

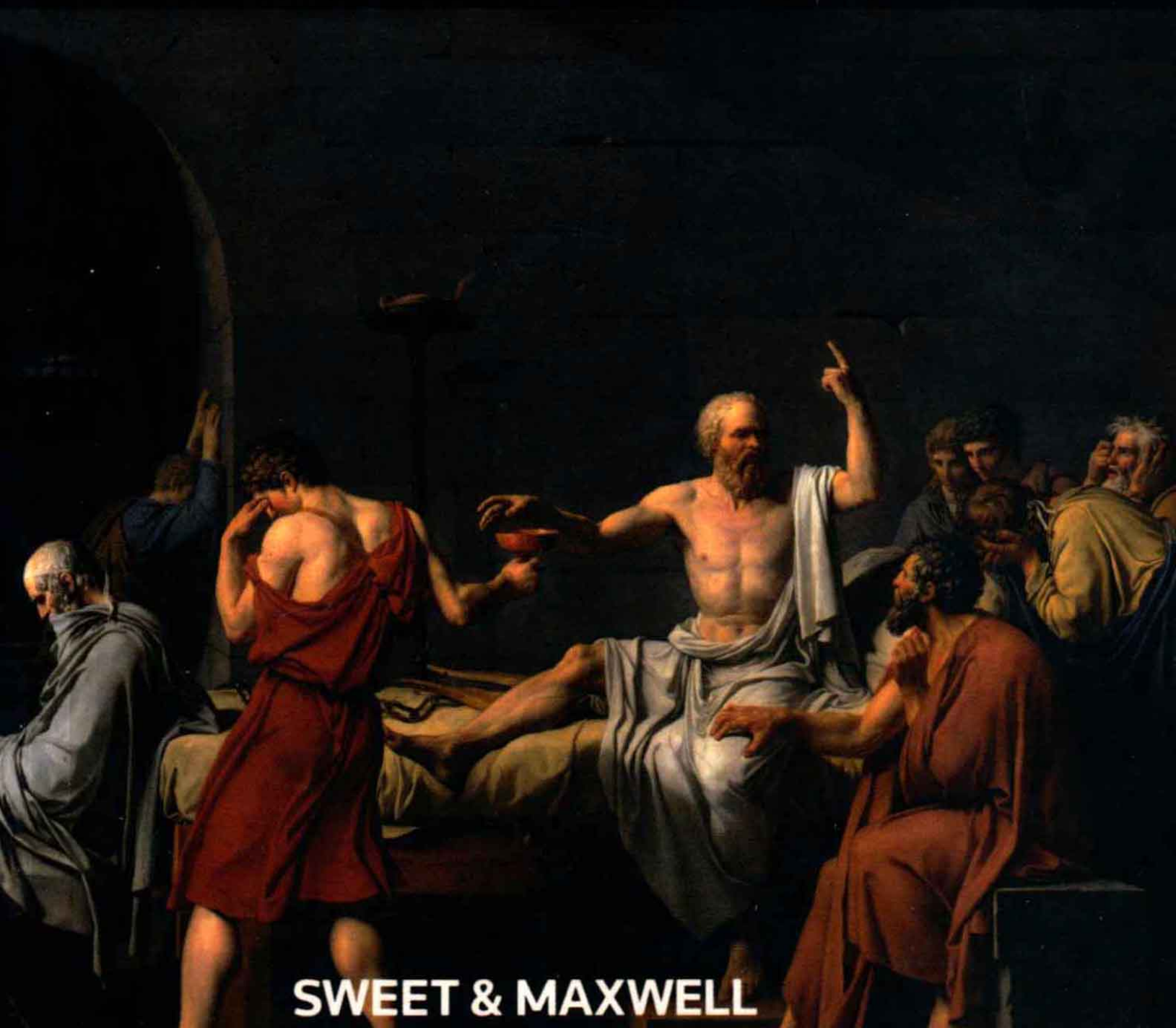
LLOYD'S

# INTRODUCTION TO JURISPRUDENCE

EIGHTH EDITION

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M.D.A. FREEMAN



SWEET & MAXWELL

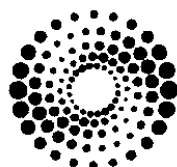
LLOYD'S  
INTRODUCTION  
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EIGHTH EDITION

by

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<i>First Edition</i>	-	-	1959
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<i>Fourth Edition</i>	-	-	1979
<i>Fifth Edition</i>	-	-	1985
<i>Sixth Edition</i>	-	-	1994
<i>Second Impression</i>	-	-	1996
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<i>Second Impression</i>	-	-	2002
<i>Third Impression</i>	-	-	2005
<i>Fourth Impression</i>	-	-	2006
<i>Eighth Edition</i>	-	-	2008

Published in 2008 by Thomson Reuters (Legal) Limited  
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Printed and bound in Great Britain by TJ International, Padstow, Cornwall

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A CIP catalogue record for this book is available from the British Library

ISBN 978-0-421-90790-4

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## PREFACE TO THE EIGHTH EDITION

*Lloyd on Jurisprudence* now enters its fiftieth year. It has grown from edition to edition as the subject has expanded. Previous editions have all incorporated new schools of jurisprudential thought—Critical Race Theory was included for the first time in the last edition. There are no new schools explored this time.

