Eager to build on his innovative work on “cosmopolitan legal thought” (*The Cosmopolitan State* (2013), ch. 10) and “transnational legal thought” (“Transnational Legal Thought: Plato, Europe and Beyond” in M. Maduro, K. Tuori and S. Sankari (eds.), *Transnational Law: Rethinking European Law and Legal Thinking* (2014)), the late Patrick Glenn said in 2014 that he was “hoping to edit a volume [on] law and the legal logics, in which I explore application of new forms of non-dichotomous logic”. These new logics were known under different names – such as multivalent, paraconsistent or non-monotonic – but what was common to them was that they “do not adhere to the classical rules of non-contradiction and the excluded middle”. Much to the shock and sadness of many, Patrick died in 2014. Now, thanks to the editorial efforts of Lionel Smith, comes this collection, completed in tribute to Patrick.

And a fitting tribute it is: as was Patrick’s own scholarship, the essays included here are exploratory, experimental, suggestive and rich. Non-classical logics are applied to a wide range of issues (e.g. reasoning with both fact and law, relations between legal orders, and key concepts such as sovereignty and normativity) and in a wide array of contexts, including constitutional law and practice, peace settlements, the relations between equity and the common law, and transnational law (e.g. administrative best practices, corporate social responsibility). In a way that would have pleased Patrick, examples are taken from many different legal traditions – from Talmudic law to European Union law.

This book offers a rich catalogue of techniques, inspired by non-classical logic and available for deployment in legal thought and practice. Some of these techniques will be familiar from other contexts, such as developing a model of argumentation based on presumption and defeasibility (Prakken); recognising the centrality of vagueness and its varieties (Clermont; Perez); avoiding conflicts between norms by limiting their applicability and employing exceptions (Hage); and mediating between legal traditions via the practices of reference (e.g. treating a foreign law as a relevant fact) and incorporation (of foreign law) (Hage).

Other techniques, however, will be less familiar. Partiality, for instance, is a theme in this volume. Partiality may include partial truths – prefixed by “about”, “roughly”, “fairly”, “almost” or “near”, as in “somewhere near six feet tall” (Clermont), for example – or partial validity (Perez). On the former, Clermont suggests that such expressions, although “they may not be a large part of our natural language”, nevertheless are “a very important part” and “do a lot of work”. “People use them all the time,” Clermont says, “to evaluate a thing or situation, to communicate their evaluation, and thereafter to perform classification, decision-making, and other tasks”. Such “linguistic hedges,” adds Clermont, “allow people to create and share a gradated scale for their evaluations” (p. 42). Linked to these are various expressions of relative commitment to beliefs, from suggesting there is but the “slightest possibility” of something to signalling that one believes something with “almost certainty” (p. 45). Partial epistemic commitments, then, and more broadly the study of attitudes (whether epistemic or normative) of gradated strength, as reflected in natural languages, are one of the valuable techniques identified by this collection. More work, surely, can be done on the role and value of a variety of expressions signalling some degree of doubt and hesitation in legal thought.
(think for instance of when a judge says, “this is not so obvious”, or generally the use of “perhaps”, “maybe”, etc.).

Another fascinating theme is that of “concessional thought”, for instance manifested by the recognition that one is operating in a normative environment that is less than perfect, or an imperfect stand-in for the ideal. Thus, Saiman in this volume speaks of the Talmudic jurisprudence of galut (exile), such as when one would say “no matter how wise and just the current crop of rabbinic judges, they are not the ‘real’ ultimate authorities of halakhah” (p. 73), for the “real” ones would have been the judges sitting in the (destroyed) Temple. Concessional thought, then, might result in different kinds of authority claims, not necessarily with exclusionary force but nevertheless offering normative guidance.

Various related temporal techniques are also on display in this volume. For example, the idea of delaying or postponing (perhaps indefinitely) resolutions or referenda may be an interesting technique of managing constitutional conflict or setting up peace negotiations, as Barber and Bell respectively discuss. More broadly there are the related ideas of the interim or intermediate, the transitional, the deferred and the ongoing. This attitude to temporality of normative arrangements can be of value and importance both in constitutional and peace-settlement contexts. As Barber shows in this volume (by reference, for instance, to the Australian legal order pre-1986 or to the status of Hong Kong), such techniques (e.g. precisely postponement of certain key resolutions) can “accommodate competing political visions that are, on the surface irreconcilable” (p. 125). Similarly, Bell says that such techniques can “create political and legal spaces of transition from conflict that enable parties to move towards peaceful co-existence while fundamentally disagreeing as to the nature of the state in ways that were hitherto understood to be so irreconcilable as to prompt violence” (p. 130). Deferral of referenda, for instance, or postponement of border delimitation can “create a zone of compromise in which fundamental differences as to the nature and legitimacy of the state can continue to be worked out” (p. 129).

