

ROMALPA CLAUSES AND SECTION 2 OF THE CHATELS TRANSFER ACT

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I. ROMALPA CLAUSES AND THE CHATELS TRANSFER ACT 1924

Since the decision of the Court of Appeal in the Romalpa case in the mid 1970's¹ there has been an ever growing use of reservation of property (Romalpa) clauses in commercial contracts for the sale of goods. The concept of a reservation of property clause is grounded in sections 19 and 21 of the Sale of Goods Act 1908 but its widespread use is a recent phenomenon². The problem to be addressed here concerns the relationship of such clauses to the Chattels Transfer Act 1924. The question is whether such clauses fall within the ambit of the definition in section 2 of the Chattels Transfer Act of "instrument" or the exclusions from the term "instrument". If they fall within the latter then they are exempt from the registration provisions of the Chattels Transfer Act. If this is so, it enables those purchasing on such terms to give a misleading impression of their substance to other creditors who may extend credit facilities in reliance on what appears to be ownership by the purchaser of substantial stock in trade. In the event of the purchaser's bankruptcy, the supplier under a contract containing a reservation of property clause can recover his goods possibly leaving very little property to be realised for the benefit of the unsecured creditors³.

II. ROMALPA CLAUSES

What, then, is a reservation of property or Romalpa clause? A distinction must be drawn between simple and complex clauses. The simple clause reserves the property in the goods sold until they are paid for. It thus enables a supplier to reclaim the goods. The complex clause purports to extend to proceeds of sub sales or to new goods produced using the goods sold and other goods as components. Combined with an equitable right to trace, such a clause can be a powerful weapon⁴.

¹ *Aluminium Industrie Vaassen v Romalpa Aluminium Limited* [1976] 2 All E.R.552.

² Formerly it was found only in the form of the conditional sale type of hire purchase agreement and in export sales.

³ See "Reservation of title clauses and the assertion of beneficial ownership in proceeds in England and New Zealand" by Peter Watts published in (1986) *Oxford Journal of Legal Studies* 456. In an appendix to his original unpublished paper Peter Watts examined the relationship of the Romalpa clause with the Chattels Transfer Act. When considering reservation of property clauses it is of interest to reflect on the doctrine of "reputed ownership" under section 61 (c) Bankruptcy Act 1908 which was abolished by the Insolvency Act 1967. The essence of the doctrine was that property which did not belong to the bankrupt could vest in the Official Assignee, if the goods were held by the bankrupt in circumstances in which it was reasonable to infer that they were owned by him.

⁴ See *Len Vidgen Ski & Leisure Limited v Timaru Marine Supplies (1982) Limited (In receivership)* (1985) 2 NZCLC 99, *Hendy Lennox Industrial Engines Limited v Grahame Patrick Limited* [1984] 2 All E.R.152 and *Re Andrabell Limited in liquidation* [1984] 3 All E.R.407.

The principles of the Romalpa case have been recognised as a part of the law of New Zealand by the High Court in *Len Vidgen Ski & Leisure Limited v Timaru Marine Supplies (1982) Limited (In receivership)* (1985) 2 N.Z.C.L.C. 99.

III. IS A RESERVATION OF PROPERTY CLAUSE REGISTRABLE?

The Chattels Transfer Act defines the term "instrument" in a detailed way and in part by way of exclusion. Unfortunately the Chattels Transfer Act is not the only Act in New Zealand which governs security over chattels. Where the borrower is a limited liability company incorporated under the Companies Act 1955, registration of charges over its chattels has to be performed in the office of the Registrar of Companies. This is because section 2 of the Chattels Transfer Act excludes from the definition of instrument debentures issued by any company and secured upon the chattels of such company and mortgages or charges granted or created by a company. To be registrable under the Companies Act, the particular charge must fall within the nine categories of charge set out in section 102 of that Act⁵.

IV. REGISTRATION UNDER THE COMPANIES ACT 1955

(a) *Simple Reservation of Property Clauses*

It can immediately be stated that a simple reservation of property clause will not be registrable under the Companies Act because such a clause is not a "charge" within the definition of section 102. In England the Court of Appeal in *Clough Mill Limited v Martin* [1984] 3 All E.R. 982 has taken the view that such clauses are effective and do not amount to registrable charges.

