more persons charged in the one indictment. Rather, we are concerned with the joinder of offences in the one indictment. The rules governing the latter apply though there is only one person charged in the indictment. The most important of these rules are to be found in s. 567, though others are to be found in s. 568.

The distinction between the two kinds of rule can be shown by the decision in R. v. Wilkinson, referred to above. The question there was whether the accused person could be charged in the one indictment with attempted murder and with rape. The learned trial judge held that the two charges could not be joined. Section 567, which governs the joinder of charges against a single accused person, was not broad enough to allow the joinder of the two charges in the particular circumstances of the case. Yet it seems clear that if the offences had been committed by two accused persons acting in association with one another, the two offences could then have been charged in the one indictment against both of them. Section 568(6), which applies when more than one offender is charged in the one indictment, would then have been applicable and would have been broad enough to allow the two offenders to be charged in that indictment. See R. v. Phillips and Lawrence [1967] Qd. R. 237 at pp. 246, 256 and 276.

We mention this distinction only to emphasize that the Draft Bill is primarily intended to enlarge the scope of s. 567. The intention is to allow a greater joinder of offences in the one indictment. The provisions that we recommend would apply though the indictment charges only one person.

The English law upon the joinder of offences, which is the background against which the Queensland law has developed, has recently been examined by the House of Lords in Ludlow v. Metropolitan Police Commissioner [1971] A.C. 29. It was there pointed out (at p. 36) that at common law there was no rule of law against joining charges of felony in the same indictment and having them tried together. An accused person could be validly convicted of two or more felonies upon the one indictment. After the verdict of the jury had been given, he could not then argue for the first time that the charges against him ought not to have been joined in the same indictment. Nevertheless, the judges adopted a practice whereby, if it appeared that the accused person was being charged in the one indictment with distinct felonious acts, they would quash the indictment or put the prosecution to their election, requiring them to select one of the charges and proceed only on that. This was a general practice, though not an invariable one. The practice never developed into a rigid rule of law. Furthermore, the practice was not normally applicable to misdemeanours, that is, the less serious indictable offences.

The matter was explained in another case before the House of Lords, this time in 1881, Castro v. The Queen L. R. 6 App. Cas. 229 at pp. 244-245. Referring to the joinder of two or more charges of felony in the same indictment, Lord Blackburn said:

> There was no legal objection to doing this; it was frequently not fair to do it, because it might embarrass a man in the trial if he was accused of several things at once, and frequently the mere fact of accusing him of several things,

> was supposed to tend to increase the probability of his being found guilty, as it amounted to giving evidence of bad character against him. Whenever it would be unfair to a man to bring him to trial for several things at once, an application might be made to the discretion of the presiding Judge to say, "Try me only for one offence, or, try me only for two offences; if one was the real thing let me be tried for one and one only," and wherever it was right that that should be done the Judge would permit it. For these mixed motives it was well established by a long series of decisions, ... that where the several charges were of the nature of felony, the joining of two felonies in one count was so, necessarily I may say, unfair to the prisoner that the Judge ought, upon an application being made to him, to put the prosecution to his election and send them to two trials. It never was decided, even in felony, that, if that application for the election was not made, the joining of several felonies, that is to say, the taking several felonies which had been found together, and trying those felonies before one petty jury, was wrong in point of law; on the contrary, it was repeatedly held that it was right enough, although, if the proper application had been made at the proper time, in a case of felony, the party prosecuting would have been put to his election or made to take one felony only, and not both at the same time.

Lord Blackburn went on to point out that the practice did not apply as a matter of course to misdemeanours, that is, the less serious indictable offences. It seems that the practice of putting the prosecution to their election between charges relating to different acts or transactions, though generally followed in the case of felonies, was not normally applicable to misdemeanours. See Ludlow v. Metropolitan Police Commissioner (above) at p. 36.

At the time of the enactment of the Queensland Criminal Code in 1899, therefore, the position in England was that as a matter of general, though not invariable, practice only one felony would be tried at any one time; but that this practice was not normally applicable to misdemeanours. Ordinarily, there was no great barrier to the trial of an accused person upon an indictment charging him with more than one misdemeanour.

