rich and wide-ranging illustration of *why* the transnational legal world stands in need of its own body of theory that is distinct from more traditional approaches built upon the distinction between municipal state law and public international law. In itself, this is a welcome and constructive contribution to the development of the field of transnational legal theory. Nevertheless, if the reader is looking for a grand, over-arching theory of the transnational legal world, these works are likely to disappoint. However, as the various authors plausibly argue, such theories may have only a modest role to play in the complex world of globalisation in the first place.

SIDNEY RICHARDS

The Rule of Law. By TOM BINGHAM. [London: Allen Lane, 2010. 213 pp. Hardback £20.00. ISBN 9781846140907.]

THE GENESIS OF THIS BOOK occurred in 2006 at the University of Cambridge where Lord Bingham – then Senior Law Lord in the House of Lords – delivered the sixth Sir David Williams Lecture on "The Rule of Law". The lecture offered an insight into one of the country's foremost legal minds as he examined, in characteristically clear fashion, the layers of definition behind a phrase so often used that its meaning sometimes appears nebulous. Tom Bingham's 2010 book on the same subject continues to expand these insights. It fleshes out the eight principles he elucidates in his lecture in greater detail and is also forthright in its commentary on topical issues, such as the legality of the Iraq invasion and the response of the UK and US governments to 9/11, which Bingham was careful to avoid discussing while still in judicial office. The result is a succinct and highly readable account of the rule of law and how it applies to contemporary legal and political situations.

The rule of law is a loaded concept, fuelled by debates on what exactly should be included in its definition. Some of the principles that Bingham includes in his list of eight ingredients that make up his core of the rule of law are generally widely accepted to be part of the idea of the rule of law: accessible laws, the application of law and not unfettered discretion, equality before the law, the means to resolve a dispute, the right to a fair trial, and compliance by public officials with the limits of the law in the exercise of their powers. It is Bingham's clear inclusion of the protection of fundamental human rights among his core criteria that makes his version of the rule of law an explicitly substantive or "thick" one. This is in direct contrast to "thin" definitions of the rule of law; Professor Raz's famously declared that "[the rule of law] is not to be confused with democracy, justice, equality ... human rights of any kind or respect for persons or for the dignity of man" in Raz, *The Authority of Law: Essays on Law and Morality* (Oxford 1979, p. 211). Bingham's unhesitating rejection of a purely procedural rule of law concept is welcome and needed. He is right that the understanding of the rule of law as it has evolved in international instruments and in constitutions worldwide incorporates substantive protection for an individual's liberties. While it is true "that the outer edges of some fundamental human rights are not clear-cut" across different societies and cultures (p. 68), there is indeed "ordinarily a large measure of agreement on where the lines are to be drawn" within a particular society; and debate regarding the fringes should not obscure the protection of core rights.

But subscribing to a conception of the rule of law that insists on respect for fundamental rights inevitably raises the question of how such a definition can be reconciled with traditional concepts of the UK Parliament possessing unfettered parliamentary sovereignty in legislating in any manner even if it infringes on the rule of law. The major constitutional changes over the past half century, such as Britain's membership of the EU, the enactment of the Human Rights Act 1998 (HRA), the devolution of power to Scotland, Wales and Northern Ireland, and the Constitutional Reform Act 2005, have led some to view Diceyan parliamentary supremacy as no longer an accurate conceptualisation of the UK's constitution. Bingham adopts an orthodox position in support of parliamentary sovereignty as the undiluted fundamental principle of the constitution, specifically refuting the statements of his former colleagues, Lord Steyn and Baroness Hale, in *R (Jackson)* v. *Attorney General* [2005] UKHL 56, [2006] 1 A.C. 262. His arguments, however, are familiar and those hoping for new insights or nuances in support of this stance will be disappointed. While his contention that Parliament retains power to revoke all legislation that curtailed its power the European Communities Act 1972 and the HRA, is theoretically true, it does not deal satisfactorily with the more complex issue of national supremacy during the period while such legislation is in force. The political reality is that Parliament's power while the UK is a member of the EU is significantly limited – and those who view this in terms of a constitutional "revolution" or an evolutionary development of the common law at least attempt to engage with its implications, while adherents to a theoretical view of parliamentary supremacy on the basis of Parliament's power to repeal such legislation do not.