(b) *Complex Reservation of Property Clauses*

A complex clause which purports to attach to mixed goods may amount to a fixed equitable charge or a floating charge. In *Re Bond Worth* [1983] Ch. 228 a complex clause which allowed the buyer to sell the mixed goods was held to be a floating charge. As such in New Zealand it should be registered under section 102 (2)(d) of the Act. In the absence of such a power, the interest reserved may properly be a chattel security and registrable under section 102 (2)(c) (*Borden (UK) Limited v Scottish Timber Products Limited* [1981] Ch. 25).

V. REGISTRATION UNDER THE CHATTELS TRANSFER ACT 1924

In terms of the Chattels Transfer Act, we need to have regard to the definitions of chattels and instrument in section 2. "Chattels" are defined as "any personal property that can be completely transferred by delivery and . . . includes . . . book debts". "Instrument" is defined to mean and include inter alia (paragraph

⁵ See D.W. McLauchlan: "Corporate personal property secured transactions — Chattels Transfer Act, Companies Act or neither?" (1978) NZLJ 137. There are certain instruments registrable under the Chattels Transfer Act 1924 when entered into by companies incorporated under the Companies Act 1955. These instruments are hire purchase agreements, chattel leases and absolute assignments of book debts. These transactions fall within the ambit of the Chattels Transfer Act but they do not amount to charges under the Companies Act.

f) "any agreement, whether intended to be followed by the execution of any other instrument or not, by which a right in equity to any chattels, or to any charge or security thereon or thereover, is conferred".

All transfers of chattels in the ordinary course of business of any trade or calling are excluded from the definition of instrument in section 2 of the Act.

(a) *Complex Reservation of Property Clauses*

Plainly, from the definition of chattels, complex clauses may be registrable in that the attachment to the proceeds of the sale of goods may amount to a charge on book debts and as such would be registrable under the Act.

Aside from the proceeds of the sale of goods, we must ask what the position is with regard to attachment to the goods themselves after they have become mixed. The definition of chattels refers to "transfer by delivery". Attachment to mixed goods involves attachment to future or after acquired assets. In *Bruce v McCluskey* (1895) 21 VLR 262 it was stated at 265 and 266 that "after acquired property does not fall within that definition. The very nature of the term indicates that such property is not capable of delivery because it is not in existence and is not contemplated to exist until some time after the bill of sale shall have been executed". Perhaps then complex clauses in so far as they purport to attach to mixed goods are not registrable because such goods are not "chattels" within the meaning of the Act.

The grant over future acquired chattels confers an equitable interest upon the grantee, in the absence of statutory provision to the contrary. Paragraph (f) of the definition of instrument in section 2 refers to rights in equity. How do these provisions in section 2 concerning the definition of chattels and the definition of instrument stand together? The provision concerning the definition of instrument follows the English Bills of Sale Act 1878. This provision, though obviously extending to an equitable charge over presently existing property, has not been regarded as overthrowing the rule that a bill of sale must be one of chattels capable of transfer by delivery at time of execution as held in *Thomas v Kelly* (1888) 13 AC 50 and in *Re John Coles & Son* (1936) ABC 52. In South Australia the legislation follows the same wording though with slight modification to the phraseology. There the case of *Re Grezzana*⁶ seems to suggest that an assurance of future property is registrable as a bill of sale. This proposition is clearly in conflict with *Re John Coles & Son* (supra), a later decision of the same judge. It may be that the true explanation of *Re Grezzana* is that there the instrument was registered as a bill of sale and the court decided that the inclusion of crops to be grown in the future did not render it void — quite a different matter.

In New Zealand there are limited provisions in the Chattels Transfer Act which authorise the taking of security over after acquired chattels. There are the provisions concerning crops, stock and wool; there is the proviso to section 24; most importantly there is section 26 of the Act as amended in 1974 which specifically authorises the taking of security over after acquired chattels in the form of stock in trade. The relevant provision states that nothing in section 23, which requires instruments to have an inventory of chattels, or section 24, which, subject to its proviso, precludes the taking of security over after acquired chattels, shall render an instrument void in respect of any chattels

⁶ (1932) 4 A.B.C. 216.

which the grantor under an instrument by way of security is required by the instrument to hold at his premises pending sale if the chattels are of such a nature or are so described as to be reasonably capable of identification and the grantor is engaged in the business of selling or letting out on hire chattels of that kind. Significantly, sub-section 2 of section 26 enables security to be extended to proceeds of sale of stock in trade to the extent that such proceeds are expressly stated in the instrument to form part of the security and to the extent that such proceeds are kept by or on behalf of the grantor in a separate and identifiable fund. The amendment to section 26 permitting the taking of security over stock in trade overcomes the difficulties otherwise created by the definition of "chattels", as regards sale proceeds but not as far as mixed goods are concerned. The matter awaits judicial clarification.

