

§Law in
context

How To Do Things With Rules

second edition

William Twining
and David Miers

How To Do Things With Rules

A Primer of Interpretation

Second Edition

WILLIAM TWINING

Quain Professor of Jurisprudence, University College, London

DAVID MIERS

Senior Lecturer in Law at University College, Cardiff

WEIDENFELD AND NICOLSON

London

To our parents

Neither this book nor any other can say how a page *should* be read – if by that we mean that it can give a recipe for discovering what the page *really* says. All it could do – and that would be much – would be to help us to understand some of the difficulties in the way of such discoveries.

I.A. RICHARDS, *How to Read a Page*

© 1976, 1982 William Twining and David Miers

First published 1976

Reprinted 1978

Second edition 1982

Reprinted 1983

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of the Copyright owners.

George Weidenfeld and Nicolson Ltd
91 Clapham High Street London SW4

ISBN 0 297 78083 2 cased

ISBN 0 297 78084 0 paperback

Printed by Butler & Tanner Ltd, Frome and London

HOW TO DO THINGS WITH RULES

LAW IN CONTEXT

Editors: Robert Stevens (Haverford College, Pennsylvania),
William Twining (University of London) and
Christopher McCrudden (Lincoln College, Oxford)

ALREADY PUBLISHED

Accidents, Compensation and the Law (Third Edition), P.S. Atiyah

Company Law and Capitalism (Second Edition), Tom Hadden

Karl Llewellyn and the Realist Movement, William Twining

Cases and Materials on the English Legal System (Third Edition),

Michael Zander

Computers and the Law, Colin Tapper

Tribunals and Government, J.A. Farmer

Government and Law (Second Edition), T.C. Hartley and J.A.G. Griffith

Land, Law and Planning, Patrick McAuslan

Landlord and Tenant (Second Edition), Martin Partington

Evidence, Proof and Probability (Second Edition), Richard Eggleston

Family Law and Social Policy (Second Edition), John Eekelaar

Consumers and the Law (Second Edition), Ross Cranston

Law and Politics, Robert Stevens

Obscenity, Geoffrey Robertson

Labour Law, Paul Davies and Mark Freedland

Charities, Trusts and Social Welfare, Michael Chesterman

The Law-Making Process, Michael Zander

An Introduction to Law, Phil Harris

Sentencing and Penal Policy, Andrew Ashworth

CASES AND STATUTES

CASES

Note: This table only includes citations to those cases that are discussed.

<i>Abley v. Dale</i> (1851) 11 K.B.	378	161
<i>A.G. v. Sillem</i> (1864) 2 H. and C.	431	240
<i>B v. B</i> [1978] Fam.	26	72, 86, 87, 88, 90, 94, 95, 96, 97, 99, 100-1, 104, 106, 108, 110, 125, 325-6, 333, 369
<i>Bayard v. Morpew</i> (1815) 2 Phillim.	321	237
<i>Black-Clawson International Ltd v. Papierwerke Waldhof-Aschaffenburg A.G.</i> [1975] A.C.	591	89, 107, 111, 339
<i>Blacker v. Lake & Elliot Ltd</i> (1912) 106 L.T.	533	56, 282
<i>Boys v. Chaplin</i> [1968] 2 Q.B.	1	273
<i>Broome v. Cassell & Co. Ltd</i> [1971] 2 Q.B.	354	103, 274, 354
<i>Buckoke v. Greater London Council</i> [1971] 2 All E.R.	254	48-53, 115, 122-4, 360, 363
<i>Bulmer v. Bollinger</i> [1974] 2 All E.R.	1226	333
<i>Burt v. Burt</i> (1860) 2 Sw. & Tr.	88	40, 41, 43, 238, 240, 250, 253
<i>Camrose v. Basingstoke Corporation</i> [1966] 1 W.L.R.	1100	31
<i>Candler v. Crane, Christmas</i> [1951] 2 K.B.	164	262
<i>Cantliff v. Jenkins</i> [1978] Fam.	47	72, 85, 88, 90, 94, 95, 96, 101, 104, 108, 110, 325-6, 333, 369
<i>Carter v. Bradbeer</i> [1975] 1 W.L.R.	1204	335
<i>Catherwood v. Caslon</i> (1844) 13 M. & W.	261	237
<i>C.E.G.B. v. Alderson</i> (1981)		172
<i>Courtauld v. Legh</i> (1869) L.R. 4 Ex.	126	237
<i>Cummings v. Granger</i> [1977] 1 All E.R.	104	362
<i>Davis v. Johnson</i> [1979] A.C.	272	72-3, 85-112, 125, 200, 228, 272-3, 274, 319, 320, 324-6, 329, 331, 339, 340, 341, 366, 369