Bingham's chief rationale against viewing parliamentary sovereignty as a creature of the common law, which can be repudiated by the judges should it infringe the rule of law, is that to do so would be to transfer power from the democratically elected representatives of the people in Parliament to the unelected judiciary. But this appeal to democracy as the fundamental framework behind the constitutional structure of the UK works both ways: if Parliament's power derives from its democratically held mandate, surely its power is also constrained by the fundamental rights and democratic principles of the society from which it obtains its own legitimacy. Bingham is forced to acknowledge that allowing Parliament unrestrained power, coupled with the practical reality that the power of the House of Lords to restrain the Commons following the Parliament Acts 1911 and 1949 has been reduced to delay and not denial, poses a "serious problem" for the constitutional settlement. He suggests tentatively that the solution can be found in an entrenched Constitution, but regrettably does not develop this line of thought beyond simply stating it would be a "major constitutional change" that "should be made only if the British people, properly informed, choose to make it".

Bingham is clear in his preface that the book is not addressed to lawyers nor meant to be a legal text; rather, it is aimed at clarifying concepts of the rule of law to a general audience. In this aim, he succeeds: the book is clear, precise, and makes a topic that is often vague remarkably accessible. Despite Bingham's caveat, however, there are parts that would have benefited from greater development, such as, his chapter on parliamentary sovereignty and the rule of law. Bingham concludes that ideal of the rule of law is the closest thing we have to a "universal secular religion" and inextricably linked with democracy. At the end of his Cambridge lecture, Lord Bingham described how such a conclusion shaped his perception of the role of those upholding the rule of

law to be "not mere custodians of a body of arid prescriptive rules but...the guardians of an all but sacred flame which animates and enlightens the society in which we live." This book is a timely final testament to one such dedicated guardian of this flame.

YVONNE TEW

Property and the Law of Finders. By ROBIN HICKEY. [Oxford: Hart Publishing, 2010. xvi, 168 and (Bibliography and Index) 15 pp. Hardback £40. ISBN 9781841135755.]

APTLY DESCRIBED as a "juridical minefield" (A. Tettenborn, "Gold Discovered at Heathrow Airport" (1982) 41 C.L.J. 242), it is much to Robin Hickey's credit that *Property and the Law of Finders* provides such a clear guide to the complex and overlooked common law of finding.

Hickey's work carefully unpicks the confusing interplay between crime, tort and property rules underlying the well-known maxim of "finders keepers". As he notes, the law of finding lacks coherence when viewed solely from a property perspective. It is only when concepts of possession are also viewed in the light of rules relating to conversion and theft that we discover that the law can be viewed as practically and theoretically coherent.

From the outset, *Property and the Law of Finders* highlights the historic interplay between "finding allegations" and criminal liability for theft offences (p. 18). The summary in chapter 1 of rules governing finders until 1722 is valuable in its own right and provides useful background to *Armory* v. *Delamirie* (1722) 1 Stra. 505. The briefly reported case of the chimney sweep's boy who found a jewel ring is well-known, but often misconstrued. Despite later dicta asserting that *Armory* established general principles relating to finders, Hickey emphasises that the report itself did not create any propositions or "laws about finders" (p. 27) separate from more general rules relating to trover and conversion.

Chapter 2 continues this valuable reassessment of significant historic finding cases such as *Bridges* v. *Hawkesworth* (1851) 15 Jur. 1079 and *S. Staffs Water Co* v. *Sharman* [1896] 2 Q.B. 44, amongst others. Hickey's criticism of *Parker* v. *British Airways Board* [1963] 1 WLR 982, which concerned a gold bracelet found on the floor of an executive lounge at Heathrow Airport, is measured and convincing. Donaldson L.J.'s broad-brush reliance upon an "ancient common law rule" relating to finders, his strictly *obiter* formulation of a "restatement" of the law (p. 44) and the reliance upon *Armory* as support for the approach taken in *Parker*, are usefully laid bare. As later noted, *Parker* contains several "apparently definitive propositions which are neither germane to the facts nor demonstrable on the authorities" (p. 92). Despite these serious and compelling criticisms of this leading finding case, the policy of seeking to return items to the loser remains valid (p. 94).

The analysis of the unhelpful distinction drawn in *Parker* between a finder's rights relating to objects found in land and those found on land, is adroit. The location of finding should not be "the determining cause of rights acquisition" (p. 49), but rather is significant due to the differing evidentiary requirements faced by finders and land possessors in establishing possession of the item. This must be right, and it would be better to view the "apparent rule" giving