It seems that s. 567 of the Queensland Criminal Code puts limits upon the joinder of charges that are narrower than those that existed in England at the time the Criminal Code was enacted and from which s. 567 was derived. In its first paragraph, s. 567 sets out a general rule as follows:

> Except as hereinafter stated, an indictment must charge one offence only, and not two or more offences.

This general rule obviously reflects the English practice examined above. In his Draft Criminal Code submitted to the Attorney-General of Queensland in 1897 (C. A. 89-1897), Sir Samuel Griffith noted under the text that was to become s. 567 that "Under the present law charges of any number of felonies (not including murder) or of any number of misdemeanours may be joined in the one indictment. But the practice

is as set out in the text." It can be seen that s. 567 was designed to express the then practice. However, unlike the equivalent English rule of practice at that time, s. 567 limits the joinder of misdemeanours as well as the more serious offences, which in Queensland are now called "crimes". It is true that s. 567 qualifies the general rule by a rather narrow exception, which will be considered below. But the rule itself applies to misdemeanours as well as crimes. It is a general restriction upon the joinder of all indictable offences, not only the more serious ones.

Whatever may have been the position in 1899 when the Queensland Criminal Code was enacted, a greater divergence has since developed between the practice in Queensland and the practice in England and those Australian States that have adopted the more recent English rules. The English rules were substantially modified by the Indictments Act 1915. The key provision, which is now to be found in Rule 9 of the Indictment Rules 1971 made under that Act, specifies that:

> Charges for any offences may be joined in the same indictment if those charges are founded on the same facts, or form or are a part of a series of offences of the same or a similar character.

The change effected by the Indictments Act 1915 was made because the general rule against the joinder of felonies was thought to be too rigid: Connelly v. D. P. P. [1964] A. C. 1254 at p. 1350.

In Ludlow v. Metropolitan Police Commissioner [1971] A. C. 29 at p. 41, the opinion was expressed in the House of Lords on behalf of all the Law Lords then present that:

> this theory - that a joinder of counts relating to different transactions is in itself so prejudicial to the accused that such a joinder should never be made - cannot be held to have survived the passing of the Indictments Act 1915. No doubt the juries of that time were much more literate and intelligent than the juries of the late eighteenth and early nineteenth centuries, and could be relied upon in any ordinary case not to infer that, because the accused is proved to have committed one of the offences charged against him, therefore he must have committed the others as well. I think the experience of judges in modern times is that the verdicts of juries show them to have been careful and conscientious in considering each count separately. Also in most cases it would be oppressive to the accused, as well as expensive and inconvenient for the prosecution, to have two or more trials when one would suffice.

This passage is interesting because it directly relates the expanded rules upon the joinder of charges to an increased capacity of jurors to consider each count separately. Moreover, it contains a considered, unanimous opinion approving of the rules of 1915 based upon over fifty years experience with them.

Of course, it ought not to be assumed that rules enacted elsewhere, even though applied successfully there for many years, should necessarily be adopted in Queensland. This observation applies today almost as much to England, the source of many of our rules of criminal

procedure, as it does to other places. However there is no reason to suppose that the different social environment in England would make these particular rules of criminal procedure inappropriate for Queensland. Moreover, the English rules have been adopted in Australia in Victoria and South Australia. They have also been adopted in a modified form in Western Australia and Tasmania. (Victorian Crimes Act 1958 ss. 366, 367 & 372; sixth schedule r. 2. South Australian Criminal Law Consolidation Act 1935 s. 278. Western Australian Criminal Code s. 585. Tasmanian Criminal Code ss. 311 & 326). If the same or very similar rules are adopted in Queensland, relevant judicial decisions from these other jurisdictions would be available for the guidance of Queensland courts. See especially the decisions referred to in Archbold Criminal Pleading Evidence & Practice (38th ed., 1973) paras. 128-135.

The general rule expressed in s. 567 of the Criminal Code is that an indictment must charge one offence only, and not two or more offences. Section 567 then qualifies this general rule by a rather narrow exception expressed in these terms:

> Provided that when several distinct indictable offences are alleged to be constituted by the same acts or omissions, or by a series of acts done or omitted to be done in the prosecution of a single purpose, charges of such distinct offences may be joinded in the same indictment against the same person.