(b) *Simple Reservation of Property Clauses*

It is arguable that neither simple nor complex reservation of property clauses come within the definition of registrable instruments within section 2 of the Chattels Transfer Act because they may be regarded as transfers of chattels in the ordinary course of business of a trade or calling. This immediately raises the question of how the courts have defined "the ordinary course of business" over the years and whether such definition accommodates simple reservation of property clauses.

VI. THE ORDINARY COURSE OF BUSINESS

Halsbury's Laws of England⁷ states that whether a transfer is in the ordinary course of business must necessarily depend on the facts of a particular case and on business practice prevailing at the relevant time. Hence previous cases dealing with transfers in the ordinary course of business cannot be taken to lay down any absolute or unchangeable rule, as what may then have been a transfer in the ordinary course of business may have ceased to be normal through a change of business practice and transfers at one time regarded as outside the ordinary course of business may now be considered to be within it.

In New Zealand the Court of Appeal considered the term relative to chattels securities in *Williams and Kettle Limited v The Official Assignee of Harding* (1908) 27 NZLR 871. The facts of this case bear examination. W. & K. Ltd, a firm of auctioneers, sold stock to H., a stock dealer, on the 12th, 18th and 23rd of July 1907. On the 9th of August 1907, in response to requests by W. & K. Ltd to reduce his account of £1,171, H. wrote to them as follows, "On looking over my account I find I owe you a considerable amount and as I have 200 cattle grazing at Ongaonga which were bought through you, I am giving you the sole right to them. The amount the cattle cost is between £1,000 and £1,100. I only ask that I be allowed to jockey the cattle off through your firm".

There was no evidence before the court to show whether or not it was the custom for stock dealers to give such a letter to auctioneers.

On the 15th of August H. absconded without paying his debts and this came to the notice of W. & K. Ltd on the 21st of August.

On the 19th of August W. & K. Ltd had given notice to the owner of

⁷ Halsbury's Laws of England London 1973 volume 4 page 259.

the land on which the cattle referred to in the letter were grazing, that he was not to deliver the cattle to anyone without their instructions. On the 20th W. & K. Ltd obtained possession of the cattle and on the 21st removed them.

On the 5th of September H. was adjudicated a bankrupt, with the bankruptcy relating back to the 15th of August.

The Official Assignee proceeded to demand possession of the cattle from W. & K. Ltd but the company refused to hand them over. W. & K. Ltd subsequently sold the cattle at auction for £903 and the Official Assignee claimed this as part of the bankrupt's estate.

The Court of Appeal held that H.'s letter was an instrument by way of security within the meaning of section 2 of the Chattels Transfer Act and did not fall within the exceptions concerning transfer in the ordinary course of business.⁸

The court followed the decision of the Privy Council in *Tennant v Howatson* 13App.Cas.489. Williams J stated at page 889, "there is no evidence at all that the letter was a transfer of stock in the ordinary course of business. As was said of the document in question in *Tennant v Howatson*, the execution of such a document may be of frequent occurrence but it is not shown to be the common practice and it must be shown to be the common practice before it can be said to be a transfer in the ordinary course of business. Even if it were shown to be the common practice it does not follow that it is in the ordinary course of business. The judgment . . . goes on to say, 'moreover, . . . it is not easy to say with any precision at all what is meant by the expression "the ordinary course of business" ' ."

We can see then that for a practice to be in the ordinary course of business it is not enough that it be a frequent practice or even common practice; it must be in the *ordinary* course of business. Regrettably, the courts do not appear to have had a further opportunity for considering the question of the ordinary course of business for the purposes of avoiding the registration requirements of the Chattels Transfer Act.

