Pacific Forum and bilateral models. The final essay is a tandem effort by the editors in which they tie all of the chapters together and stress many of the issues on which regional co-operation is necessary. Lastly, they recount the various regional accomplishments and point to a number of questions that need to be addressed if growth of marine regionalism is to continue.

Although the essays have been updated prior to publication, they are somewhat dated due to UNCLOS's entry into force subsequent to this compilation. However, these essays are crucial in order to understand many of the ocean developments regarding UNCLOS in this region. Those wanting to add to their knowledge of the Asian Pacific region concerning the law of the sea issues examined in these essays can read one of Donald Rothwell's latest scholarly contributions. See Donald R. Rothwell, 'Navigational Rights and Freedoms in the Asia Pacific Following Entry into Force of the Law of the Sea Convention', (1995) 35 *Virginia Journal of International Law* 587. There is a voluminous literature on the law of the sea, but the same cannot be said as concerns the Asian Pacific region. Hopefully, this worthy addition will stimulate further research, interest and general awareness. It is a region designated for greater importance to coincide with the future trade developments of Asian Pacific Economic Cooperation (APEC).

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Jurisprudence of Liberty
Eds. Suri Ratnapala and G.A. Moens
(Sydney: Butterworths, 1996), viii + 312 pp.

Concepts of liberty and what it means to be free have been discussed and debated for centuries. It is unlikely that this debate will cease in the foreseeable future. Indeed, it would be of most concern should this debate falter as it seems a truism that if we stop talking about what it means to be free, we are surely well on the way to losing our liberty.

In this writer's opinion, some of the papers stand out for special mention. Sellers' 'Republican Liberty', for example, is an important contribution concentrating on the notion of liberty under a republican form of government. It has special significance in Australia in the mid-1990s given the ongoing debate about whether Australia should move to a republic. After reading Sellers' contribution one is struck, first, by how the republic debate in Australia is being conducted at such a shallow level; second, one is reminded of the tendency in Australia to regard democracy

as merely rule by the majority.

Sellers traces the concept of liberty in the republican traditions of Rome, Italy, England, America and France and argues that 'all took their inspiration from the same brief period in Roman life between 509 and 133 BC' (p. 45). Sellers identifies two key themes at the core of republican liberty: political participation and personal security. Since Cicero, leading advocates of 'republican liberty all agreed that liberty requires popular sovereignty, the rule of law, and government in the public interest' *(ibid.)*.

Moens' paper discusses the perennial question, with reference to the German Borderguard cases, as to when an individual should disobey a law that is validly made but is immoral. Before Reunification, East German law provided that weapons may be used to prevent East Germans from illegally crossing the border into West Germany.

In 1984, two borderguards shot Michael S while he was attempting to escape into West Germany. Michael S subsequently died from his wounds. After Reunification, both borderguards were convicted of murder. One appealed to the BGH, the highest court in Germany. The BGH upheld the appellant's conviction. The court, while not basing its decision on natural law theory (i.e. a law may not be valid, and hence should not be obeyed, where it conflicts with some higher moral order), indicated that some laws need not be followed if they contravened fundamental human rights. The BGH instead reached its decision by arguing that East Germany's authorisation of a disproportionate use of weapons at the border placed it in breach of its commitments under international human rights law.

In his criticism of the borderguard decisions, Moens rightfully asks:

> Why should the conduct of citizens who lived in a communist dictatorship, where freedom of action was severely circumscribed, be judged in accordance with standards which apply in a liberal democracy, where freedom of action is broad? Why should an obligation to disobey an immoral law be imposed on ordinary soldiers who may not have the means to discover the extent of the alleged immorality? (G.A. Moens, 'The German Borderguard Cases: Natural Law and the Duty to Disobey Immoral Laws', p. 163.)

Fogg's paper, 'Dworkin, Hayek and the Declaratory Counter-Revolution', is for this writer the most entertaining and intellectually challenging paper in the collection. Further, Fogg's paper has considerable relevance to the current policy debate in Australia concerning the role of judges in society and the extent to which judges make, and should make, law.

Fogg first discusses realist theories of judicial adjudication and argues that 'the modern High Court is a realist court which condemns past justifications as formalism' (Professor A. Fogg, 'Dworkin, Hayek and the Declaratory Counter-Revolution', p. 222). Next the declaratory theories of adjudication (that judges find, not make, the law) put forward by F.A.

Hayek and Ronald Dworkin are considered. Fogg finds Dworkin, however, a member of the realist camp.

Hayek not Dworkin is, according to Fogg, 'Blackstone in modern dress,' (p. 221). Hayek's judge is the classical common law judge, declaring the law, not making it:

> Hayek's theory acknowledges that hard cases like *Donoghue v Stevenson* alter the nature of articulated common law and extend its scope, but the exercise remains articulation and not judicial legislation, since legitimate expectations within a community are capable of being divined by the professional talents of the judge. (p. 209)

This writer was surprised to see the paper by Alice Erh-Soon Tay and Eugene Kamenka, 'Contemporary Radicalism and Legal Theory', originally published in 1988 in the *UC Davis Law Review*, reprinted in this collection. Similarly, while this writer found R.C. Van Caenegem's 'The Historical and Anthropological Tradition in Jurisprudence' very interesting, it does not sit well in this collection.

Nevertheless, Ratnapala and Moens have brought together a distinguished collection of papers. The collection will undoubtedly find its way on to undergraduate reading lists in Legal Theory and Jurisprudence. The text should not, however, be confined to such courses. It also offers much to students of, for example, constitutional law, philosophy and political theory.

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Laying Down the Law Online: Computer Assisted Legal Research

S. Dayal

(Sydney: Butterworths, 1996) x + 174 pp.

This is a useful and timely publication. It attempts to comprehensively analyse computer assisted legal research. The book will be most appropriate to those legal researchers who are attempting to distinguish between the myriad of commercial databases. It focuses upon these commercial resources and provides only a cursory analysis of the Internet. The book is divided into four parts.

Part I contains a discussion of the benefits of computer assisted legal research with explanations regarding hypertext, natural language and boolean searches. The author provides a practical guide using cases/