Nor ought the debates about trade union decline be a matter of concern only to a dwindling band of labour law scholars. We all need trade unions to succeed: collective bargaining is essential to protect vulnerable workers from exploitation, to reduce the gender pay gap, and to protect us all from the neo-liberal nonsense currently being peddled in the European Court of Justice. But above all, collective bargaining is necessary to reduce the shameful levels of inequality that now blight this country, inequality that threatens the very assumptions on which our fragile democracy is based, with the subject of Dr Bogg's outstanding book having consequences well beyond the workplace relationships to which it is principally addressed. Along with the rule of law, universal suffrage and fair elections, comprehensive collective bargaining coverage is an essential building block to self-government by a free and equal people.

There can be no democracy without equality, and there can be no equality without the regulatory role of collective bargaining.

KEITH EWING

The New British Constitution. By VERNON BOGDANOR. [Oxford: Hart Publishing. 2009. 319 pp. Hardcover £45.00. ISBN 9781841136714.]

"BAGEHOT'S CONSTITUTION IS DEAD, while Dicey's constitution is dying before our eyes" (p. 284). Vernon Bogdanor's clear proclamation of the demise of the classic works of the previous two centuries dealing with the UK constitution is a logical link to his central thesis: the constitutional reforms post-1997, together with Britain's entry into the European Community in 1973, have replaced the old constitution with a new British constitution. *The New British Constitution* traces the constitutional shift from the principle of parliamentary sovereignty, the bedrock of Dicey's constitution, to the Human Rights Act 1998, the "cornerstone of the new constitution" (p. 62). In his introduction, Bogdanor states that his main purpose is "not to evaluate but to describe" (p. xi), but his new work surely does both: it looks at the major constitutional changes since the Labour Government's entry into power in 1997 and argues that developments such as the Constitutional Reform Act 2005, devolution, and (crucially) the HRA 1998, signal a period of constitutional transformation out of which the outlines of a new constitution can be partially identified. In attempting to discern the features of this new constitution, and engaging with issues such as whether these changes precipitate a written constitution for the UK, Bogdanor subtly interweaves both the descriptive and the prescriptive.

In doing so, Bogdanor delves straight into the heart of the debate regarding parliamentary sovereignty, a concept that has come under immense pressure in recent years. Reaction to his explicit stance that the sovereignty of Parliament has been "crucially, and almost certainly, permanently undermined" (p. 271) will be divided into two camps based on those who see parliamentary supremacy as a continuing constitutional principle of the UK constitution and those who see it as an increasingly obsolete theory that fits uneasily with the political reality of the 21st century. Lords Steyn and Hope, and Lady Hale, in *R (Jackson)* v. *Attorney General* [2005] UKHL 56 echo the view that parliamentary supremacy is increasingly qualified; although *obiter dicta* (as stressed by Bingham in (2010) 126 L.Q.R. 131, 134), such statements represent a

significant shift in the approach taken by some of the most senior members of the judiciary. While Bogdanor clearly takes the view that the theory has been substantially qualified, he acknowledges room for it to remain in a modified form: either through the entrenchment of "constitutional" statutes, following Laws LJ's *dicta* in *Thoburn* v. *Sunderland City Council* [2002] EWHC 195; or, through a redefinition of what counts as Parliament. He concludes, however, that the effect in practice of a limit on unqualified supremacy is a limit on the power of government – perhaps a more realistic understanding of modern liberal government.

It is the HRA 1998, according to Bogdanor, that marks the contours of the new constitution by transforming "both our understanding of human rights and the relationship between the government and the judiciary" (p. 62). The strength of his analysis in this area lies in his exploration of the role of judges under the HRA and its link with democratic legitimacy. Judicial review has traditionally been perceived as being in uneasy tension with the democratic mandate of an elected Parliament. But, to place undue stress on the unelected nature of the judiciary as an affront to democratic accountability is perhaps one-dimensional. The HRA affords the judges an expanded role in rights protection that enables them to be a strengthened part of the institutional checks and balances of a government. There are, however, two problems with Bogdanor's approach. First, while it is true that the HRA is a fragile compromise between parliamentary sovereignty and the rule of law, Bogdanor's view that the government and the judges are on a collision course towards a "constitutional crisis" (p. 83) is perhaps overstated. Decisions such as *A (Others)* v. *SSHD* [2004] 2 A.C. 68 show a constitutional shift in the approach of the judiciary away from a culture of deference to the executive, but this is surely to be expected as a consequence of the enlarged role of the courts following the HRA, and not necessarily indicative of a potential breakdown of the balance embodied in the 1998 Act. Second, Bogdanor's solution to this, in the form of making senior judges answerable to Parliament through being questioned before a Select Committee of Parliament, is a more radical transformation of the role of UK judges than Bogdanor purports it to be, with potentially problematic political overtones.

