
Andrew Sunter

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anthropologists." In chapters 3 and 4, he profiles influential personalities from a group of conspiracy theorists called the Northern League, and other significant players in the fight to keep the South segregated, and summarizes the scientific research they used to support their positions. Chapters 5 and 6 explain how prominent representatives from each group joined to form the International Society for the Advancement of Ethnology and Eugenics, and how this society masterminded an unsuccessful legal challenge to Brown. Chapter 7 outlines the mainstream scientific community's intellectual struggle—to define the true role of science in society and with its own claims of objectivity—that came to light in response to the racial scientists.

In the final chapter, Jackson proposes that while the Civil Rights Act of 1964 put an end to open opposition to desegregation, the conspiracy theory, though underground, remains intact and operative today.

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**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.

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BY EVAN VANDYK

In *Courting Failure*, Lynn M. LoPucki demonstrates how the process of competing for large—and lucrative—bankruptcy cases is corrupting America’s bankruptcy courts. Although bankruptcy law is federally regulated and the laws applied by courts across the country are the same, LoPucki identifies several differences between jurisdictions attracting the bankruptcy filings of large corporations and those that have not seen these cases. These differences, as noted by LoPucki, shift bankruptcy regulation to the benefit of those in case-placing positions (managers and their lawyers), often to the detriment of creditors.

Bankruptcy professionals often justify this process by pointing to the speed and flexibility offered by the bankruptcy courts in Delaware and New York, arguing that the efficiency of their process is attracting cases. However, LoPucki outlines several more insidious effects of the competition, including: escalation of professional fees approved by the courts; rubber-stamping of pre-packaged restructuring plans; increasing priority of critical vendors over other unsecured creditors; undervalued selling of companies by managers for personal profit; and retention of control by the managers who oversaw the decline of the companies (and often, awards of large retention bonuses to these same failed managers). These changes favour case-placers while harming creditors, who have little opportunity to influence the choice of venue.

LoPucki also demonstrates that the competition is reducing the effectiveness of the bankruptcy process: a study of the post-restructuring fate of bankruptcies filed between 1983 and 1996 demonstrates that New York