The question of the meaning of the ordinary course of business has, however, frequently been considered by the courts in other areas of the law. It has been considered with regard to the floating charge in the context of fraudulent or voidable preference and it has been considered by the Australian Courts under section 122(2)(a) of the Bankruptcy Act 1966 again in the context of fraudulent or voidable preference. The Australian legislation is considered below. The question must be asked whether the concept of the ordinary course of business is a universal concept or whether its meaning varies according to the area of the law under which it falls for consideration. Unfortunately, this is a matter that the courts have not yet pronounced upon.

VII. TRANSACTIONS IN THE ORDINARY COURSE OF BUSINESS AND FLOATING CHARGES

Floating charges can be given by limited liability companies incorporated under the Companies Act 1955 over their assets in favour of lenders. *Only* such companies can give floating charges. They are frequently granted over

⁸ In the event the instrument by way of security was void under section 79(2) of the Bankruptcy Act 1892 as it had been given within four months prior to the bankruptcy.

chattels and book debts. Floating charges were first recognised by the courts in 1870 when the English Court of Appeal in Chancery gave its decision in *Re Panama, New Zealand and Australian Royal Mail Co* (1870) 5 Ch.App. 318. The nature of the floating charge was described by Lord Macnaghten in *Government Stock Investment Co v Manila Railway Co* [1897] A.C.81, 86 and in *Illingworth v Houldsworth* [1904] A.C. 35.

Today the three fundamental characteristics of the floating charge are recognised to be as follows:

1. The floating charge is a charge on a class of assets of a company present and future.
2. The items making up the class of assets change in the ordinary course of business from time to time.
3. Until some future step is taken by or on behalf of the chargee the company may carry on its business in the ordinary way (*Re Yorkshire Woolcombers Association Limited* [1903] 2 Ch. at 295).

The company then, gives a charge over its assets, perhaps its stock in trade, and is permitted by the terms of the floating charge to deal in its stock in trade, in the ordinary course of business, without such dealing amounting to a breach of the charge on the part of the company. The charge is therefore defeasible by a transaction in the ordinary course of business⁹. Should a transaction not be in the ordinary course of business it may amount to a voidable or fraudulent preference.

How have the courts defined the term “in the ordinary course of business” in this context?

The term was used in *Rust v Cooper* (1777) 98E.R.1277.1280 by Lord Mansfield. In *Ex parte Blackburn Re Cheesebrough* (1871) L.R.12Eq.358.363 Bacon V.C. as Chief Judge in Bankruptcy referred to the honouring of bills of exchange presented at their maturity, the payment of debts which have become due in the usual and customary manner and payments made in fulfilment of a contract engagement to pay in a particular manner or at a particular time as being in the ordinary course of business. He went on to refer to “the most ordinary everyday transactions of commerce”.

Specific transactions recognised by the courts as in the ordinary course of business for the purpose of the floating charge are, in summary, sales, leases, mortgages, charges, liens, payment of debts and other transactions effected with a view to carrying on the concern¹⁰. A fraudulent transaction will not be treated as in the ordinary course of business (*Williams v Quebrada Co* [1895] 2Ch.751). In determining a particular company’s business the courts will consult its Memorandum and Articles of Association (*Re Old Bush Mills Distillery Company* [1897] I.R.488). In *Reynolds Brothers (Motors) Pty Limited and Others v Esanda Limited*¹¹ it was held that the power of a company to deal with its assets free of a floating charge is a wide power. The court found that there are limits to that power but judged it unnecessary to attempt to mark out those limits in that case because the transaction in question fell within the relevant principle. At page 1341 Priestley J.A. stated that transactions

⁹ See “Company Charges” by W.J. Gough, London 1978.

¹⁰ See Halsbury’s Laws of England London 1973 volume 7, page 490.

¹¹ (1982-83) ACLC 1, 333.

would undoubtedly be in the ordinary course of business if, within its course, they are made for the purpose of carrying on the business or to achieve ends not disparate from those of the business activity.

In the *Reynolds Brothers* case (supra), it was held that a transaction for the purpose of maintaining the company as a going concern is within the ordinary course of business even though the transaction may be exceptional in nature. In so holding the court relied on *Re Borax* (1901) 1 Ch.326 and *Re Willmott* (1886) 34 Ch.D.147. Exceptional matters would have to be *intra vires* (*Re Borax* supra). It seems strange to propose that something *exceptional* could be in the ordinary course of business but the authority for the proposition remains. In this connection it is of interest to note that in *Re Old Bush Mills Distillery Company Limited* (supra) Lord Ashbourne at page 495 thought the word "ordinary" had "no place properly at all in the phrase".