Of significance in this volume are also various kinds of relational techniques (deployed in relations between legal orders, systems, or traditions) – for instance, the supplement, hybridity or filtering. The idea of the supplement is signalled already explicitly in a well-known aphorism, namely “Equity supplements but does not contradict the common law” and, was often said by Glenn – and is again said by him in some brief notes he hoped to develop into a chapter – to be one of the “multivalent, interpretive devices for assuring the on-going co-existence of the common law and Equity as distinct legal orders” (p. 163). In his essay for the collection, Smith – drawing on Priest’s logic of “chunk and permeate” – conceptualises the relation between equity and the common law via the idea of “filtering”, where both equity and common law can be conceived of as chunks, but with temporary filters for transferring “information” to each other. Thus, the Chancellor may “not deny the validity of the deed, but the creditor would be told that even though he had a legal right to be paid again, it would be unconscionable for him to insist on it” (p. 192). Here, a filter lets in some common law and some equity, thereby facilitating the making of a decision in the instant case. There is scope here for a comparative and historical study of such “temporary filtering”; it comes up, for example, also in relations between religious law and local law (Saiman). Such a study would in addition benefit from an analysis of citation practices (a practice that Glenn was often sensitive to, such as the use of “but see” citation in the Commonwealth).

Finally, there is the concept of fuzziness, which appears in a number of chapters in this volume, and which may be connected to various techniques. For example, both Barber and Bell speak of “deliberate / constructive ambiguity”, with Barber
showing how “the creation of ambiguity over the fundamental base of the Hong Kong order ... creates constitutional space” (p. 215) and Bell showing how blurring, for instance of borders (creating “porous borders” via various power-sharing schemes, such as giving treaty-making powers to sub-state entities), helps defeat the logic of “winner-takes-all” in territorially-based nation-state sovereignty that is often a key obstacle to peace negotiations (p. 133). Bell is happy to draw on the language of fuzziness here, speaking of “fuzzy statehood”, “fuzzy sovereignty” and “fuzzy borders”. Others, too, deploy this language; for instance, Perez speaks of “fuzzy normativity” (and “relative bindingness”) as well as “fuzzy norms” (offering, in addition, a related model of deliberation based on thresholds and coherence).

I have but scratched the surface here; there are many more themes, and more resources, to be found in this upbeat and suggestive collection. (One voice of scepticism included here is Halpin’s who, seeing no need for multivalent logic in law, insists on the importance of law’s decisiveness and heteronomy.) There is also more at stake in this collection than meets the eye. Certainly, there is much more at stake than simply the occasional entertaining applicability of non-classical logic to legal thought and practice. While the stakes need to be carefully articulated, it is clear that Glenn and many of the contributors here have a moral and political vision for law and legal thought. This is a vision where “conflict” would be only apparent, and where attitudes and practices of “conciliation” would be the norm. This means showing how law has in the past avoided, but also how it could in the future avoid, the dichotomies and hierarchies that create zero-sum games. At stake is not only which logical tools might best explain certain features of law and legal thought. At stake is what legal concepts and methods might help create a relational ethics and a heterarchical politics. Perhaps one might say, especially in today’s global context, that what is at stake is the very relevance of law and legal thought.

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The presumption of innocence was characterised memorably as the “golden thread” running through the criminal law, placing the burden of proof as to the defendant’s guilt on the prosecution (Woolmington v DPP [1935] A.C. 462, 481). Generally, the presumption is professed and seen to apply in the criminal trial, though this orthodoxy itself is not without controversy: the extent to which the presumption does and should guard against reverse burdens of proof, say, has not been clear. Moreover, there has been a drive to extend the reach and influence of the presumption beyond the criminal trial in numerous ways: to the pre-trial setting, to the circumstances of convicted persons and to the process of criminal law-making itself. While this is predominantly an academic endeavour, the European Court of Human Rights also has expressed sympathy for a more expansive role for the presumption, beyond a strictly procedural guarantee to encompass a “reputational” dimension that guards against any pre-trial “declaration” of guilt. Of course, complex issues arise here, as to the presumption’s reach, scope and those it protects and binds.