The Architecture of Law: Building Law in the Classical Tradition

Brian M McCall

Available at: https://works.bepress.com/brian_mccall/41/
What is law? How should law be made? Using St. Thomas Aquinas’s analogy of God as an architect, Brian McCall argues that classical natural law jurisprudence provides an answer to these questions far superior to those provided by legal positivism or the “new” natural law theories. The Architecture of Law explores the metaphor of law as an architectural building project, with eternal law as the foundation, natural law as the frame, divine law as the guidance provided by the architect, and human law as the provider of the defining details and ornamentation. Classical jurisprudence is presented as a synthesis of the work of the greatest minds of antiquity and the medieval period, including Cicero, Aristotle, Gratian, Augustine, and Aquinas; the significant texts of each receive detailed exposition in these pages.

Along with McCall’s development of the architectural image, he raises a question that becomes a running theme throughout the book: To what extent does one need to know God to accept and understand natural law jurisprudence, given its foundational premise that all authority comes from God? The separation of the study of law from knowledge of theology and morality, McCall argues, only results in the impoverishment of our understanding of law. He concludes that they must be reunited in order for jurisprudence to flourish.

Advance Praise . . .

“The Architecture of Law makes a masterful contribution to constructive jurisprudence in the best tradition of the ongoing encounter between reason and Christian faith. Erudite yet unpretentious, insightful yet careful, McCall’s account of human lawmaking starts at the beginning, where one should indeed start, and then gradually shows the reader exactly why law is correctly defined, pace most modern accounts, as a ‘dialectic among reason, command, and custom.’ This book offers a challenging, fascinating, but consistent journey for the reader. It is an outstanding piece of work.”

—PATRICK MCKINLEY BRENNAN, Villanova University