

Preface

To understand the law, and how the legal system works, students must have a basic understanding of economic principles. At the same time, the structure and performance of the economic system depend enormously on the legal rules. Law and economics are, thus, closely interrelated. This book's purpose is to describe and explain those interrelations.

For the past several years, we have been teaching Law and Economics together, to law students at the Indiana University School of Law at Indianapolis and to undergraduate economics students at Butler University. One of us is an economist, the other is a law professor. For years, we have been searching for a textbook that is neither too sophisticated, nor too sketchy, nor too simplistic for our students. We wanted a book basic enough to teach undergraduates *and* law students possessing limited (and in some cases nonexistent) backgrounds in economics, but sophisticated enough to be of use to graduate-level scholars. Finally, we gave up waiting and wrote one ourselves.

Although Law and Economics analysis has attained a high level of sophistication over the years, one does not need to be a graduate-level economist to understand its basic principles and applications. This book is designed for use by undergraduates, including those who have not yet taken an introductory economics course, as well as by law students with little or no previous economics training. With that target audience in mind, we have kept the mathematics to a minimum, presenting the analysis in language as clear and jargon-free as possible. The economic analysis is not simplistic, however. It may be sophisticated enough for many graduate-level economics students, but it is presented with sufficient explanations of concepts, principles, and arguments to enable novices to follow along without great difficulty.

Consistent with our commitment to relative novices in Law and Economics, the book begins with four chapters designed to ensure that all readers possess a basic understanding of fundamental economic principles (Chapter 1), the structure of the U.S. legal system (Chapter 2), and the importance of combining legal and economic analyses (Chapters 3 and 4). Readers with substantial knowledge of economics may choose to skip Chapter 1. Likewise, readers with a substantial experience in legal studies may choose to skip Chapter 2. Readers with substantial backgrounds in both law and economics may choose to begin with Chapter 3.

After the four introductory chapters, the book delves into traditional economic analyses of specific areas of law, including property (Chapters 5-7), contracts (Chapters 8-9), torts (Chapters 10-12), and crime (Chapter 13). Those common-law topics, dominated by judge-made law, are the centerpiece of most law and economics courses. It would be a mistake, however, to suppose that the law is nothing more than what common-law courts decide. The modern state is a regulatory state, in which laws made by legislatures and administrative bodies are at least as significant as court decisions. In recognition of the importance of regulatory law, this book also includes two chapters on the economic regulation of business. One concerns antitrust and regulated industries (Chapter 14); the other, environmental protection (Chapter 15).

Various approaches are utilized throughout the book, including conventional economic analysis (with and without descriptive figures), excerpts from fundamental works in the law and economics literature, statistical analyses, actual judicial decisions (as in law school “casebooks”), a bit of game theory, and even some history. We hope that this methodological variety, along with the question sets at the end of each chapter, enhances the reader’s utility and enjoyment.

Acknowledgments

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