The narrowness of this exception is well illustrated by the facts and decision in R. v. Wilkinson [1973] Qd. R. 125, which has been referred to above. The preliminary issue to be decided in that case was whether charges of attempted murder and of rape could be joinded in the same indictment against the accused person. The evidence suggested that the accused and the complainant had left the accused's car and had walked some distance to the scene of the alleged rape. They had afterwards walked back almost to the car. Apparently as a result of a conversation that then took place between them, the accused compelled the complainant to return with him to the scene of the alleged rape. It was then that the alleged attempted murder occurred.

In these circumstances, could the charge of rape be joined with the charge of attempted murder? It seems that virtually the whole of the evidence would have been admissible if the rape and the attempted murder had been tried separately. There could therefore have been little prejudice to the accused person by the joinder of the two charges. The jury would hear of the two offences whether the charges were joined or not. Yet if the charges were not joined, the jury would be able to return a verdict on only one charge even though convinced beyond a reasonable doubt that the other offence had been committed.

It was held that the two charges could not be joined. The exception in s. 567 applied only if the two offences were constituted "by a series of acts done or omitted to be done in the prosecution of a single purpose". It could not be said that the acts alleged to constitute the rape and the attempted murder were done in the prosecution of a single purpose. In order to secure a conviction for rape against the accused person, it would be necessary to launch a second trial. Under the English rules of 1915 and the rules of those Australian States that have adopted them, the two charges could have been joined. The two offences would have been "part of a series of offences of the same or a similar character". See R. v. Morris (1969) 54 Cr. App. R. 69.

There does not seem to be any doubt, therefore, that the exception allowed by s. 567 is too narrow. We suggest that the broader rules that have been adopted elsewhere, mentioned above, are an appropriate alternative. They have now been in operation in England for over fifty years, apparently with success, and have been adopted substantially or with some modification in four other Australian States. The key rule allows a joinder of charges where they -

> form or are a part of a series of offences of the same or a similar character.

This rule is subject to a power in the court to order that the accused person shall be tried separately for any one or more of the offences charged. In Victoria, for example, the Crimes Act 1958 s. 372(3) provides:

> Where before trial or at any stage of a trial the court is of opinion that a person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same presentment or that for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in a presentment the court may order a separate trial of any count or counts of such presentment.

A somewhat similar provision is already to be found in s. 567 of the Queensland Criminal Code.

The effect of the rules may be illustrated by the facts and decision in Ludlow v. Metropolitan Police Commissioner [1971] A.C. 29, referred to above. The accused was charged on indictment with attempted larceny, alleged to have occurred on August 20, 1968, and with robbery with violence, alleged to have occurred on September 5, 1968. The offences had respectively occurred in neighbouring public-houses at a time interval, as can be seen, of 16 days. An application for an order that the two charges be tried separately was refused and the accused was convicted of both offences. He appealed to the House of Lords. Two questions emerged upon the appeal: firstly, whether the two charges were properly joined according to the rule allowing joinder; and secondly, whether the judge had wrongly exercised his discretion in refusing to order that the two charges be tried separately.

On the first question, the House of Lords drew attention to the requirement for proper joinder of the charges that there has to be a "series of offences of a similar character". It stated that for this purpose there has to be some nexus between the offences. It held that in the present case there was a sufficient nexus between the two offences to make them a "series of offences of a similar character" within the meaning of the rule. The offences were similar both in law and in fact. They had the same essential ingredient of actual or attempted theft, and they involved stealing or attempting to steal in neighbouring public-houses at a time interval of only 16 days (p. 39).

On the second question, the House of Lords held that the judge had not wrongly exercised his discretion in refusing to order that the two charges be tried separately. It held that the judge has no duty to direct separate trials unless in his opinion there is some special feature of the case which would make a joint trial of the several counts prejudicial or embarrassing to the accused and separate trials are required in the interests of justice. It referred to -

(i) cases where the offences charged may be too numerous and complicated or too difficult to disentangle so that a joint trial of all the counts is likely to cause confusion and the defence may be embarrassed or prejudiced; and

(ii) cases where objection may be taken to the inclusion of a count on the ground that it is of a scandalous nature and likely to arouse in the minds of the jury hostile feelings against the accused.