<i>De La Bere v. Pearson</i> [1908] 1 K.B.	260	281
<i>Derry v. Peek</i> (1889) 14 App. Cas.	337	276
<i>Donoghue v. Stevenson</i> [1932] A.C.	562	54-9, 215, 249, 257-62, 268, 278, 279, 280, 284, 285-6, 287-91, 360, 363, 364, 366, 367-9
<i>Donovan v. Gavin</i> [1965] 3 W.L.R.	352	362
<i>D.P.P. v. Smith</i> [1961] A.C.	290	278
<i>Duport Steel v. Sirs</i> [1980] 1 All E.R.	529	275, 334
<i>Dutton v. Bognor Regis U.D.C.</i> [1972] 1 Q.B.	373	364
<i>Eastwood v. Harrod</i> [1968] 2 Q.B.	923	94, 278
<i>Exxon Corp'n. v. Exxon Insurance Consultants International Ltd</i> [1981] 3 All E.R.	241	37
<i>Farrell v. Alexander</i> [1976] Q.B.	345; [1977] A.C.	59 6, 91, 105, 272, 274, 362, 363
<i>Fisher v. Bell</i> [1961] 1 Q.B.	394	362
<i>Fitzleet Estates v. Cherry</i> [1977] 1 W.L.R.	1345	271
<i>Fothergill v. Monarch Airlines</i> [1980] 3 W.L.R.	809	335-6, 339, 342
<i>Fougère v. Phoenix Motor Co.</i> [1977] 1 All E.R.	237	362
<i>Francis v. Cockrell</i> (1870) L.R. 5 Q.B.	501	56, 366
<i>George v. Skivington</i> (1869) L.R. 5 Ex.	1	56, 278, 281, 282-3, 366
<i>Gerard v. Worth</i> [1936] 2 All E.R.	905	278
<i>Grant v. Australian Knitting Mills</i> [1936] A.C.	85	288
<i>Hadmor Productions v. Hamilton</i> [1981] 2 All E.R.	724; [1982] 1 All E.R.	
1042 (H.L.)		112
<i>Hardy v. Motor Insurers Bureau</i> [1964] 2 Q.B.	745	249
<i>Heaven v. Pender</i> (1883) 11 Q.B.D.	503	56, 258, 281
<i>Hereford & Worcester CC. v. Newman</i> [1975] 2 All E.R.	613	362
<i>Hyam v. D.P.P.</i> [1975] A.C.	55	278
<i>Industrial Properties (Barton Hill) Ltd v. Associated Electrical Industries Ltd</i> [1977] Q.B.	580	94, 278
<i>I.R.C. v. Duke of Westminster</i> [1936] A.C.	1	313
<i>James Buchanan v. Babco Forwarding and Shipping</i> [1977] 3 W.L.R.	907	337, 339
<i>Jenkins v. Kingsgate (Clothing Productions) No. 2</i> (1981) Industrial Rela- tions Law Reports	388	337
<i>Johnson v. Phillips</i> [1975] 3 All E.R.	682	53
<i>Knüller v. D.P.P.</i> [1973] A.C.	435	218, 362
<i>Lancaster Motor Co. v. Bremith</i> [1941] 1 K.B.	675	92, 278
<i>Langridge v. Levy</i> (1837) 2 M. & W.	519	55, 56, 278, 282-3, 366
<i>Lawrence v. M.P.C.</i> [1971] 1 Q.B.	373; [1972] A.C.	626
225, 371		
<i>Le Lievre v. Gould</i> (1893) 1 Q.B.	491	258
<i>Lim Poh Choo v. Camden and Islington A.H.A.</i> [1979] 1 All E.R.	332	364
<i>London Street Tramways Co. Ltd v. London County Council</i> [1898] A.C.	375	93
<i>Louisville Gas Co. v. Coleman</i> 277 U.S.	32 (1928)	214
<i>Lynch v D.P.P.</i> [1975] A.C.	653	141

