

Judging Science

Scientific Knowledge and the Federal Courts



Kenneth R. Foster

Peter W. Huber

Judging Science Scientific Knowledge And The Federal Courts

Sarah Boslaugh



Judging Science Scientific Knowledge And The Federal Courts:

Judging Science Kenneth R. Foster, Peter W. Huber, 1999 Attempting to reconcile the law's need for workable rules of evidence with the views of scientific validity and reliability What is scientific knowledge and when is it reliable These deceptively simple questions have been the source of endless controversy In 1993 the Supreme Court handed down a landmark ruling on the use of scientific evidence in federal courts Federal judges may admit expert scientific evidence only if it merits the label scientific knowledge The testimony must be scientifically reliable and valid This book is organized around the criteria set out in the 1993 ruling Following a general overview the authors look at issues of fit whether a plausible theory relates specific facts to the larger factual issues in contention philosophical concepts such as the falsifiability of scientific claims scientific error reliability in science particularly in fields such as epidemiology and toxicology the meaning of scientific validity peer review and the problem of boundary setting and the risks of confusion and prejudice when presenting science to a jury The book's conclusion attempts to reconcile the law's need for workable rules of evidence with the views of scientific validity and reliability that emerge from science and other disciplines *Judging Science* Kenneth R. Foster, 1997

Expertise in Regulation and Law Gary Edmond, 2017-07-05 This collection of essays examines the multi faceted roles of experts and expertise in and around contemporary legal and regulatory cultures The essays illustrate the complexity intrinsic to the production and use of expert knowledge particularly during transition from specialist communities to other domains such as policy formulation regulatory standard setting and litigation Several themes pervade the collection These include the need to recognize that expert knowledge and opinion is often complex controversial and contested there are no simple criteria for resolving disagreements between experts appeals to objectivity and impartiality tend to be rhetorical rather than analytical contests in expertise are frequently episodes in larger campaigns there are many different models of expertise and knowledge processes designed to deal with expert knowledge are unavoidably political questions around who is an expert and what should count as expertise are not always self evident and the evidence rarely speaks for itself *Forensic Science in Court* Donald Shelton, 2010-10-16 *Forensic Science in Court* explores the legal implications of forensic science an increasingly important and complex part of the justice system Judge Donald Shelton provides an accessible overview of the legal issues from the history of evidence in court to gatekeeper judges determining what evidence can be allowed to the CSI effect in juries The book describes and evaluates various kinds of evidence including DNA fingerprints handwriting hair bite marks tool marks firearms and bullets fire and arson investigation and bloodstain evidence Assessing the strengths and limitations of each kind of evidence the author also discusses how they can contribute to identifying the who how and whether questions that arise in criminal prosecutions Author Donald Shelton draws on the depth of his experiences as courtroom prosecutor professor and judge to provide a well rounded look at these increasingly critical issues Case studies throughout help bring the issues to life and show how forensic science has been used both successfully and not in real world

situations Stalking the Black Swan Kenneth A. Posner, 2010-03-31 Kenneth A Posner spent close to two decades as a Wall Street analyst tracking the so called specialty finance sector which included controversial companies such as Countrywide Fannie Mae Freddie Mac CIT and MasterCard many of which were caught in the subprime mortgage and capital markets crisis of 2007 While extreme volatility is nothing new in finance the recent downturn caught many off guard indicating that the traditional approach to decision making had let them down Introducing a new framework for handling and evaluating extreme risk Posner draws on years of experience to show how decision makers can best cope with the Black Swans of our time Posner s shrewd assessment combines the classic fundamental research approach of Benjamin Graham and David Dodd with more recent developments in cognitive science computational theory and quantitative finance He outlines a probabilistic approach to decision making that involves forecasting across a range of scenarios and he explains how to balance confidence react accurately to fast breaking information overcome information overload zero in on the critical issues penetrate the information asymmetry shielding corporate executives and integrate the power of human intuition with sophisticated analytics Emphasizing the computational resources we already have at our disposal our computers and our minds Posner offers a new track to decision making for analysts investors traders corporate executives risk managers regulators policymakers journalists and anyone who faces a world of extreme volatility

