

Contents in Detail

<i>List of Figures and Tables</i>	x
<i>Acknowledgements</i>	xi
<i>Note on Conventions</i>	xii
<i>Abbreviations</i>	xiii
Introduction	1
 Part I Meaning and Interpretation	
1 Linguistic Meaning	7
Basic terms and concepts	7
Negotiating the semantic maze	10
Decontextual (abstract), contextual and interpretative meaning	15
Linguistic categories and the classification of things	18
Indeterminacy	21
Conclusion	22
Summary points	23
2 Word Meaning and Interpretation in the Law	24
Fidelity to the legal text	24
Interpretation and intentional meaning	25
The language of adjudication	26
Etymology in adjudication	29
Metaphor and legal interpretation	29
Word meaning, co-text and legal maxims	31
In and outside the text	32
Social change and word meaning	32
<i>Public official</i> and defamation law	35
Indeterminacy and legal interpretation	37
Conclusion	39
Summary points	39
3 Ordinary Language and Legal Language	41
Statutory definition and ordinary meaning	42
The dictionary and beyond	43
The linguistic thought experiment	48
Ordinary language and public perception	52
Ordinary language in legal philosophy	53
Conclusion	55
Summary points	56
Overview figures: the linguistic culture of law	57
	v

Part II Case Studies

4	Classification and Legislative Intent	61
	Is a racing pigeon a <i>pigeon</i> ?	61
	<i>Hong Kong Racing Pigeon Association v AG</i> (1994) (High Court)	61
	Key points in the judgment	62
	<i>Hong Kong Racing Pigeon Association v AG</i> (1995)	
	(Court of Appeal)	62
	Key points in the judgment	63
	Discussion: The ‘Russian doll’ (<i>matreshka</i>) approach to categories	63
	Points for further consideration	65
5	Characterizing an Event	66
	Were two deaths in the same incident <i>coinciding</i> ?	66
	<i>Re Rowland</i> (1963) (Court of Appeal)	66
	Key points in Russell LJ’s judgment	68
	Discussion: public outrage	68
	Points for further consideration	69
6	The Classification of Mundane Objects I: Food Items in United Kingdom Tax Law	70
	Is a Jaffa Cake a <i>biscuit</i> ?	70
	<i>United Biscuits (UK) Ltd v Commissioners of Customs and Excise</i> (1991) (UK Tax Tribunal)	70
	Key points in the judgment	72
	Discussion	72
	Are (Regular) Pringles similar to <i>potato crisps</i> ?	73
	<i>Proctor & Gamble (UK) v Commissioners for HMRC</i> (2007) (Tribunal)	73
	<i>Commissioners for HMRC v Procter & Gamble UK</i> (2008) (High Court)	75
	<i>Commissioners for HMRC v Procter & Gamble UK</i> (2009) (Court of Appeal)	76
	Key points of the Court of Appeal judgment	78
	Discussion	78
	Points for further consideration	79
7	The Classification of Mundane Objects II: Cases from the United States	80
	Is a tomato a <i>vegetable</i> or a <i>fruit</i> ?	80
	<i>Nix v Hedden</i> (1893) (US Supreme Court)	80
	Key points in the judgment	81
	Discussion	82
	Is a species of bacteria a <i>plant</i> ?	84
	<i>In re Arzberger</i> (1940) (US Court of Customs and Patent Appeals)	84
	Key points of the judgment	85
	Is a comic action figure a <i>doll</i> ?	86