<i>McCarthy's v. Smith</i> [1980] 3 W.L.R. 929	333
<i>McPherson v. Buick</i> (1916) 217 N.Y. 382	366
<i>Maunsell v. Olins</i> [1975] A.C. 373	334, 335, 336
<i>Maynard v. Osmond</i> [1977] 1 All. E.R. 64	362
<i>Miliangos v. George Frank (Textiles) Ltd</i> [1975] Q.B. 487; [1976] A.C. 443	94, 103, 201, 271, 362
<i>Miller v. Jackson</i> [1977] Q.B. 966	364
<i>Morelle v. Wakeling</i> [1955] 2 Q.B. 379	102, 273
<i>Paul v. Constance</i> [1977] 1 All E.R. 195	362
<i>Phonogram v. Lane</i> [1981] 3 All E.R. 182	338
<i>Pocock v. Pickering</i> (1852) 18 Q.B. 789	180
<i>Quazi v. Quazi</i> [1979] 3 W.L.R. 633	335
<i>Race Relations Board v. Dockers' Labour Club and Institute Ltd</i> [1976] A.C. 285	299, 362
<i>Ramsay v. I.R.C.</i> [1981] 2 W.L.R. 449	314, 334
<i>Ravensft Properties v. D-G. of Fair Trading</i> [1977] 1 All E.R. 47	362
<i>Re Castioni</i> [1891] 1 Q.B. 149	182
<i>Re D</i> [1977] 1 All E.R. 145	362
<i>Re F</i> [1977] 1 All E.R. 114	362
<i>Re National Savings Bank</i> (1861) L.R. 1 Ch. App. 547	239
<i>Re Waring</i> [1948] 1 Ch. 221	267
<i>Re X</i> [1975] 1 All E.R. 697	362
<i>R. v. Allen</i> (1872) L.R. 1 C.C.R. 367	38-44, 228, 234, 235-65, 267, 279, 284, 324, 359, 363, 366
<i>R. v. Arrowsmith</i> [1975] 1 All E.R. 472	362
<i>R. v. Brawn</i> (1843) 1 C. & K. 144	39, 41, 238, 239
<i>R. v. Collins</i> [1973] 1 Q.B.	100, 362
<i>R. v. Commissioner of Police, ex parte Blackburn</i> [1968] 2 W.L.R. 893	172
<i>R. v. Fanning</i> (1866) 10 Cox C.C. 411	39-42, 235, 238-9, 253, 254, 279
<i>R. v. Gould</i> [1968] 2 Q.B. 68	94, 256-7, 271, 363
<i>R. v. Henn</i> [1980] 2 W.L.R. 597	333
<i>R. v. Industrial Injuries Commissioner, ex parte A.E.U. (No. 2)</i> [1966] 2 Q.B. 31	362
<i>R. v. Local Commissioner for Administration</i> [1979] Q.B. 287	340
<i>R. v. Metropolitan Police, ex parte Blackburn</i> [1968] 2 Q.B. 118	50
<i>R. v. Millis</i> (1844) 10 Cl. & F. 534	40, 238-9
<i>R. v. Newsome</i> [1970] 3 All E.R. 455; [1970] 2 Q.B. 711	94, 271, 356-7
<i>R. v. Penson</i> (1832) 5 C. & P. 412	39, 239
<i>R. v. Sagoo</i> [1975] 2 All E.R. 926	246, 356-7
<i>R. v. Sarwan Singh</i> [1962] 3 All E.R. 612	246, 356-7
<i>R. v. Taylor</i> [1950] 2 All E.R. 170	44-7, 271, 363
<i>R. v. Tolson</i> (1899) 23 Q.B.D. 168	356-7
<i>R. v. Treanor (or McAvoy)</i> [1939] 1 All E.R. 332	45, 46-7
<i>Rukat v. Rukat</i> [1975] 1 All E.R. 343	213