Scientific Evidence and Equal Protection of the Law Angelo N Ancheta, 2006-02-02 Scientific and social scientific evidence has informed judicial decisions and the making of constitutional law for decades but for much of U S history it has also served as a rhetorical device to justify inequality It is only in recent years that scientific and statistical research has helped redress discrimination but not without controversy Scientific Evidence and Equal Protection of the Law provides unique insights into the judicial process and scientific inquiry by examining major decisions of the U S Supreme Court civil rights advocacy and the nature of science itself Angelo Ancheta discusses leading equal protection cases such as Brown v Board of Education and recent litigation involving race related affirmative action gender inequality and discrimination based on sexual orientation He also examines less prominent but equally compelling cases including McCleskey v Kemp which involved statistical evidence that a state s death penalty was disproportionately used when victims were white and defendants were black and Castaneda v Partida which established key standards of evidence in addressing the exclusion of Latinos from grand jury service For each case Ancheta explores the tensions between scientific findings and constitutional values

The Fragility of Modern Societies Nico Stehr, 2001-05-14 This book argues that knowledge is now central to the modern economy and its productive processes It is also essential for social relations social cohesion and conflict resolution We have moved from a society based around heavy commodities to symbolic goods from situated markets to non place specific locations from machines to software and from things to ideas These changes produce new forms of social interaction and new perspectives on identity practice and association This penetrating book slices through the cliches and blind alleys of discussions around the knowledge society to

reveal the tendons of contemporary change Written with insight and panache the book explains the momentous nature of the changes associated with the knowledge society *SCIENTIFIC AID IN EVIDENCE AND JUSTICE: AN ANALYTICAL STUDY WITH SPECIAL REFERENCE TO POLICE INVESTIGATION* PROF. (DR.) RAJESH BAHUGUNA, Anjum Parvez, 2022-01-02

Liability and Environment Lucas Bergkamp, 2021-12-06 Liability and Environment analyzes the role of law in particular civil liability in controlling environmental pollution and risk In modern environmental policy liability has become a popular instrument In this book Prof Bergkamp takes a fresh look at civil liability for environmental harm in an inter and transnational context Over the last decade industry s liability exposure for environmental harm has expanded significantly At the international EC and national level proposals for onerous strict environmental liability regimes are pending The polluter pays principle which is an articulation of the cost internalization theory in the environmental area is believed to justify such liability regimes Applying an instrumental approach to legal instruments Prof Bergkamp aims to redefine the role of liability in the heavily regulated environmental area He shows that liability for environmental harm is not justified by the polluter pays principle is an uncertain and unreliable instrument for achieving prevention results in an inefficient insurance scheme and plays a dubious role in adjusting activity levels Based on an analysis of the basic characteristics of alternative legal instruments Prof Bergkamp concludes that civil liability should play a more modest limited role in an environmental law system dominated by public law Where deterrence is not the objective first party insurance compensation funds or other public law regimes should be preferred over liability rules In addition to civil liability of private parties Liability and Environment discusses State liability under international EC and national law Under international law breach of a primary obligation triggers a State s liability Prof Bergkamp argues that this rule should be applied also to liability of private parties In the environmental area a business primary obligations are spelled out in detailed permit conditions regulations and statutes According to Prof Bergkamp only if a primary obligation is breached a private person should be liable for environmental harm The system that Bergkamp advocates is an objective fault liability regime in which public environmental law defines the standard of care for both government and industry In rebuilding our civil liability system we should keep in mind that what is good for industry should be good for everyone or it is not good for anyone we should keep in mind that what is good for private parties should be good for the state or it is not good for either In rebuilding our civil liability system the international law of State responsibility which is unpolluted by risk spreading and activity level considerations will guide us a long way This book is aimed at advanced law students academic scholars and practitioners In addition it will be of interest to policy and legislative analysts legislators and government officials Professor Bergkamp s book cannot be described as solving the problems of legal and regulatory control of environmental harm whether within a nation or internationally As suggested before however the very idea of a solution is illusory All legal and regulatory regimes around the world are today and will remain for the future in a state of perpetually continuing development The virtue of this fine book is

that it moves the process of that development forward by a very substantial measure from the Foreword by George L Priest

