



# LAW & THE MODERN MIND

JEROME FRANK  
WITH A NEW INTRODUCTION BY  
BRIAN H. BIX

# Law And The Modern Mind

**Roscoe Pound**



## **Law And The Modern Mind:**

*Law and the Modern Mind* Jerome Frank, *Law and the Modern Mind* first appeared in 1930 when in the words of Judge Charles E Clark it fell like a bomb on the legal world In the generations since its influence has grown today it is accepted as a classic of general jurisprudence The work is a bold and persuasive attack on the delusion that the law is a bastion of predictable and logical action Jerome Frank s controversial thesis is that the decisions made by judge and jury are determined to an enormous extent by powerful concealed and highly idiosyncratic psychological prejudices that these decision makers bring to the courtroom Frank points out that legal verdicts are supposed to result from the application of legal rules to the facts of the suit a procedure that sounds utterly methodical Frank argues that profound immeasurable biases strongly influence the judge and jury s reaction to witnesses lawyers and litigants As a result we can never know what they will believe the facts of the suit to be The trial s results become unforeseeable the lawyer s advice unreliable and the cause of justice insecure This edition includes the author s final preface in which he answers two decades of criticism of his position

*Law and the Modern Mind* Susanna L. Blumenthal, 2016-02-22 Headline grabbing murders are not the only cases in which sanity has been disputed in the American courtroom Susanna Blumenthal traces this litigation revealing how ideas of human consciousness agency and responsibility have shaped American jurisprudence as judges struggled to reconcile Enlightenment rationality with new sciences of the mind

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Jurisprudence The end of law v 2 The nature of law v 3 The scope and subject matter of law Sources forms modes of growth v 4 Application and enforcement of law Analysis of general juristic conceptions v 5 The system of law     **The Nuremberg**

**Trials: International Criminal Law Since 1945** Herbert R. Reginbogin, Christoph Safferling, 2011-11-30 60 years after the trials of the main German war criminals the articles in this book attempt to assess the Nuremberg Trials from a historical and legal point of view and to illustrate connections contradictions and consequences In view of constantly reoccurring reports of mass crimes from all over the world we have only reached the halfway point in the quest for an effective system of

international criminal justice With the legacy of Nuremberg in mind this volume is a contribution to the search for answers to questions of how the law can be applied effectively and those committing crimes against humanity be brought to justice for their actions     Legal Reasoning Martin P. Golding, 2001-03-02 In a book that is a blend of text and readings Martin P.

Golding explores legal reasoning from a variety of angles including that of judicial psychology The primary focus however is on the logic of judicial decision making How do judges justify their decisions What sort of arguments do they use In what ways do they rely on legal precedent Golding includes a wide variety of cases as well as a brief bibliographic essay updated for this Broadview Encore Edition     **Law and the Modern Mind, Etc. (Fifth Printing.).** Jerome New FRANK, 1936

**'Discovery' in Legal Decision-Making** B. Anderson, 2013-03-14 This book deals with a central problem throughout the legal profession a solution to the problem is sought and reached in some basic form At the centre of this problematic is the question indicated by the title What is the nature of discovery in legal decision making In the final chapter that problem and the solution reached will be seen to have ramifications throughout the entire field of legal practice and theory However the focus of the argument is maintained first to specify adequately the particular manifestation of the problem in a variety of legal fields and secondly to arrive at a precise basic solution to this range of problems The presentation of the solution is not dictated by the norms of clarity and coherence but by the dynamics of the struggle to reach the solution and by aspects of the problem available to various sub groups within the legal profession theorists judges arbitrators So I begin from a relatively familiar zone discussions of discovery in legal theory before moving to more unfamiliar territory This book is not a thorough survey of problems and writings on discovery Rather the strategic selection of problems and assessment of

solutions across the first four chapters represents four aspects of the problem Those chapters invite the reader to rise to the sense of occurrence of a single problem in a variety of contexts

*The Passionate Liberal: The Political and Legal Ideas of Jerome Frank* W.E. Volkmer, 2012-12-06 Jerome Frank was one of the most important spokesmen for the generation of liberal intellectuals who came to maturity during the period of Franklin Roosevelt's New Deal He was never a major figure in public life and thus never became a symbol of the period as did President Roosevelt Henry Wallace Harry Hopkins or others whose positions made their views accessible to the entire reading and listening public While these men represented the popular view of the New Deal with its dedication to the elimination of the economic misery which beset the nation during the nineteen thirties Frank may be the New Deal figure who most accurately summarized the intellectual currents of the period As is the case with all thinkers most of the ideas Frank presented in his books articles speeches and in actual practice in governmental service were drawn from the works of other men He brought together many diverse strains of thought contributed some of his own ideas and wove these together into a pattern which typifies the intellectual atmosphere that was the New Deal