x Cases and Statutes

<i>Rylands v. Fletcher</i> (1866) L.R. 1 Ex. 265	276
<i>Sakhuja v. Allen</i> [1973] A.C. 172	362
<i>Schlesinger v. Wisconsin</i> , 270 U.S. 230 (1925)	214
<i>Schorsch Meier G.m.b.H. v. Hennin</i> [1975] Q.B. 416	94, 103-4
<i>Secretary of State for Employment v. A.S.L.E.F.</i> [1972] 2 All E.R. 949	28-9
<i>Slater v. Evans</i> [1916] 2 K.B. 403	183
<i>Spackman v. S. of State for the Environment</i> [1977] 1 All E.R. 257	362
<i>Starr v. N.C.B.</i> [1977] 1 All E.R. 243	362
<i>Tarr v. Tarr</i> [1973] A.C. 254	87, 96-7, 99, 333
<i>Thomas v. Winchester</i> (1852) 6 N.Y. 397	278
<i>Thompson v. Milk Marketing Board</i> [1952] 2 All E.R. 344	278
<i>Vestey v. I.R.C.</i> [1980] A.C. 1148	271, 320
<i>Weaver v. Palmer Bros. Co.</i> 270 U.S. 402 (1926)	214
<i>Winterbottom v. Wright</i> (1842) 10 M. & W. 109	215, 278, 280, 282-3, 366, 367
<i>Young v. Bristol Aeroplane Co. Ltd</i> [1944] K.B. 718	91, 92-3, 94-5, 102-3, 104-5, 272

STATUTES

Acts Interpretation Act 1901 (Australia)	371
Acts Interpretation Act 1924 (New Zealand)	329, 330, 337, 341
Administration of Justice Act 1969	102-3
Bill of Rights 1688	50
Carriage by Air Act 1961	342
Child Care Act 1980, s.3(1)	194
Companies Act 1981	312
Consolidation of Enactments (Procedure) Act 1949	307
Copyright Act 1956, ss. 1 & 2	34-6
Courts Act 1971, s. 56	355
Criminal Justice Act 1948	
s.1(5)	355
s.7	50
s.20	335
Criminal Justice Act 1961, s.1	355
Domestic Proceedings and Magistrates' Courts Act 1978	321
Domestic Violence and Matrimonial Proceedings Act 1976	72, 83-5, 97-8, 99-100, 107, 322, 324-6, 369
s. 1	72, 86, 101-2, 106, 107-10
ss. 3 & 4	86, 108, 321
s.5	108
European Communities Act 1972	332-3
Finance Act 1960, s. 28	309-10
Finance Act 1962, s. 25 (3)	310

Guardianship of Minors Act 1971	79
Housing Act 1980	297
Income and Corporation Taxes Act 1979, s. 83	30-1
Inheritance (Family Provision) Act 1975	97
Interpretation Act 1889	330
Interpretation Act 1978	330
s. 4	321-2
s. 26	322
Land Compensation Act 1961	358
s. 6(1)	31
Larceny Act 1916	369
Law Reform (Miscellaneous Provisions) Act 1970	97
Magistrates' Court Act 1952, s. 28	355
Marriage Act 1836	239
Marriage Act 1949	236
Matrimonial Causes Act 1973, s. 25	96
Matrimonial Homes Act 1967	78, 86, 96, 99, 110, 321, 331
s. 1(2)	82, 83, 84
s. 1(3)	82, 85
s. 1(4) & (6)	82, 85
Matrimonial Proceedings and Property Act 1970	96
Northern Ireland Interpretation Act 1954	329
Offences Against the Person Act 1828	236
Offences Against the Person Act 1861, s. 57	38, 46, 134, 140-1, 150, 157, 236-7, 246, 267, 324, 358
Police Act 1964, s. 51(3)	53
Powers of Criminal Courts Act 1973	349
Prevention of Terrorism (Temporary Provisions) Act 1976, s. 17(1)	323
Protection of Animals (Cruelty to Dogs) Act 1933	306
Public Health Act 1875, s. 164	20
Race Relations Act 1968	89
Rent Act 1968	83
Road Safety Act 1960	49
Road Traffic Act 1960, s. 14	49
Road Traffic Act 1962, s. 5(3)	49
s. 7(1) & (2)	49
s. 8	49
Road Traffic Regulations Act 1967, s. 79	50
Sale of Goods Act 1969	369
Sexual Offences Act 1967	218
Sunday Observance Act 1679	183
Theft Act 1968	369, 370, 371
s. 16	294
Unfair Contract Terms Act 1977	252