Causation in Law and Medicine Danuta Mendelson, 2017-03-02 Causation is an issue that is fundamental in both law and medicine as well as the interface between the two disciplines It is vital for the resolution of a great many disputes in court concerning personal injuries medical negligence criminal law and coronial issues as well as in the provision of both diagnoses and treatment in medicine This book offers a vital analysis of issues such as causation in law and medicine issues of causal responsibility agency and harm in criminal law causation in forensic medicine scientific and statistical approaches to causation proof of cause influence and effect and causal responsibility in tort law Including contributions from a number of distinguished doctors lawyers and scientists it will be of great interest and value to academics and practitioners alike

Encyclopedia of Epidemiology Sarah Boslaugh, 2008 Presents information from the field of epidemiology in a less technical more accessible format Covers major topics in epidemiology from risk ratios to case control studies to mediating and moderating variables and more Relevant topics from related fields such as biostatistics and health economics are also included

Cutting Green Tape Roger Meiners, 2018-02-06 Hundreds of hazardous waste sites are on the Superfund National Priority List in the United States and thousands more could become eligible The Superfund has spent or ordered the spending of billions of dollars with little apparent impact on human health risks While public perception of the real or imagined hazardous nature of consumer and industrial substances has resulted in widespread attention to the issue lawsuits have proliferated with liability aimed at deep pockets instead of individual agents who may be responsible Contributors to *Cutting Green Tape* carefully examine the existence and severity of the toxic harms and liability problem the erosion of a clear tort legal system to settle disputes and whether a clearly defined system of property rights could be developed to reduce the dangers from toxic substances *Cutting Green Tape* rethinks the nature and impact of today's environmental bureaucracy Rather than continue unworkable cumbersome and often contradictory regulations *Cutting Green Tape* prescribes a clearer tort legal system to settle disputes and demonstrates that clearly defined environmental property rights would reduce the threat of toxic substances Among the many topics addressed are air toxins policy pollution damages and tort law risk assessment insurance and public information protecting groundwater regulation of carcinogens contracting for health and safety and toxin torts by government The book converges on a central theme when common law remedies with their burden of proof and standards of evidence are replaced by the legislatively mandated regulatory regimes described a problem emerges The bureaucratic tunnel vision described by Justice Stephen Breyer tends to take over The police powers of the state are given to bureaucratic decision makers who are limited only by the blunt instrument of political influence rather than by the need to show harm or wrongdoing in an unbiased court as the police are or by a budget on expenditures set by the Congress as most bureaus are The excesses described in the chapters thus result not from incompetence in the bureaus but from the expansive powers granted to decision makers who are tightly focused on the narrow mission they see before

them **The Politics of Legal Expertise in EU Policy-Making** Päivi Leino-Sandberg, 2021-09-23 Legal advisers working in the institutions of the European Union exercise significant power but very little is known about their work Notwithstanding the handful of cases where legal matters find their way into the news legal advice remains invisible in EU policy making For more than ten years P i vi Leino Sandberg was a part of the invisible community of EU legal advisers and participated in the exercise of their power In this book she shares her insights about how law and lawyers work in the EU institutions and what their role and impact is on EU decisions from within the decision making structure She draws on interviews with over sixty EU lawyers and policymakers legal experts who interpret the Treaties within the Institutions draft legislation and defend the Institutions before the EU Court Telling the true stories behind key negotiations this book explores the interplay and tensions between legal requirements and political ambitions **Expert Witness in the Legal System: A Scientist's Search for Justice , Laws of Men and Laws of Nature** Tal GOLAN, Tal Golan, 2009-06-30 Are scientific expert witnesses partisans or spokesmen for objective science This ambiguity has troubled the relations between scientists and the legal system for more than 200 years Modern expert testimony first appeared in the late eighteenth century and while its use steadily increased throughout the nineteenth century in cases involving everything from patents to X rays the respect paid to it steadily declined inside and outside of the courtroom With deep learning and wry humor Tal Golan tells stories of courtroom drama and confusion and media jeering on both sides of the Atlantic until the start of the twenty first century as the courts still search for ways that will allow them to distinguish between good and bad science **Toxic Torts** Carl F.

