

# 《洞穴奇案的十四種判決》

## 图书基本信息

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作者：薩伯(Peter Suber)

译者：陳福勇,張世泰

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# 《洞穴奇案的十四種判決》

## 內容概要

Lon Fuller's Case of the Speluncean Exp/ ~rers is the greatest fictitious legal case of all time. That is saying a lot, for it has some stiff competition. While its competitors may outdo it in courtroom drama, character development, or investigative suspense, none matches it in legal depth or dialectical agility It shows not what makes some lawyer's caseload interesting, but what makes law itself interesting. It would not make a good movie; it is all "talking heads." In fact, the parts that would make a good movie - the events within the cave - are over and done with by the time Fuller begins his piece. Moreover, these events are not depicted with cinematic vivacity, but described after the fact with judicial precision and blandness.

Fuller's live Supreme Court justices tranquilly but rigorously show the complexity of the facts and the flexibility of legal reasoning. The live opinions focus on different factual details and legal precedents, and lit them into different background structures of legal and political principle. By these means Fuller crystallizes important conflicts of principle and illustrates the major schools of legal philosophy in his day. Fuller's case has been called "a classic in jurisprudence," "a microcosm of this century's debates," and a "breathtaking intellectual accomplishment."\*

Although only half a century separates us from the date of Fuller's essay, the legal landscape has changed profoundly. I have written nine new judicial opinions on his case, with roughly Fuller's own objectives in view, hoping to explore important issues of principle and in the process to bring the depiction of legal philosophy up to date.

While I would like to depict the major schools of legal philosophy today, giving each its due, there are a few obstacles that subtly constrain the project.

Suber, Peter. Case of the Speluncean Explorers: Nine New Opinions.

Florence, KY, USA: Routledge, 1998. p ix.

<http://site.ebrary.com/lib/cityu/Doc?id=2003075&ppg=9>

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## 《洞穴奇案的十四種判決》

### 精彩短评

- 1、个人支持有罪判决
- 2、法理學經典案例
- 3、但外行女心中仍有个疑问，就是撇开杀人这一事实和所有细节不说，人吃人这个情节，在人伦上难道不更摇摇欲坠？
- 4、頗好讀, 但沒想像中精辟, 結論顯而易見---- 大概因為我太偏激.
- 5、刑法21條的緊急避險很實用啊，法不責人所不能，至于該案不公平的問題，民法領域貌似有一條『契約自由』原則，但畢竟有罪與否還是得取決于那些前提假設條件的，當然，道德并非構成殺人罪名的依據，同理，民衆意向亦非無罪的理由
- 6、2012年02月27日——2012年03月11日
- 7、法理学/刑法/逻辑训练之最佳入门or精研读本推荐！
- 8、极力推荐
- 9、案件不算新奇了，探讨的法理学问题倒是不错
- 10、引一段书友评论——如果有一天我犯了什么罪……这么讲不恰当，换个说法，如果有一天我成为某件刑事案的嫌疑人或被告人，我希望我的动机不是“试图以激烈手段为自己或他人寻求公正”，我宁愿作为一个职业罪犯被审判。如果我不幸被杀，我希望凶手是个体的人，而非公器，平等或意外地丧生于个人之手，我接

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## 精彩书评

1、此香港翻譯版本最大的好處就在于譯者大膽的總結了每一位法官的最主要觀點以作為每個章節的題目（雖然每位法官也許不止有一個理由作出判決），并根據自己的理解，加了副標題、段落題目，還highlight了重點語句。于是，翻譯版本看來更有條理，有利于理解。從法律知識的普及的角度來說，這實在是譯者的大功一件。以下提綱90%以上的內容就是翻譯版中的各章題目、副標題、及粗體字語句，我只是編上號碼罷了。然而因語言思維習慣不同，翻譯后感覺每個法官的判決沒有連貫性，不過這也更符合現實case report：忠實的記錄每個法官的判決及原因，不受其他judgement影響。這十四種法學流派的真正理解還需要看英文原文的。

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