ACKNOWLEDGMENTS

In the first edition we acknowledged the help and stimulus of a large number of people. We shall not list them by name again, but our gratitude is as great as ever. Since then our debts have increased. We are particularly grateful to all the students, immediate colleagues and law teachers in other institutions who have helped us to develop our ideas in discussion and who have commented on the first edition in the light of their experience in using it. We are grateful, too, for the friendly criticism of several reviewers. We have not been able to accept all of their advice, for it has often pointed in different directions. But we have carefully considered all the points they raised, and some of the changes in this edition, notably the extension of the range of illustrative material and the more explicit links to contemporary jurisprudential debates, reflect this influence. We should specifically thank Abdul Paliwala for suggesting to us the inclusion of the section on domestic violence and for his valuable comments on it; Alan Page for his comments on Chapters 9 and 10; and Christopher McCrudden, Robert Stevens, Michael Freeman, Robert Summers, Kevin Boyle, Phil Fennell, and Peter Twining for helpful comments and suggestions. Our families have been as patient and understanding as on the first occasion; and we should like to thank Christine Davies, Margaret Wright and Olive Heaton for help with typing, and Susanna Marsh for preparing a new index.

The authors and publishers thank the following for their permission to reproduce copyright material: Aldine Publishing Co. (Laurence Ross, *Settled Out of Court*); the American Sociological Association (Stewart Macaulay, *Non-contractual Relations in Business*); the Aristotelian

Society (William Twining, *Torture and Philosophy*); Jonathan Cape (I. Shah, *Tales of the Dervishes*); the Controller of Her Majesty's Stationery Office (*C.A.S. Occasional Paper No. 13* and *Violence in Marriage*); Douglas Hay (*Albion's Fatal Tree*); (Joseph Heller, Jonathan Cape and A. M. Heath *Catch-22*); P. H. Gulliver, New York University Press and Routledge and Kegan Paul (*Social Control in an African Society*); H. L. A. Hart, *The Concept of Law* © Oxford University Press 1961, by permission of Oxford University Press; Hutchinson & Co. (Joseph Raz, *Practical Reason and Norms*); the Incorporated Council for Law Reporting and Butterworth & Co. (extracts from cases in Chapter 1); Little, Brown & Co. (Karl Llewellyn, *The Common Law Tradition*); Maitland Publications (Julius Stone, *Legal System and Lawyers' Reasonings*); S. F. C. Milsom and the *Yale Law Journal* (Review of Grant Gilmore, *The Death of Contract*); Penguin Books Ltd and Doubleday & Co. (© 1961, Erving Goffman, *Asylums*); Routledge and Kegan Paul (Molly Brearly and Elizabeth Hutchfield, *A Teacher's Guide to Reading Piaget*); Ward, Lock & Co. (Ann Page, *Complete Etiquette for Ladies and Gentlemen*); Weidenfeld and Nicolson (Royston Lambert, *The Hothouse Society* and Patrick Atiyah, *Accidents, Compensation and the Law*) and the West Publishing Co. (Roscoe Pound, *Jurisprudence*).

PREFACE TO SECOND EDITION

All of us are confronted with rules every day of our lives. Most of us make, interpret and apply them, as well as rely on, submit to, avoid, evade them and grouse about them; parents, umpires, teachers, members of committees, businessmen, accountants, trade unionists, administrators, gamesmen, logicians, and moralists are among those who through experience may develop some proficiency in handling rules. Lawyers and law students are, for obvious reasons, specialists in rule-handling, but they do not have a monopoly of the art. A central theme of this book is that most of the basic skills of rule-handling are of very wide application and are not confined to law. There are, of course, certain specific techniques which have traditionally been viewed as 'legal', such as using a law library and handling cases and statutes. But these share the same foundations as rule-handling in general: they are only special in the sense that there are some additional considerations which apply to them and which are either not found at all or are given less emphasis in other contexts.