Cranor, 2016-06-02 Toxic Torts 2nd edition shows how the American justice system underserves the public in its treatment of scientific evidence Humble Analysis Clinton J. Andrews, 2002-05-30 Joint fact finding is a cooperative venture and communication among the participants is critical to success Analysts have begun to recognize this and have started to adjust their craft to reflect the communicative character of their work Non analysts usually judge experts opinions by their value effectiveness and legitimacy rather than soundness of the conclusions Accordingly experts must recognize the importance of these non scientific criteria and learn to communicate better with their non expert colleagues Practically this means explaining the rationale and implications behind their findings in an easily digestible way Andrews uses real cases to illustrate his argument that analysts should marry process to analysis spread information reason inductively broaden their analytic scope put analytic results into lay terms and constantly seek out feedback on their work Technical specialists who perform analysis in public settings can turn to Andrews s book for ideas about how to do their jobs more effectively Scholars interested in the connection between expertise and the process of social learning will find his case study approach useful Beginning with an analysis of the motivations and concepts at work in the process of joint fact finding Andrews assesses the challenges analysts face from those who hire them and from their non expert colleagues He then illustrates his remarks with case studies of projects that have failed and succeeded The book concludes by summing up the mistakes learned and

elements that make for successful joint fact finding **Anthropology and Law** James M. Donovan, H. Edwin Anderson III, 2005-12-01 The relationship between Law and Anthropology can be considered as having been particularly intimate In this book the authors defend their assertion that the two fields co exist in a condition of balanced reciprocity wherein each makes important contributions to the successful practice and theory of the other Anthropology for example offers a cross culturally validated generic concept of law and clarifies other important legal concepts such as religion and human rights Law similarly illuminates key anthropological ideas such as the social contract and provides a uniquely valuable access point for the analysis of sociocultural systems Legal practice renders a further important benefit to anthropology when it validates anthropological knowledge through the use of anthropologists as expert witnesses in the courtroom and the introduction of the culture defense against criminal charges Although the actual relationship between anthropology and law today falls short of this idealized state of balanced reciprocity the authors include historical and other data suggesting that that level of intimate cooperation draws ever closer Authenticity, Autonomy and Multiculturalism Geoffrey Brahm Levey, 2015-05-01 The concept of authenticity enters multicultural politics in three distinct but interrelated senses as an ideal of individual and group identity that commands recognition by others as a condition of individuals autonomy that bestows legitimacy on their values beliefs and preferences as being their own and as a form of cultural pedigree that bestows legitimacy on particular beliefs and practices commonly called cultural authenticity In each case the authenticity idea is called on to anchor or legitimate claims to some kind of public recognition The considerable work asked of this concept raises a number of vital questions Should authenticity be accorded the importance it holds in multicultural politics Do its pitfalls outweigh its utility Is the notion of authenticity avoidable in making sense of and evaluating cultural claims Or does it perhaps need to be rethought or recalibrated Geoffrey Brahm Levey and his distinguished group of philosophers political theorists and anthropologists challenge conventional assumptions about authenticity that inform liberal responses to minority cultural claims in Western democracies today Discussing a wide range of cases drawn from Britain and continental Europe North America Australia and the Middle East they press beyond theories to consider also the practical and policy implications at stake A helpful resource to scholars worldwide in Political and Social Theory Political Philosophy Legal Anthropology Multiculturalism and more generally of cultural identity and diversity in liberal democracies today *Neuropsychology of Malingering Casebook* ,

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