<i>Toy Biz, Inc. v US</i> (2003) (US Court of International Trade)	86
Key points in the judgment	89
Discussion	89
Is a burrito a <i>sandwich</i> ?	91
<i>White City Shopping Center, LP v PR Restaurants, LLC dba Bread Panera</i> (2006) (Superior Court of Massachusetts)	91
Key points in the judgment	92
Discussion	92
Points for further consideration	94
8 Technological Change and Legal Categories	95
Is an airplane a <i>vehicle</i> ?	95
<i>McBoyle v US</i> (1930) (Circuit Court of Appeals for the Tenth Circuit)	95
<i>McBoyle v US</i> (1931) (US Supreme Court)	97
Key points in the Supreme Court judgment	98
Discussion	98
Is a bicycle a <i>carriage</i> ?	99
<i>Corkery v Carpenter</i> (1950) (High Court)	99
Key points in the judgment	101
Discussion	101
Points for further consideration	102
9 Lawful and Unlawful Searches	104
Is a wire-tap a <i>search</i> ?	105
<i>Olmstead v US</i> (1928) (US Supreme Court)	105
Key points in the Supreme Court majority judgment	107
Key points in the dissenting opinion	107
Is a mobile motor home a <i>motor vehicle</i> ?	108
Background: The motor vehicle exception	108
Summary of the facts	110
Three levels of argument	110
<i>People v Carney</i> (1981) (California Court of Appeal)	111
<i>People v Carney</i> (1983) (Supreme Court of California)	111
<i>California v Carney</i> (1985) (US Supreme Court)	114
Key points in the US Supreme Court majority judgment	116
Key points in the dissenting opinion	117
Popular culture reference	117
The judicial gaze	118
Discussion	119
Points for further consideration	120
10 Colonial Encounters: What is a Sacred Object?	122
Is a cow a <i>sacred object</i> ?	122
<i>Queen-Empress v Imam Ali and Anor</i> (1888) (Allahabad High Court, India)	122
Key points in the judgment	125
Discussion	125

Is a cow that is set loose still <i>property</i> ?	126
<i>Romesh Chunder Sannyal v Hiru Mondal</i> (1890)	
(Calcutta High Court, India)	126
Key points in the judgment	127
Discussion	127
Analysis of the two cases	128
Points for further consideration	129
11 Defining Identity I: Job or Profession	130
Does a Christian minister perform <i>labor</i> or <i>service</i> ?	130
<i>Church of the Holy Trinity v US</i> (1892) (US Supreme Court)	130
Key points in the judgment	133
Discussion	134
Points for further consideration	136
12 Defining Identity II: Nation, People and Race	138
Is the Cherokee nation a <i>foreign state</i> in relation to the United States?	138
<i>Cherokee Nation v State of Georgia</i> (1831) (US Supreme Court)	138
Key points in the majority judgment	141
Discussion	142
Is a high-caste Hindu a <i>white person</i> ?	143
<i>US v Bhagat Singh Thind</i> (1923) (US Supreme Court)	143
Key points in the judgment	147
Discussion	147
Are Sikhs a <i>racial group</i> ?	148
<i>Mandla v Dowell Lee</i> (1982) (Court of Appeal)	148
<i>Mandla v Dowell Lee</i> (1983) (House of Lords)	151
Key points in the House of Lords judgment	155
Discussion	155
Points for further consideration	156
13 Defining Identity III: Transgender Identities	158
Introduction and background	158
Hong Kong's legal order	159
Is a post-operative transgender woman a <i>woman</i> for the purpose of marriage?	159
<i>W v Registrar of Marriages</i> (2010) (Court of First Instance)	159
Key points in the judgment	167
<i>W v Registrar of Marriages</i> (2011) (Court of Appeal)	168
<i>W v Registrar of Marriages</i> (2013) (The Court of Final Appeal)	168
Key points in the majority judgment	172
Discussion: self-classification and the law	173
Points for further consideration	175
14 Defining Identity IV: Personhood	176
Who or what is a <i>legal person</i> ?	176
Categories of <i>legal person</i>	176
Who or what is a <i>corporation</i> ?	178

Corporations as citizen or Frankenstein's corporate monster?	180
<i>Citizens United v Federal Election Commission</i> (2010)	
(US Supreme Court)	180
Can the corporation speak? The judgment of	
Justice Kennedy	181
Justice Stevens' dissent	184
Justice Scalia's commentary	187
Key points on corporate free speech rights (Justice Kennedy)	188
Key points in Justice Stevens' dissent	188
Discussion: conservative postmodernists?	189
Points for further consideration	191

Part III Concluding Remarks

15 Word Meaning and Interpretative Authority	195
Decontextual (abstract) meaning	195
Ordinary meaning	196
Authority over meaning and interpretation: which is to	
be master?	198
<i>References</i>	200
<i>Index</i>	219