The purpose of this book is to provide a relatively systematic introduction to one basic aspect of rule-handling: interpretation and application. It is written particularly for students of law and administration, but most of it is directly relevant to problems of rule-handling in non-legal contexts. Within legal education, the focus of attention is orthodox in that it concentrates on certain traditional skills and techniques which have commonly, though misleadingly, been referred to as 'legal method', 'juristic method' or 'thinking like a lawyer'. The approach is mildly unorthodox, in that it questions certain widely held assumptions about the nature of these techniques and about

efficient ways of learning to master them. Accordingly, it may be useful to give an indication of some of the juristic and educational assumptions underlying our approach.

The juristic assumptions can be stated in simplified form as follows: specialists in law are characterized as much by their supposed mastery of certain kinds of techniques as by their knowledge of what the law says. This is the core of the notion that law is essentially a practical art. Those who participate in legal processes and transactions, whether or not they are professionally qualified to practise law, are called upon to perform a variety of tasks. Legal practice encompasses such diverse activities as advising on the prudence of a particular course of action, collecting evidence, negotiating, advocacy, other kinds of spokespersonship, drafting statutes, regulations, contracts and other documents, predicting decisions of various types of courts, tribunals and officials, determining questions of fact, making and justifying decisions on questions of law, communicating information about legal rules, devising improvements in the law and so on. To perform these activities intelligently and efficiently requires a wide range of techniques, insights, and abilities. Phrases like 'thinking like a lawyer' or 'legal method' or 'legal reasoning' are misleading in so far as they equate proficiency in handling legal rules and the raw materials of such rules with being a good lawyer. Rule-handling is only one aspect of the crafts of law. Furthermore, interpretation is only one aspect of rule-handling. But it is basic – first, because most rule-handling activities involve or presuppose it, and, secondly, because a clear understanding of what is involved in interpretation inevitably throws light on a number of other matters as well.

Our approach is also based on a number of educational assumptions. First, we think that it is more economical and more efficient to study certain aspects of rule-handling *directly* than to leave the techniques to be picked up during the course of studying something else. This challenges the view, held by many teachers of law, that case-law techniques are best learned in the context of studying subjects such as Contract and Tort and that skill in handling statutory materials can be incidentally acquired in the course of studying such fields as Revenue Law or Commercial Law. Outside the context of law, the analogous view is that skill in rule-handling can only be acquired by experience. Such views are sometimes based on a confusion between laying a foundation for developing a skill and *reinforcing* that foundation through practice. This book proceeds on the premise that a direct

approach is both a more economical and a more efficient way of starting off. Reinforcement through practice and experience is essential, but that should come later.

A second assumption is that the art of interpretation is best learned by a combination of theory and practice. A competent interpreter needs to understand the nature of the raw material he is dealing with, in which contexts and under what conditions problems of interpretation arise, how interpreting relates to other activities and what is involved in arguing about competing interpretations; it is also useful for him to have a set of concepts for analysing and discussing these problems, and he needs to be aware of some common fallacies and pitfalls to be avoided. But he also needs practice in handling actual problems. Accordingly this book is a combination of text and exercises. Working through it involves active participation on the part of the reader. If it achieves its objectives we hope that it will help to undermine two other fallacies – that emphasis on ‘skills’ is inevitably associated with philistine vocationalism and is necessarily illiberal, and that rigorous analysis is incompatible with a contextual approach.

