

# Contents

---

<i>Foreword</i>	v
<i>Preface</i>	vi
<i>Acknowledgements</i>	viii
<i>List of Contributors</i>	xii
<b>1. Introduction to Law</b>	<b>1</b>
<i>Catherine Barnard, Janet O'Sullivan and Graham Virgo</i>	
STARTING TO THINK ABOUT LAW	1
THE TOOLS	4
LEGAL METHOD	17
INTERPRETATION	23
IMAGINATION	27
GENERALISATION	29
POLICY UNDERPINNING THE RULE	31
ONE FINAL EXAMPLE	32
CONCLUSIONS	35
<b>2. Criminal Law</b>	<b>37</b>
<i>Graham Virgo</i>	
THE ELEMENTS OF A CRIME	37
THE REASONS FOR PUNISHMENT	38
REASONS FOR CHARACTERISING CONDUCT AS CRIMINAL	39
FACTS OF <i>BROWN</i>	40
THE KEY OFFENCES	40
THE ISSUE IN <i>BROWN</i>	42
APPLICATION OF THE DECISION	46
THE DISSENTING JUDGES	49



THEORY: AUTONOMY VERSUS WELFARE	50
SUBSEQUENT EVENTS: MOTIVE AND RISK	51
HUMAN RIGHTS	55
LAW REFORM	55
CONCLUSIONS	57
<b>3. Law of Contract</b>	<b>59</b>
<i>Janet O'Sullivan</i>	
INTRODUCTION	59
SOME CRUCIAL IDEAS ABOUT CONTRACTUAL REMEDIES	60
THE CASE	64
THE HOUSE OF LORDS DECISION IN MORE DETAIL	74
WHAT HAS HAPPENED SINCE <i>RUXLEY</i> ?	78
WHAT IF THE BUILDER HAD <i>SAVED</i> MONEY BY BREACHING THE CONTRACT?	80
CONCLUSION	86
<b>4. Tort</b>	<b>89</b>
<i>Tony Weir, revised by Janet O'Sullivan</i>	
THE MOST FAMOUS TORT CASE	91
THE 'DUTY' QUESTION	93
THE KIND OF HARM	93
DAMAGE AND LOSS	94
RECOVERY FOR PURE FINANCIAL HARM	94
APPLICATION IN <i>McFARLANE</i>	96
FAIR, JUST AND REASONABLE	96
THE REASONS GIVEN IN <i>McFARLANE</i>	97
THE SPEECH OF LORD STEYN	98
DISTRIBUTIVE JUSTICE	98
PSYCHIATRIC HARM	99
EFFECT ON THIRD PARTIES	99
TORT AS DETERRENCE	100
DETERRENCE AND COMPENSATION	100
TWO EXAMPLES	101
STATUTES AND JUDGE-MADE LAW	102
THE EFFECT OF <i>McFARLANE</i>	103
DAMAGE AND THE INVASION OF RIGHTS	104
THE UNWANTED BABY ABROAD	105
CONCLUSION	106



<b>5. Land Law</b>	<b>109</b>
<i>Kevin Gray</i>	
INTRODUCTION	109
THE PROBLEM OF PROPERTY	110
THE CASE ( <i>CHHOKAR v CHHOKAR</i> )	111
CONCLUSION	126
<b>6. Equity and Trusts</b>	<b>129</b>
<i>Graham Virgo</i>	
WHAT IS EQUITY?	130
THE CONTRIBUTION OF EQUITY	131
TYPES OF TRUST	133
THE FACTS OF <i>FOSKETT v McKEOWN</i>	135
THE POSSIBLE SOLUTIONS	136
IDENTIFICATION AND APPLICATION OF RULES AND PRINCIPLES	137
CONCLUSIONS	148
<b>7. Constitutional Law</b>	<b>151</b>
<i>Mark Elliott</i>	
PROLOGUE	151
THE <i>MILLER II</i> CASE	156
CONCLUSIONS	172
<b>8. EU Law, Brexit and International Trade</b>	<b>177</b>
<i>Catherine Barnard</i>	
THE WORLD TRADING REGIME	179
CASSIS DE DIJON	184
BREXIT	196
CONCLUSIONS	200
<b>9. Conclusions: Drawing Some Threads Together</b>	<b>205</b>
<i>Janet O'Sullivan, Catherine Barnard and Graham Virgo</i>	
<b>Epilogue</b>	<b>223</b>
<i>Index</i>	225