The Legal Realism of Jerome N. Frank Julius Paul, 2012-12-06 Between the Levite at the gate and the judicial systems of our day is a long journey in courthouse government but its basic structure remains the same law judge and process Of the three process is the most unstable procedure and facts Of the two facts are the most intractable While most of the law in books may seem to center about abstract theories doctrines principles and rules the truth is that most of it is designed in some way to escape the painful examination of the facts which bring parties in a particular case to court Frequently the emphasis is on the rule of law as it is with respect to the negotiable instrument which forbids inquiry behind its face sometimes the emphasis is on men as in the case of the wide discretion given a judge or administrator sometimes on the process as in pleading to a refined issue summary judgment pre trial conference or jury trial designed to impose the dirty work of fact finding on laymen The minds of the men of law never cease to labor at improving process in the hope that some less painful more trustworthy and if possible automatic method can be found to lay open or force litigants to disclose what lies inside their quarrel so that law can be administered with dispatch and decisiveness in the hope that truth and justice will be served

**The Making of the Modern Mind** John Herman Randall, 1976 Surveys the intellectual background of man from medieval times through the Renaissance to modern times

**Law and the Modern Mind** Susanna L. Blumenthal, 2016-02-22 In postrevolutionary America the autonomous individual was both the linchpin of a young nation and a threat to the founders vision of ordered liberty Conceiving of self government as a psychological as well as a political project jurists built a republic of laws upon the Enlightenment science of the mind with the aim of producing a responsible citizenry Susanna Blumenthal probes the assumptions and consequences of this undertaking revealing how ideas about consciousness agency and accountability have shaped American jurisprudence Focusing on everyday adjudication Blumenthal shows that mental soundness was routinely disputed in civil as well as criminal cases Litigants presented

conflicting religious philosophical and medical understandings of the self intensifying fears of a populace maddened by too much liberty Judges struggled to reconcile common sense notions of rationality with novel scientific concepts that suggested deviant behavior might result from disease rather than conscious choice Determining the threshold of competence was especially vexing in litigation among family members that raised profound questions about the interconnections between love and consent This body of law coalesced into a jurisprudence of insanity which also illuminates the position of those to whom the insane were compared particularly children married women and slaves Over time the liberties of the eccentric expanded as jurists came to recognize the diversity of beliefs held by otherwise reasonable persons In calling attention to the problematic relationship between consciousness and liability *Law and the Modern Mind* casts new light on the meanings of freedom in the formative era of American law

**Aquinas and Modern Law** James Bernard Murphy, 2017-07-05 This volume collects some of the best recent writings on St Thomas s philosophy of law and includes a critical examination of Aquinas s theory of the relation between law and morality his natural law theory as well as the modern reformulation of his approach to natural rights The volume shows how Aquinas understood the importance of positive law and demonstrates the modern relevance of his writings by including Thomistic critiques of modern jurisprudence and examples of applications of Thomistic jurisprudence to specific modern legal problems such as federalism environmental policy abortion and euthanasia The volume also features an introduction which places Aquinas s writings in the context of modern jurisprudence as well as an extensive bibliography The volume is suited to the needs of jurisprudence scholars teachers and students and is an essential resource for all law libraries

*Roscoe Pound and Karl Llewellyn* N. E. H. Hull, 1997 American legal history is traditionally viewed as a succession of discrete schools of thought or landmark court decisions not as the work of individuals Such an approach however hardly does justice to the lives of two of the foremost teachers and theorists of American jurisprudence In *Roscoe Pound and Karl Llewellyn Searching for an American Jurisprudence* N E H Hull reconstructs the historical cultural and intellectual context of the work of Pound and Llewellyn bringing to light their private and public relationship as well as the diverse sources from psychology to plant ecology to Icelandic sagas they separately drew upon in making their contributions to the American legal tradition

**Soul Machine: The Invention of the Modern Mind** George Makari, 2015-11-02 A brilliant and comprehensive history of the creation of the modern Western mind *Soul Machine* takes us back to the origins of modernity a time when a crisis in religious authority and the scientific revolution led to searching questions about the nature of human inner life This is the story of how a new concept the mind emerged as a potential solution one that was part soul and part machine but fully neither In this groundbreaking work award winning historian George Makari shows how writers philosophers physicians and anatomists worked to construct notions of the mind as not an ethereal thing but a natural one From the ascent of Oliver Cromwell to the fall of Napoleon seminal thinkers like Hobbes Locke Diderot and Kant worked alongside often forgotten brain specialists physiologists and alienists in the hopes of

mapping the inner world Conducted in a cauldron of political turmoil these frequently shocking always embattled efforts would give rise to psychiatry mind sciences such as phrenology and radically new visions of the self Further they would be crucial to the establishment of secular ethics and political liberalism Boldly original wide ranging and brilliantly synthetic Soul Machine gives us a masterful new account of the making of the modern Western mind     **Judicial Policy Making and the Modern State** Malcolm M. Feeley,Edward L. Rubin,2000-03-28 Investigates the role of federal judges in prison reform and policy making in general

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