VIII. TRANSACTIONS IN THE ORDINARY COURSE OF BUSINESS AND SECTION 122(2)(a) BANKRUPTCY ACT 1966 (AUSTRALIA)

This provision in Australia is the equivalent of section 56 of New Zealand's Insolvency Act 1967. There are significant differences between the two provisions and it must be noted that

- (a) there is no requirement of "a view to giving . . . a preference" under the Australian Act,
- (b) there is no voidable preference under the Australian Act where the purchaser, payee or encumbrancer of the bankrupt
 - (1) acts in the ordinary course of business or
 - (2) acts in good faith and for valuable consideration.

These differences in the legislation must be borne in mind when considering the approach of the Australian Courts to the term "the ordinary course of business" under section 122(2)(a).

What then have the Australian Courts made of the term? Predictably as Kennedy J. put it in *Katoa Pty Limited v Dartnall* (1983) 8 A.C.L.R.476,480, the dividing line between what falls within the ordinary course of business and what does not is not easily defined in any particular case.

There is a line of cases which suggests that in determining whether a transaction is in the ordinary course of business, the general standard of conduct in the business community must be applied as distinct from that which is pursued in a particular trade or a particular course of dealing between the debtor and creditor in question¹². Equally, there are other cases that suggest the view that the transaction must be seen against the commercial background of the particular trade of the debtor and creditor¹³.

In one case the court equated acting in the ordinary course of business with acting in accordance with the standards of honesty and fairness which are ordinarily accepted by the business community¹⁴. In another case the court stated that the term "means that the transaction must fall into place as part

¹² *Robertson v Grigg* (1932) 47 CLR 257, *Burns v McFarlane* (1940) 64 CLR 108,125 and *Taylor v White* (1964) 110 CLR 129 at 136, 142, 151 and 159.

¹³ *Re Lee Furniture Pty Limited* (1983) 8 ACLR251., *Downs Distributing Co Pty Limited v Associated Blue Star Stores Pty Limited* (1947) 76 CLR 463.

¹⁴ *Taylor v White* (1964) 110 CLR 129,159.

of the undistinguished common flow of business done, that it should form part of the ordinary course of business carried on, calling for no remark and arising out of no special or particular situation".¹⁵

It is difficult to determine from the Australian cases a clear definition of the term "the ordinary course of business". The courts have been anxious to produce a just result on the facts before them in individual cases and the facts of the individual case will govern whether or not a practice is regarded as in the ordinary course of business.

IX. IS A RESERVATION OF PROPERTY CLAUSE IN "THE ORDINARY COURSE OF BUSINESS"?

Drawing on these analogies, can it then be said that a reservation of property clause amounts to a transfer of chattels in the ordinary course of business of a trade or calling, thereby taking the document in which it is to be found out of the class of instruments requiring registration under the Chattels Transfer Act? The short answer, of course, is that there is no authority on the point and that the question must stand for the time being.

From the cases set out above we can determine how the courts have approached this concept down the years. Of particular note is *Williams and Kettle Limited v The Official Assignee of Harding* (supra) with its emphasis on the *ordinary* course of business.

Plainly, in any given case, the decision of the court is going to be based on a finding of fact, dependent in itself on the evidence presented to the court. The question is going to be one of whether the use of reservation of property clauses has become so widespread that they can be said to be in the *ordinary* course of business. To determine the extent of the use of such clauses in the New Zealand business community today calls for statistical research. Of interest are the comments of Mr Mike Whale, and Mr Peter Howell co-Leaders of the 1987 N.Z. Law Society Seminar entitled "Recent Developments in Insolvency Law and Practice" and co-authors of the accompanying manual of the same name, made during the Christchurch session of the seminar. During the course of their address, the seminar leaders commented that the use of reservation of property clauses had become so widespread in this country that the N.Z. Society of Accountants was considering how to cope with them in the context of its recommended procedures for the preparation of balance sheets and financial statements. Chartered Accountants are conscious of their liability for the production of accurate records and are increasingly faced with the problem in insolvency of finding that stock in trade they had thought was the property of the now insolvent party, is in fact the property of a supplier who has reserved the property in it to himself as a condition of the contract of sale. This in itself raises the question of the necessity of some public notice procedure concerning the existence of such clauses but it also indicates that their use has already become common in New Zealand and perhaps "ordinary" in the sense that they are in the *ordinary* course of business. If that is so then they are within the exceptions from the requirement of registration under the Chattels Transfer Act.