It reaffirmed that the mere fact that evidence is admissible on one count and inadmissible on another is not by itself a ground for separate trials (pp. 41-42).

A broadening of the rules governing the joinder of charges in indictments will have a consequential effect upon preliminary proceedings in relation to indictable offences. By virtue of s. 43(1)(a) of the Justices Act 1886-1974, a complaint may be for more than one matter if, in the case of indictable offences, the matters of complaint are such that they may be charged in one indictment.

567. Joinder of charges in an indictment. - For the reasons set out above, we recommend that the existing s. 567 of the Criminal Code be replaced by the provision in the Draft Bill. The proposed new provision is immediately derived from the Sixth Schedule, rules 2 and 3(2) & (3) of the Victorian Crimes Act 1958. The final paragraph of the existing s. 567 has been retained though it is not to be found in the Victorian or English legislation. It provides that the section does not authorize the joinder of a charge of murder, or manslaughter, with a charge of any other offence. A similar modification of the English rule is to be found in the legislation of Western Australia and (in relation to murder only) of Tasmania.

568. Cases in which several charges may be joined. - If the proposed new s. 567 is enacted, s. 568(2) & (3) will become redundant. We therefore recommend the repeal of these two subsections. Since s. 568(1B) purports to govern what may be included in a particular charge in an indictment, it will continue to have a use despite the enactment of the proposed new s. 567.

597A. Separation of counts. - The proposed s. 597A is derived from s. 372(3), (4) & (5) of the Victorian Crimes Act 1958, and adapted to the idiom of the Queensland Criminal Code. It would replace the third paragraph of s. 567, which deals with a similar subject matter. The provision would empower a court to order a separate trial of any count or counts of an indictment, and to make ancillary orders, whenever it is of opinion that the accused person may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence or that for any other reason it is desirable to direct a separate trial.

Since the proposed s. 597A deals with matters of procedure rather than the design of indictments, we feel that it would be more appropriately placed in Chapter LXII rather than Chapter LX of the Criminal Code, along withss.596 (motion to quash indictment) and 606 (separate trials). Since an application for the separate trial of a count is most likely to be made before a plea is taken, we suggest the provision would be best placed immediately before s. 598 (pleas). It will be necessary to make a consequential amendment to s. 598.

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No. of 197

A Bill to Amend The Criminal Code in certain particulars.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:-

1. Short title. This Act may be cited as the Criminal Code Amendment Act 197 , and shall be read as one with The Criminal Code.

2. Amendment of s. 1. Construction of terms. Section 1 of The Criminal Code is amended by inserting the following definitions before the definition of the term "uncorroborated testimony" therein -

> The term "trial" includes the sentencing of a person who has been committed by a justice for sentence for an offence; and the term "committal for trial" includes committal for sentence.

3. New s. 555A. The Criminal Code is amended by inserting after section 555 the following section:-

> 555A. Revocation of bail. - Where a recognizance is conditioned for the appearance or attendance of a person to take his trial before the Supreme Court or a District Court, application may be made to a Judge of the Supreme Court or a Judge of the Court in which the trial is to be held to revoke the recognizance.
>
> If satisfied by evidence or on affidavit that the recognizance should be revoked, the Judge may revoke the recognizance and issue a warrant for the apprehension of such person and for his committal to gaol pending the trial or until he is otherwise delivered thence by due course of law.
>
> The warrant shall be sufficient authority for the apprehension of such person and for his committal to gaol accordingly.

4. Repeal of and new s. 567. The Criminal Code is amended by repealing section 567 and substituting the following section:-

> 567. Joinder of charges in an indictment. - Charges for more than one indictable offence may be joined in the same indictment if those charges are founded on the same facts or form or are a part of a series of offences of the same or a similar character.
>
> Where more than one offence is charged in an indictment, each offence so charged shall be set out in the indictment in a separate paragraph called a count.
>
> Such counts shall be numbered consecutively.
>
> This section does not authorize the joinder of a charge of murder, or manslaughter, with a charge of any other offence.

