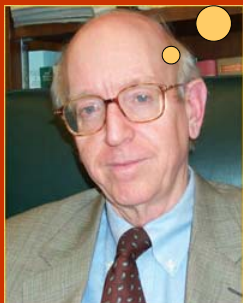
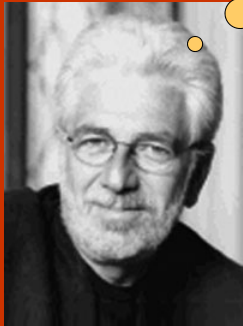


Explanation, Human Nature, and Tort Theory

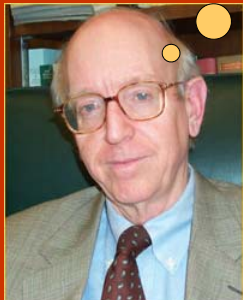
**Jeffery L. Johnson
PHIL 420
Philosophy of Law
Distance Delivery**

- **Law and economics hypothesis**
- **Tort rules improve efficiency**
- **Move to negligence improves efficiency**

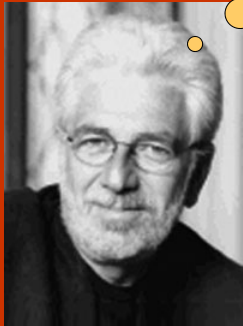





•Corrective justice
•Law and economics explanations
•Problem of bilaterality



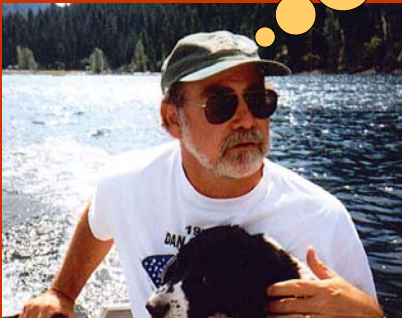
•Not an interpretive explanation
•Functional explanation
•Assumption of economic rationality
•Legal actors



- Critique of efficiency as a functional explanation
- Efficiency as a spandrel
- Not a conscious function
- No adequate causal mechanism

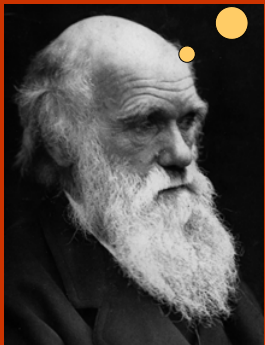


- Talking past each other?
- No causal mechanism?
- Posner as a realist
- Judges and conscious thoughts




A photograph of a man with a grey beard and sunglasses, wearing a white t-shirt and a cap, sitting on a boat and holding a black dog. The background shows a body of water and a forested shoreline.

- Explanations
- No case for rivalry
- Corrective justice as conscious
- Efficiency as unconscious
- Question the economist's assumptions



A black and white portrait of Charles Darwin, showing him with a long white beard and hair.

- Evolutionary ethics
- Predisposition to cooperate
- Predisposition for justice



- Language acquisition
 - Creoles
- Syntax as biological
- Syntax as adaptive
- Syntax as "deep-structure"



- Tit-for-tat
- Constrained maximization
- Corrective justice
 - Retributive punishment
- Vincent v. Lake Eire Transportation*
- Genuine rival*