

Book Notes: Rhetoric and the Rule of Law: A Theory of Legal Reasoning, by Neil MacCormick

Andrew Sunter

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/ohlj>
Book Note

Citation Information

Sunter, Andrew. "Book Notes: Rhetoric and the Rule of Law: A Theory of Legal Reasoning, by Neil MacCormick." *Osgoode Hall Law Journal* 44.1 (2006) : 245-246.
<http://digitalcommons.osgoode.yorku.ca/ohlj/vol44/iss1/15>

This Book Note is brought to you for free and open access by the Journals at Osgoode Digital Commons. It has been accepted for inclusion in Osgoode Hall Law Journal by an authorized editor of Osgoode Digital Commons.

RHETORIC AND THE RULE OF LAW: A THEORY OF LEGAL REASONING. BY NEIL MACCORMICK. OXFORD: OXFORD UNIVERSITY PRESS, 2005. Pp. xvi + 287. Index, table of cases. \$120.00 hardcover.

BY ANDREW SUNTER

In *Rhetoric and the Rule of Law*, Neil MacCormick reflects on a central issue in the debate on the nature of legal reasoning: that is, what is it to say that a legal argument or decision is good or bad or right or wrong? Within this broad inquiry, MacCormick explores several narrower topics, including the tension between the rule of law and the arguable character of law; the role of rhetoric in legal argumentation; the place of syllogistic reasoning in the legal discourse; and whether judges can ever be said to make mistakes of law when they act within their legal jurisdiction.

MacCormick's inquiry is divided into thirteen short chapters. Each chapter operates as an independent essay, which addresses a distinct aspect of the nature of legal reasoning. In fact, almost every chapter of his book is a reformulated version of work previously published over the course of his academic career. This should not dissuade potential readers, however, since the essays build upon each other in a sustained and coherent fashion. One of the strengths of this book is that it can be approached both as a single work and as a collection of independent shorter works. One potential shortcoming is the absence of a concluding chapter that could tie the elements of the book together in a neater fashion.

Despite the fact that many of MacCormick's arguments have been published previously, there is significant novel content in *Rhetoric and the Rule of Law*. Most importantly, MacCormick abandons the position that he espoused earlier in his career, retreating from Humean non-cognitivism and aligning himself closer to Ronald Dworkin, whose theory of legal reasoning significantly influences MacCormick. Another interesting aspect of this book, then, is MacCormick's reflection on his past work in legal philosophy and his response to those critical of his position.
