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Preface

This book is intended to provide an introduction to the techniques of handling legal sources. Some comment on the nature of introductions may therefore be useful. Introductions may appear to be simple but they need not be simplistic: indeed good ones must not be: 'With all its surface simplicity, an introduction must cut as deep as its author has wit and strength to see the way. It must cut for that deepest simplicity which is true meaning' (Karl Llewellyn, *The Bramble Bush*, revised edn, 1950, p.7).

Accordingly, I have tried to avoid the twin traps of oversimplification on the one hand, and unnecessary complexity on the other. However, I have been unable to avoid the fact that legal method is open-ended, even though on many occasions this has meant that I have been unable to offer the comfort of neat conclusions and reliable rules. As Hutchinson and Monahan said:

'Legal doctrine not only does not, but also cannot, generate determinant results in concrete cases. Law is not so much a rational enterprise as a vast exercise in rationalisation. Legal doctrine can be manipulated to justify an almost infinite spectrum of possible outcomes. Moreover, a plausible argument can be made that any such outcome has been derived from the dominant legal conceptions. Legal doctrine is nothing more than a sophisticated vocabulary and repertoire of manipulative techniques for categorising, describing, organising and comparing: it is not a methodology for reaching substantive outcomes.' (*Law, Politics and Critical Legal Scholars: The Unfolding Drama of American Legal Thought* (1984) 36 Stanford Law Rev., 199, at p.206, original emphasis.)

Except when writing about the European Community, in which context it often seems most natural to think in terms of 'Britain' or the 'United Kingdom', I have tended to write in terms of 'England' and 'English' law and practice. In doing so, I have intended to include 'Wales' and 'Welsh'. Much of what I have written may also apply in Scotland and Northern Ireland, but how much and to what extent is beyond my knowledge. It follows that readers in those jurisdictions should proceed with caution.

Authors commonly profess their indebtedness to others, and I am no exception. Many friends, colleagues and students have, in varying ways, had their impact on this book. It would be futile to seek to list them, but some will no doubt be able to identify their own influence. Above all, however, I am indebted to my wife, Jacqui, not only for her word-processing skills, but also for her patient good humour, the extent of which continues to amaze me.

As I finished writing this book two quotations occurred to me. The first was the much-quoted comment of Sir Walter Scott: 'A lawyer without history or literature is a mechanic, a mere working mason; if he possesses some knowledge of these, he may venture to call himself an architect' (*Guy Mannering*). The second was the old gibe that 'studying the law sharpens the mind by narrowing it'. Reading these propositions together, it is reasonable to conclude that, the better furnished the student's mind may be before embarking on a study of the law, the greater the chance that the narrowing process will leave something else besides the law. The desirability of this result was very succinctly caught many years ago by Lord Goodman of Messrs. Goodman Derrick & Co, the London solicitors, when he coined the dictum 'a lawyer who is only a lawyer isn't much of a lawyer'.

I have tried to be up to date to 12 February 1993.

IAN MCLEOD

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