

Contents

<i>Table of Cases</i>	xvi
<i>Table of Legislation</i>	xix

I. HOMICIDE LAW REFORM AND LAW REFORMERS: THE ENGLISH EXPERIENCE

1. Safe in Whose Hands? Judges, Experts, and Public Opinion in the Homicide Reform Process	3
I. Introduction and Overview	3
II. The Ruling Elite and Criminal Law Reform: The Judiciary in Control	6
III. ‘Seekers after Legal Paradise’: Scholars and the Utopian World of Law-craft	18
IV. Officialdom, Interest Group Pluralism, and the Myth of Public Consultation	32
V. Opening Pandora’s Box? Homicide Law and Public Opinion	53
2. The Rise of Regulation and the Fate of the Common Law	67
I. Introduction	67
II. Homicide Offences: The Traditional–Codificatory View	68
III. The Traditional–Codificatory Account Theorized	70
IV. Homicide Offences: Competing Models	74
V. The Regulatory Model Exemplified	77
VI. Murder and Manslaughter: The Growing Crisis of Confidence	79
VII. Pressure Group Politics and Specialized Offences	84
VIII. Homicide: Reconciling Common Law and Regulatory Values	86

II. HOMICIDE OFFENCES: DISPUTING THE BOUNDARIES

3. On Being, Morally and Legally Speaking, a ‘Murderer’	91
I. The Law Commission’s Three-tier Structure for Homicide	91
II. The Fault Element for First Degree Murder	96
III. Second Degree Murder: Cases of Intending Serious Injury	97
IV. Second Degree Murder: Tackling Reckless Killing	98
V. Taylor’s Criticisms of the Final Recommendations	101
VI. Questioning the Aspiration for a Codified ‘Law of Homicide’	106
VII. Plural Values and the Virtues of Piecemeal Reform	108

4. Corporate Manslaughter and Public Authorities	114
I. A Public Culture of Neglect: Employers, Employees, and Consumers	114
II. The Reach of the Duty of Care: Public and Private Organizations	117
III. The Potential Impact of the 2007 Act on Negligent NHS Trusts	119
IV. Proving Fault under the 2007 Act	124
V. Privileging the Public Sector: the Exemptions from Liability	130
5. Violating Physical Integrity: Manslaughter by Intentional Attack	140
I. The ‘Pure’ Form of Manslaughter	140
II. The Two Essential Features of the Pure Form of Manslaughter	140
III. The Importance of the Intrinsic Value of Physical Integrity	143
IV. The Value of Physical Integrity and Fault Requirements in Homicide	146
V. The Current Law and the Pure Case of Manslaughter Compared	149
VI. The Place of Manslaughter in Homicide Law and Manslaughter in its Place	150
VII. Violations, Invasions of Interests, Recklessness, and Risking Death	151
6. Joint Criminal Ventures and Murder	157
I. Murder during a Joint Criminal Venture: The Failures at Common Law	157
II. Murder in a Joint Criminal Venture: The Abandoned Path to Reform	161
III. Codifying Complicity Law: How ‘Benthamite’ Should One Be?	162
IV. Clause 2, Uncertainty, and Article 7 of the European Convention	165
V. Murder and Joint Ventures: The Provisions of the ‘Discarded’ Bill	169
VI. The Problem of Distinguishing the General from the Particular	170
VII. A Viable Alternative?	171
VIII. Concluding Remarks	177
7. Transferred Malice and the Remoteness of Outcomes from Intentions	179
I. The ‘Impersonality’ and the ‘Prohibited Outcome’ Doctrines	179
II. Transferred Malice and the ‘Remoteness’ Principle	180
III. Is There Simply a Break in the Causal Chain in Examples 1–3?	184
IV. The Prohibited Outcome and Remoteness Doctrines, Transferred and Translated Intent	186
V. The Serious Harm Doctrine, the Prohibited Outcome Doctrine, and the Remoteness Principle	189
VI. The Criticisms of Simister and Sullivan <i>et al</i>	192

III. DEFENCES TO MURDER

8. Wrong Turnings on Defences to Murder	199
I. Civilized Law and Law Reform	199
II. Defective Foundations: The Royal Commission and the 1957 Act	223
III. Excessive Defence: The Final Frontier?	239
<i>Bibliography</i>	256
<i>Index</i>	269