¹⁵ *Downs Distributing Co Pty Limited v Associated Blue Star Stores Pty Limited* (1947) 76 CLR 463 at 477.

Appendix: Minnesota sentencing guidelines grid

		CRIMINAL HISTORY SCORE							
		0	1	2	3	4	5	6 or more	
SEVERITY LEVEL OF CONVICTION OFFENSE	MURDER – 2ND DEGREE (INTENTIONAL MURDER; DRIVE-BY SHOOTINGS)	X	306 <i>299-313</i>	326 <i>319-333</i>	346 <i>339-353</i>	366 <i>359-373</i>	386 <i>379-393</i>	406 <i>399-413</i>	426 <i>419-433</i>
	MURDER – 3RD DEGREE MURDER – 2ND DEGREE (UNINTENTIONAL MURDER)	IX	150 <i>144-156</i>	165 <i>159-171</i>	180 <i>174-186</i>	195 <i>189-201</i>	210 <i>204-216</i>	225 <i>219-231</i>	240 <i>234-246</i>
	CRIMINAL SEXUAL CONDUCT - 1ST DEGREE ASSAULT - 1ST DEGREE	VIII	86 <i>81-91</i>	98 <i>93-103</i>	110 <i>105-115</i>	122 <i>117-127</i>	134 <i>129-139</i>	146 <i>141-151</i>	158 <i>153-163</i>
	AGGRAVATED ROBBERY – 1ST DEGREE	VII	48 <i>44-52</i>	58 <i>54-62</i>	68 <i>64-72</i>	78 <i>74-82</i>	88 <i>84-92</i>	98 <i>94-102</i>	108 <i>104-112</i>
	CRIMINAL SEXUAL CONDUCT – 2ND DEGREE	VI	21 <i>17-25</i>	27 <i>23-31</i>	33 <i>29-37</i>	39 <i>37-41</i>	45 <i>43-47</i>	51 <i>49-53</i>	57 <i>55-59</i>
	RESIDENTIAL BURGLARY SIMPLE ROBBERY	V	18 <i>16-20</i>	23 <i>21-25</i>	28 <i>26-30</i>	33 <i>31-35</i>	38 <i>36-40</i>	43 <i>41-45</i>	48 <i>46-50</i>
	NON-RESIDENTIAL BURGLARY	IV	12 <i>10-14</i>	15 <i>13-17</i>	18 <i>16-20</i>	21 <i>19-23</i>	24 <i>23-25</i>	27 <i>26-28</i>	30 <i>29-31</i>
	THEFT CRIMES (OVER \$2500)	III	12 <i>10-14</i>	13 <i>11-15</i>	15 <i>13-17</i>	17 <i>15-19</i>	19 <i>18-20</i>	21 <i>20-22</i>	23 <i>22-24</i>
	THEFT CRIMES (\$2500 OR LESS); CHECK FORGERY (\$200 – \$2500)	II	12 <i>10-14</i>	12 <i>10-14</i>	13 <i>11-15</i>	15 <i>13-17</i>	17 <i>15-19</i>	19 <i>17-21</i>	21 <i>20-22</i>
	SALE OF CONTROLLED SUBSTANCE	I	12 <i>10-14</i>	12 <i>10-14</i>	12 <i>10-14</i>	13 <i>11-15</i>	15 <i>13-17</i>	17 <i>15-19</i>	19 <i>18-20</i>

NOTES

The solid numbers in each cell represent presumptive sentences in months. The italicised numbers denote the range within which the judge may sentence without the sentence being deemed a departure. The judge is allowed to depart from the range to reflect the particular circumstances of the case, and subject to appeal.

Presumptive **immediate** commitment to state prison. First Degree Murder is excluded from the guidelines by law and continues to have a mandatory life sentence.

Presumptive **stayed** sentence (generally a disposition similar to a suspended sentence for the duration indicated in the box. Conditions may be imposed).

This is a slightly modified version of the Minnesota sentencing grid. The full grid can be found at <<http://www.msgc.state.mn.us/index.htm>>.