This edition does however include, for the first time, a separate chapter on Ronald Dworkin's interpretivism. The thoughts and insights of Dworkin feature elsewhere in the book as well, notably in the chapter on "Theories of Justice". Dworkin is now established as the most significant jurist of our times. Whole courses could, I am sure, focus on his jurisprudence.

Since the last edition of *Lloyd* was published Dworkin has published prolifically. Most significant is his *Justice In Robes*: this new edition contains a substantial extract from this. There is now considerable critical exegesis of Dworkin's work: some of this (Hershovitz, Postema, Waldron) is extracted too.

There is new work on natural law (from Mark Murphy) to comment upon and extract too. Murphy's work is the most significant since Finnis published *Natural Law and Natural Rights* in 1980. A new extract from Kent Greenawalt "How Persuasive Is Natural Law Theory?" is also included. Until now most students have picked up Radbruch's thinking from the Hart-Fuller debate (or Alexy which is also in the book). But we now have a key text from Radbruch in English, and this is included in this edition for the first time.

*Lloyd* has always introduced the subject through the dual approaches of texts and commentary. There are several new commentaries this time. On *Jackson's* case and its implications for sovereignty, on the theory of human rights (a subject upon which a separate chapter will be warranted next time), on Nussbaum's "capabilities" approach to justice, on global justice. These are issues which are likely to feature more prominently in Jurisprudence courses: I hope appetites are whetted by their introduction here. It would be nice to think that students explored the "frontiers" of justice beyond Rawls's well-trodden terrain, and Martha Nussbaum's work offers the scope for debate.

Interest in law and social theory is expanding. There have been reassessments of Durkheim, Ehrlich and Luhmann recently, as of legal feminism (by Ann Scales) and Pashukanis (by Michael Head). This book discusses Bourdieu for the first time and includes an extract by Villegas

on his legal thought. Roger Cotterrell's chapter "Law and Social Theory" from his "Law, Culture and Society" is included in the extracts.

Much else of significance is acknowledged in the book, if no more fully than in references in notes. The past few years have been a productive period for legal thinking, stimulated no doubt by outside events such as 9/11 and the ensuing "War on Terror" (I include Fitzpatrick and Joyce on the "normality of the exception" as an example of this). But jurisprudential scholarship does not need such stimuli. Thus, there has also been important work by Duxbury (on precedent), Galligan, Weinreb, Tamanaha and MacCormick. There is Rumble's sympathetic re-assessment of Austin (the 150th anniversary of whose death falls in 2009) and Griffin's new book on human rights. The positivism—natural law debates continue apace (see for example Coleman). There is more discussion of "obligation": hence the extracts in this book from Perry and Edmundson. There is, of course, also Nicola Lacey's thoroughly readable biography of H.L.A. Hart, which can be recommended to any student of jurisprudence. The list is endless: thus I have found Nigel Simmonds's *Law As a Moral Idea* thought-provoking, but (unfortunately) there was not space to include it. Ginsburg and Moustafa's new book on the role of the judge in authoritarian systems (*Law As Rule*, 2008) has made me wish there was a section on this important subject. It is certainly one I hope to include next time. Legal anthropology is expanding too, as I discovered at UCL's "Law and Anthropology" colloquium held in July 2008: this too is likely to be reflected in future editions.

Lord Lloyd stated the aims of this book as "to provide the student of jurisprudence with a textbook which will enable him [or her] to become acquainted with the theories, attitudes, and insights of leading jurists from selected texts culled from their own writings", and "to afford him [or her] a coherent picture of the subject, by means of a full commentary setting out the background and inter-connections between the differing approaches, and a critical appraisal of the viewpoints illustrated in the selected texts". This remains the aim of this book 50 years on.

It remains to acknowledge the assistance I have received from many colleagues—UCL remains a vibrant nest of jurisprudential thinking and also to thank Linda Thomas for her secretarial skills. Without her producing this new edition would have been much more difficult.

M.D.A. Freeman  
July 2008

## ACKNOWLEDGMENTS

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