5. Amendment of s. 568. Cases in which several charges may be joined. Section 568 of The Criminal Code is amended by omitting subsections (2) and (3).

6. Repeal of and new s. 590. The Criminal Code is amended by repealing section 590 and substituting the following section:-

> 590. Right to be tried. - A person committed for trial before any Court for any indictable offence may, in person or in writing at any time during any Sittings of the Court held after his committal, make application to be brought to his trial. The application shall be dealt with in open Court.
>
> If an indictment is not presented against him at some time during the first Sittings of that Court held after his committal, the Court may, upon motion made on his behalf on the last day of such Sittings, admit him to bail, and is required so to do, unless it appears upon oath that some material evidence for the Crown could not be produced at those Sittings.
>
> Any person committed as aforesaid, who has made such an application to be brought to his trial, and who is not brought to trial by the end of the Sittings of the Court next following the Sittings during which the application was made is entitled to be discharged.

7. Repeal of and new s. 592. The Criminal Code is amended by repealing section 592 and substituting the following section:-

> 592. Adjournment of trial. - The Court to which a person has been committed or remanded for trial on indictment or before which an indictment is presented may, if it thinks fit, adjourn the trial and may remand the accused person accordingly.
>
> The term "adjourn the trial" includes the case of postponing a trial which has not yet been begun by calling upon the accused person to plead to an indictment.
>
> A trial may be adjourned whether the accused person is present or not, whether the accused person has or has not been called upon to plead to an indictment, whether a jury has or has not been sworn, and whether evidence has or has not been given.

8. Repeal of s. 593 and new ss. 593, 593A, 593B. The Criminal Code is amended by repealing section 593 and substituting the following sections:-

> 593. Adjournment to another Sittings. - When the trial of a person charged or to be charged with an offence on indictment is adjourned, the Court may direct the trial to be held either at a later Sittings of the same Court or before some other Court of competent jurisdiction.
>
> In any such case, any indictment and other proceedings are to be transmitted to the proper officer of the Court to which the accused person is remanded, and that Court has the same jurisdiction to try him as if he had been originally committed to be tried before it.

The time and place for the commencement of any later Sittings to which a trial is adjourned shall be stated in open Court at the time of the adjournment.

When application for such an adjournment is to be made by the Crown in the absence of an accused person who is in any place of legal detention, that accused person shall be notified in writing that the application is to be made, that he may forward to the Court a statement in writing in relation to the application, and that he may be represented on the hearing of the application by his counsel.

593A. Bail and recognizances when trial adjourned. - When the trial of a person charged or to be charged with an offence on indictment is adjourned, the Court may admit such accused person to bail and may enlarge the recognizances of the witnesses.

If the accused person has already been admitted to bail, the Court may enlarge any recognizance of bail of the accused person and, with the consent of any surety, the recognizance of that surety.

Such recognizance may be enlarged if any part of the condition of the recognizance remains to be fulfilled notwithstanding that the accused person has surrendered himself into custody in accordance with that condition.

The Court may enlarge the recognizance of any surety without the consent of the surety in any case where that recognizance contains a provision in that behalf.

593B. Effect of enlarged recognizance when trial adjourned. - When upon an adjournment of a trial a recognizance of the accused person or of a witness is enlarged, the accused person is bound to attend to be tried or, as the case may be, the witness is bound to attend to give evidence at the time and place to which the trial is adjourned without entering into any fresh recognizance for that purpose, in the same manner as if he had been originally bound by his recognizance to attend to be tried or to give evidence at the time and place to which the trial is adjourned.

When upon an adjournment of a trial a recognizance of a surety is enlarged, the surety is bound to secure such an attendance at the time and place to which the trial is adjourned without entering into any fresh recognizance for that purpose, in the same manner as if he had been originally bound by his recognizance to secure such an attendance at the time and place to which the trial is adjourned.

