**Buffalo Law Review**

Volume 9 | Number 1 Article 77

10-1-1959

# Criminal Law—Sufficiency of Indictment for Reckless Driving

Buffalo Law Review

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Recommended Citation

Buffalo Law Review, *Criminal Law—Sufficiency of Indictment for Reckless Driving*, 9 Buff. L. Rev. 137 (1959).
Available at: https://digitalcommons.law.buffalo.edu/buffalolawreview/vol9/iss1/77

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jury centered on the charges as to felony murder, and that defendant's life depended upon the jury's proper understanding of the elements of the crime,[73] "a mere offer to reread the principal charge—although it was correct—would be of little help to a perplexed jury . . . This is so, even though the foreman later stated that it was not necessary to repeat the charge."

Thus we see, once again, that when a deliberating jury requests information pertaining to a vital point, a response that fails to provide a proper answer is reversible error—and a trial court's offer to reread the entire charge is not a proper answer.

SUFFICIENCY OF INDICTMENT FOR RECKLESS DRIVING

It is well settled that an indictment must apprise a defendant of every material element of the crime charged.[74] An indispensable element of the crime of reckless driving is that the defendant's driving had unreasonably interfered with the use of the highway.[75] In *People v. Armlin*[76] defendant was charged with reckless driving under an indictment which did not allege that he unreasonably interfered with the use of the highway, but which did allege that he drove his vehicle across the center line of the highway into the path of an approaching vehicle without any warning and at a high rate of speed, in violation of the statute forbidding reckless driving.

The defendant contended that the indictment failed to charge him with unreasonable interference with the use of the highway.

Reinstating the conviction, the Court of Appeals held that the indictment need not in terms charge that defendant acted unreasonably if it describes an act which constitutes unreasonable interference.[77] It is only when the indictment neither charges unreasonableness nor describes an act which is unreasonable that a defendant can complain that he has not been informed of that element of the crime.[78]

Since the purpose of the rule is to enable a defendant to prepare his defense, a defendant can hardly claim surprise when all the elements of the crime charged are descriptively detailed in the indictment, and the statute availed of by the State is made known to him.

POSSESSION OF MATERIALS USED IN THE POLICY GAME

Section 974 of the New York Penal Law forbids knowingly possessing any article of any kind commonly used in promoting the policy game.[79] In *People*

73. People v. Flynn, 290 N.Y. 220, 48 N.E.2d 495 (1943).
74. People v. Allen, 5 Denio (N.Y.) 76 (1847); Dedieu v. People, 22 N.Y. 178 (1860); People v. Santoro, 229 N.Y. 277, 128 N.E. 234 (1920). *Cf. dicta* in People v. Miller, 143 App. Div. 251, 128 N.Y. Supp. 549 (1st Dep't 1911); People v. Colburn, 162 App. Div. 651, 147 N.Y. Supp. 689 (2d Dep't 1911).
75. N.Y. TRAFFIC & VEHICLE LAW § 58.
76. 6 N.Y.2d 231, 189 N.Y.S.2d 179 (1959).
77. N.Y. CODE CRIM. PROC. § 283, § 285.
78. People v. Sas, 172 Misc. 845, 16 N.Y.S.2d 380 (County Ct. 1939); People v. Wojcinski, 5 Misc. 2d 292, 159 N.Y.S.2d 539 (County Ct. 1957).
79. N.Y. PEN. LAW § 974.