It is inevitable that a book on the UK constitution will engage with the debate concerning whether Britain should move toward a written (or, rather, codified) constitution. It is here that Bogdanor's evaluation is openly prescriptive: he argues that, since parliamentary sovereignty is no longer the dominant principle of our constitution, the period of constitutional reform since 1997 could be seen as an appropriate "constitutional moment" for a move toward a codified constitution (p. 215). While the author's claim that there are "powerful intellectual arguments" for a codified constitution which "would put Britain in line with almost every other democracy" (p. 230) is persuasive, such a change is much more complicated practically and politically. Bogdanor rightly acknowledges that there is little point in drafting a constitution presently due to the incompleteness of the constitutional reforms still taking place, but it is the admitted difficulties of scope and authority in drafting a codified constitution that represent far more substantial obstacles. The issues of achieving consensus on the substance of the constitution, and the inevitable shift of power from the legislature to the judiciary if it were to be entrenched, are significant, and will remain after the constitutional reforms are complete. Ultimately, a bold change in the direction suggested by Bogdanor, while intellectually attractive, fits uneasily with the pragmatism of the UK's constitutional system.

Bogdanor's background as a political scientist shows in the keen insight he brings into the interplay of politics with constitutional principle that colour the context within which the constitutional reforms he discusses take place. His conclusions are bold and although at times he is less than wholly convincing in the context of the HRA and in his approach towards a codified constitution, this is a compelling book on a topical subject. Bogdanor concludes that parliamentary sovereignty is "no longer the governing principle of the British constitution" (p. 23), and has been replaced by the principle of separation of powers as the new pillar of the constitution, strengthened by the Constitutional Reform Act 2005, and a revolutionised idea of rights brought about by the HRA 1998. Bogdanor argues, however, "although the sovereignty of Parliament has been limited, the institution of Parliament itself has been strengthened" (p. 284). The redistribution of power brought about by the constitutional changes has meant that the British government is no longer appropriately called an elective dictatorship, and is left better poised to meet the needs of Britain in the 21st century.

YVONNE TEW

The Tort of Conversion. By SARAH GREEN and JOHN RANDALL. [Oxford: Hart Publishing. 2009. xxv and 239 pp. Hardback £55.00. ISBN 9781841138336.]

MONOGRAPHS ABOUT TORT LAW seem never to have been in short supply. Occasionally, authors produce theoretical books that deal with the subject as a whole. Yet much more common are those that examine some particular aspect or area of tort law, such as negligence, nuisance, product liability, defamation, or the economic torts. Until recently, one such book has been conspicuous by its absence; but Sarah Green and John Randall have now plugged that gap by rising to arguably the most unenviable challenge in tort law scholarship and writing *The Tort of Conversion*.

Their opening claim, that such a book is "long overdue" (p. 1) would scarcely be doubted by academics or practitioners. But can just one book meet the needs of both? After all, most practitioners are likely to want a reliable, comprehensive, expository guide to the law (with occasional critique of controversial or errant judgments) while academics interested in conversion are more likely to be drawn to the fascinating peculiarities of the this tort's evolution, or its strict liability basis and quasi-proprietary nature (which together pose interesting questions for much modern tort theory). Happily, Green and Randall's splendid book caters splendidly for both (even if a widespread undergraduate readership might be a little too much to hope for given the relative infrequency with which conversion is taught these days).

For the practitioner there is detailed analysis of all the leading cases (and many others besides), methodical navigation through the remedies maze created by the Torts (Interference with Goods Act) 1977, and a clear description of the connections and distinctions between this tort and both the economic torts (in chapter 6) and the other modern chattel torts (in chapter 3). There is also a scrupulous exposition of who may possess title to sue together with an account of the relativity of title in English law (in chapter 4). Accordingly, no practitioner using this book should now be confused as to