A third assumption is that a subject with such diverse ramifications cannot be mastered by reading a single book. One disappointment with reactions to the first edition has been that relatively few people shared our perception of this book as an introduction to a rich and diverse body of literature in several disciplines. We had hoped that it would not be regarded as a book-in-itself designed to sustain a part, let alone the whole, of a course. Rather we saw it as providing a base from which the reader could sally forth to explore, for example, general books on semantics and reasoning, orthodox treatments of precedent and statutory interpretation, or various themes in jurisprudence, philosophy and social theory. In teaching we have always supplemented it with additional materials; we have been surprised by complaints that it was not self-sufficient and by those who suggested that it is too much to expect a student to use a library to follow up suggestions for further reading or in doing some of the exercises. We have made a few concessions to such reactions – notably by expanding the materials in Chapter 1 – but we still wish to present it as a flexible tool which can be used for a variety of purposes: as an introduction to legal method or to jurisprudence or, more generally, to the study of law; as an attempt to explain, or to demystify, legal ways of thought to non-lawyers, and as a book which may be of practical assistance to

anyone whose work involves wrestling with complex laws, regulations and other rules.

Changes in this edition

The first edition was frankly experimental. In substantially revising and expanding the book we have retained the original aims, but have adjusted the means. Apart from updating, the main changes are as follows: Firstly, we have greatly extended the materials in the first chapter by incorporating some of the material from the old Appendix I and by adding new materials, notably on institutional rules, rules and results, bigamy and on protection of human rights. We have also included a substantial case study (one phase of the story of the Domestic Violence and Matrimonial Proceedings Act 1976) which dramatizes some of the main themes in the book.

Secondly, despite frequent expressions of irritation at Johnny, we have retained and, we hardly dare admit it, expanded his role. The *Case of the Legalistic Child* is admittedly artificial, but it is a convenient and easily understood analytical device for illustrating many elementary points. We have, however, tried to produce a better balance by using more illustrations drawn from real life in counterpoint with artificial but analytically neater hypothetical examples.

Thirdly, Chapters 2–6 have been rearranged and slightly expanded to provide a more coherent account of how rules and doubts and disputes about them arise. It is hoped that this will make it clear that Chapter 6 on the conditions of doubt is in some ways the fulcrum of the book – it provides a summary of some of the main factors which give rise to doubt in interpretation and it provides a base from which to start on the process of constructing arguments about competing interpretations, especially in legal contexts. The later chapters can then be seen not only as an exploration of such features of legal interpretation and reasoning about cases and statutes as are special, but also as an application of the general approach in a particular kind of context.

Fourthly, the chapter on algorithms has been shortened and relegated to an appendix because in our experience this particular device is less of a novelty for many modern law students than for their teachers. This has enabled us to strengthen, and lengthen, the treatment of legislation.

Finally, we have tried to bring out more clearly the connections between the analysis presented here and some contemporary debates in jurisprudence, as exemplified by the writings of Hart, Dworkin, Fuller, Llewellyn and others. In the process we may have more clearly revealed our own tendencies or biases, as cautious positivists, qualified relativists, moderate rationalists and committed contextualists. We hope that this will increase the usefulness of the book as an introduction to jurisprudence.

How to use the book

The book has been designed to cater for the needs of several different classes of reader. Accordingly it may be useful to try to provide some guidance on different ways of approaching it. The non-lawyer and the beginning law student who is using it as an introduction to jurisprudence or to the study of law generally should find it sufficient to skim Chapter 1, pausing long enough to become familiar with the range of illustrative material and, in particular, with the *Case of the Legalistic Child* (p. 7), sections (a) and (b) on bigamy (pp. 38–44), the *Buckoke* case (p. 48) and Article 3 of the European Convention (p. 60), and the charts of the Bad Man in Boston (pp. 68–9). These are used as examples throughout the text. From time to time you may wish to refer back to the appropriate point in Chapter 1 to refresh your memory about details or to clarify an allusion, but it is not necessary to grapple with all the details nor to try to answer the questions in the first chapter in order to understand the general thrust of the analysis in the text. Depending on your background and your interests, some of Chapters 3, 7 and 10 may also be skimmed if you find them too complicated or too detailed. Reading the book in this way should be rather like reading a novel or play in order to get a sense of the plot and the main characters.

If the book is being used for the purpose of stimulating thought and developing certain kinds of analytical skill, the recommended order is to try to answer the questions and do the exercises in the first chapter before moving on; to do some of the exercises related to each chapter immediately after reading it, and finally to re-read the text as a whole and to follow up at least some of the suggestions for further reading. The subject is a complex one, involving many different levels of understanding: what we have tried to do is provide a starting point for