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briefly renew their acquaintance in chapter 12 in the context of exchange provisions and again in chapters 18 and 19 in the detailed analysis of warranties, indemnities and other like clauses. Our paths cross one final time in chapter 23 during the discussion on exclusion and limitation of liability clauses. The individual passages are excellent in themselves but one cannot help but feel that the fact that they have been spread so widely robs them of a degree of cohesion. But this is a minor gripe. Cabrelli's work is a substantial and valuable one which manages simultaneously to be both scholarly and practical in outlook. It thus opens up a new field of academic writing in Scotland and serves the important function of providing commercial lawyers with a ready source of specifically Scots guidance on the import of agreements which they use day in, day out. Thus this work will lead to agreements that are both qualitatively better and better understood. It is required reading for anyone active within its field. It is to be hoped that it will both run to successive editions and encourage further works written from a Scots perspective on this important and hitherto under-developed area.

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LAW, RIGHTS AND DISCOURSE: THE LEGAL PHILOSOPHY OF ROBERT ALEXY. Ed by George Pavlakos

Oxford: Hart Publishing (www.hart.oxi.net), 2007. 378 pp. ISBN 9781841136769. £45.

Law, Rights and Discourse is an important contribution to the debate on the key arguments and theses put forward by Robert Alexy in the last thirty years or so. One can hardly exaggerate the impact of his ideas on the contemporary debates on legal theory, constitutional theory and legal reasoning. That influence reaches beyond legal theory to legal practice and, indeed, constitutional courts of different countries (including my native Brazil) have been inspired by his conceptions of legal principles and fundamental rights. This book, edited by George Pavlakos, fills a gap in the scholarship about Alexy's ideas in the English-speaking world.

The book's structure has been cleverly designed with a view to fomenting discussion about Alexy's ideas. The contributors challenge those ideas, defend them, and suggest developments and relations between them and other arguments, theses and theories drawn from logic, epistemology, political philosophy, legal theory, legal reasoning, constitutional law and logic. Interestingly, the book also includes Alexy's comments on each chapter. With one exception, these are packed together in part V of the book. The exception is his response to Joseph Raz, the contributor whose views are (arguably) most at odds with Alexy's own. Raz's objections are dealt with in a separate chapter. Alexy's comments on the other contributions, although brief, succeed (by and large) in capturing the most relevant points raised by each of them.

The book's contributions cover a wide range of theoretical and practical problems but, among those problems, a few stand out. Law's "claim to correctness" is discussed at some length in the chapters written by Joseph Raz, Neil MacCormick, Jan Sieckmann, and Maeve Cooke (who provides an interesting contrast between Alexy's discursive account of law and that of Habermas) as well as in the joint article written by Giorgio Bongiovanni, Antonino Rotolo and Corrado Roversi. The "special case thesis" is a central worry of Philippos Vassiloyannis and Maeve Cooke. Alexy's theory of constitutional rights, and/or the idea of rights (or principles) as optimisation requirements to be balanced against each other, are discussed in the chapters which comprise part III of the book (respectively written by Mattias Kumm, Julian Rivers,

Jan Sieckmann and Jonathan Gorman) and, in a more abstract manner, closer to a theory of legal reasoning than to a theory of fundamental constitutional rights, by Bartosz Brozek (in chapter 15). Arguments relating to the idea of rationality in legal discourse are the focus of the chapters written by Maeve Cooke, Giovanni Sartor, Carsten Heidemann, Bartosz Brozek and of the chapter written by Giorgio Bongiovanni, Antonino Rotolo and Corrado Roversi. The relation between Alexy's theory and some traditional themes in legal theory is also discussed. Stefano Bertera, for instance, deals with how legal certainty could be conceptualised in a non-positivist manner within the context of Alexy's theory, George Pavlakos examines the suitability of Alexy's discourse theory of law to ground legal objectivity, while Raz provides a comprehensive defence of positivism against Alexy's arguments as presented in the latter's *Begriff und Geltung des Rechts* (English version: *The Argument from Injustice*).

Those are by no means the only issues which the contributors try to tackle, but the list helps to understand the breadth of the field covered and the interesting overlaps between different treatments of the same ideas. Indeed, among other topics, the chapters cover traditional debates in legal theory such as that between natural law and positivism (in particular Alexy's attempt to overcome the sharp contrast between those traditional accounts), arguments and theses on the structure of legal reasoning, and analysis of the political implications of the German philosopher's ideas. This is not surprising given the fact that the book's mix balances different aspects of Alexy's comprehensive vision of law. As far as the overlapping of different treatments of the same subject is concerned, it suffices to provide a couple of examples. In relation to law's claim to correctness, for instance, Raz attempts to show that all law could possibly claim is legitimate authority (but never moral correctness), while MacCormick objects to the very idea of law making claims. Another example is the idea of rights as optimisation requirements that demand "balancing", which is analysed from a political perspective in Mattias Kumm's article and from a logical perspective in Bartosz Brozek's. In each of those problems, as well as in many others, further layers of complexity are added by other chapters in the book.

In short, this is a good and useful book, not only for those interested in the ideas of Robert Alexy, but also for those with more general worries about such subjects as the relation between law and morality, the criteria to evaluate adjudication grounded in human rights, the structure of legal reasoning, and the investigation of which sort of theory of law would be able to ground legal objectivity. Given the impact of Alexy's work across many jurisdictions, it is not clear why a comprehensive book on his contribution to legal theory has not been published in English before now. This lacuna has been filled by *Law, Rights and Discourse*.

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J D Ford, LAW AND OPINION IN SCOTLAND DURING THE SEVENTEENTH CENTURY

Oxford & Portland: Hart Publishing (www.hart.oxi.net), 2007. 662 pp. ISBN 9781841137896. £85.

John D Ford is a leading authority on James Dalrymple, Viscount of Stair and his *Institutions of the Law of Scotland* (1681). Hence this book has been much anticipated. It concerns law and legal opinion as expressed both in legal treatises written during the seventeenth century and in legal arguments made in the course of practice during that time. Ford says in the preface that he intends it to be the first in a series of three volumes.