9. Amendment of s. 594. Accused person to be called upon to plead to indictment. Section 594 of The Criminal Code is amended by inserting after the words "deemed to begin" the words "and the accused person is said to be brought to his trial".

10. New s. 597A. The Criminal Code is amended by inserting after section 597 the following section:-

597A. Separation of counts. - When before the trial or at any time during the trial the Court is of opinion that the accused person may be prejudiced or embarrassed in his defence by

reason of being charged with more than one offence in the same indictment or that for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment, the Court may order a separate trial of any count or counts of the indictment.

If a jury has been sworn, the Court may discharge the jury from giving a verdict on the count or counts to be tried separately.

The procedure on the separate trial of a count shall be the same in all respects as if the count had been set out in a separate indictment.

The Court may adjourn the separate trial, remand the accused person and make such orders as to admitting him to bail and as to the enlargement of recognizances and otherwise as the Court thinks fit.

The term "adjourn the separate trial" includes the case of postponing a separate trial which has not yet been begun by calling upon the accused person to plead to a count of an indictment.

11. Amendment of s. 598. Pleas. Section 598 of The Criminal Code is amended by inserting after the words "to quash the indictment" the words "or for a separate trial of any count or counts of the indictment".

12. Transitional. Where a person is charged on indictment before the commencement of this Act and the trial on indictment is continued after that commencement, the propriety of any joinder of charges in the indictment shall be judged as if this Act had not been passed.

Suggested addition to The Criminal Practice Rules of 1900

ORDER VI

Bail and Recognizances

r. 6. Enlargement of recognizance of bail. - When application is made to a Court to enlarge a recognizance of bail by which an accused person or a surety is bound, the recognizance shall be produced to the Court.

CIRCULATION LIST

A Working Paper on this topic was circulated to the following:-

The Minister for Justice and Attorney-General for Queensland
Ministers of Queensland Cabinet
see below (* Judges of the Supreme Courts, Brisbane, Townsville, Rockhampton
see below (* Judges of the District Courts, Brisbane, Townsville, Rockhampton
The Law Commission, London
The Law Reform Commission, Sydney
The Law Reform Commission, Canberra
The Law Reform Commissioner, Melbourne
The Law Reform Committee, Adelaide
The Law Reform Committee, Perth
The Law Reform Committee, Hobart
The Law Revision Commission, New Zealand
Principal Legal Officer (Law Reform), Dept. of Law, Port Moresby PNG
Chief Justice's Law Reform Committee, University of Melbourne
Statute Law Revision Committee, Parliament House, Melbourne
Research Officer, Department of the Attorney-General, Sydney
* Under Secretary, Department of Justice, Brisbane
* Solicitor General, Queensland
Chief Crown Prosecutor, Queensland
Senior Crown Prosecutor, Queensland
Registrar, Supreme Court, Brisbane
Sheriff of Queensland
Chief Stipendiary Magistrate, Brisbane
Public Defender, Brisbane
* Public Curator, Brisbane
Parliamentary Counsel, Brisbane
Commissioner of Police, Brisbane
Comptroller General of Prisons, Brisbane
The Honourable Sir Harry Gibbs, High Court, Sydney
Sir George Paton, Law Foundation, Melbourne
Dean of the Faculty of Law, University of Queensland
Vice-Chancellor, University of Queensland
University of Queensland Law Library
Bar Association of Queensland
Mr. D.G. Sturgess, Barrister
Mr. K.A. Cullinane, Barrister
Mr. F.M. McGuire, Barrister
* Queensland Law Society Inc.
Mr. J.M. Robertson, c/- Eliott & Co., Solicitors
North Queensland Law Association, Townsville
Central District Law Association, Rockhampton
* Gold Coast District Law Association, Surfers Paradise
Downs and South Western Law Association, Toowoomba
Ipswich & District Law Association
Legal Assistance Committee of Queensland
Aborigines & Torres Strait Islanders Legal Service (Qld.)
Council of Civil Liberties, Brisbane
Australian Finance Conference (Qld. Division)

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* [those from whom comment was received]
Hon. Mr. Justice Williams, Supreme Court, Brisbane
Judge J. P. Shanahan, District Court, Rockhampton.