

OUTLINE

PREFACE TO THE SEVENTH EDITION	V
TABLE OF CASES	XVII
Chapter One. Introduction.....	1
Chapter Two. Economic Tools and Concepts.....	9
A. Demand, Supply, and Market Equilibrium.....	9
1. Demand	9
2. Supply.....	14
3. Market Equilibrium.....	16
B. Elasticity.....	18
1. Generally	18
2. Incidence Analysis	21
C. Perfect and Imperfect Markets	24
D. Marginal Analysis General	29
E. Efficiency	31
1. Allocative Efficiency	31
2. The Theory of Second Best.....	34
3. Utilitarianism and Its Problems.....	36
4. Pareto Optimality and Superiority.....	37
5. Kaldor-Hicks Efficiency.....	41
F. Externalities.....	45
1. Negative Externalities and Property Rights.....	45
a. Negative Externalities	45
b. The Tragedy of the Commons	46
c. The Prisoner's Dilemma.....	46

2. Positive Externalities, Free-Riding and Public Goods.....	49
a. Positive Externalities	49
b. Free-Riding	49
c. Public Goods.....	50
G. Takings, Efficiency and Externalities	53
H. Some Additional Useful Concepts.....	55
1. Opportunity Cost	55
2. Discounting and Present Value	55
3. Risk Aversion	57

Chapter Three. Normative and Behavioral Complications in the Application of

Economics to Law.....	59
A. The Rational Maximizer of Self-Interest.....	60
1. Wealth and Endowment Effects	62
2. Ultimatum Games	64
B. Choices and Preferences	69
1. Public Goods and Free Riding.....	70
2. The Prisoner's Dilemma	71
3. The Possibility of Counter-Preferential Choice	72
4. False Consciousness	72
5. Framing Problems	73
C. Preferences, Values, and Lexical Ordering	74
D. Normative Questions in the Application of Law to Economics.....	78
E. What About Happiness?	80

Chapter Four. The Coase Theorem and Related Property Issues.....

83	83
A. The Coase Theorem	83
1. Allocative Implications.....	84

2. Assignment of Rights and Distributive Effects	87
3. Transaction Costs	89
4. Bargaining Problems	91
B. The Wealth Effect	94
C. Reactions to Transaction Costs.....	97
1. Duplicating Friction-Free Transactions.....	97
2. Asymmetrical Transaction Costs.....	103
D. Protecting Entitlements	104
E. Does the Coase Theorem Matter?	109

Chapter Five. The Economics of Enforcing

Promises.....	113
A. The Economics of Exchange	113
B. Why Does Contract Law Exist?.....	119
C. The Specific Economic Functions of Contract Law	123
D. The Economics of Contract Formation	124
1. Capacity.....	125
2. Duress.....	128
3. Offer and Acceptance and Other Formalities	132
4. The Consideration Requirement.....	134
a. Adequacy of Consideration	134
b. Nominal Consideration	136
c. Contract Modification.....	136
E. Contract Law and Distributive Goals.....	137
1. Exculpatory Provisions.....	139
2. Unconscionability	145
F. Contract Remedies.....	154
1. The Efficient Breach.....	154
2. Specific Performance	159

3. Liquidated Damages.....	162
4. The Lost Volume Seller	164
G. Breach and Excuses for Non-Performance	166
1. Breach.....	167
2. Excuses for Non-Performance.....	169
a. Unilateral Cases	170
b. Bilateral Cases.....	174
H. Gratuitous Promises	176
Chapter Six. Economics of Tort Law	183
A. The Costs of Accidents and the Economics of Tort Law	184
B. Liability, the Assignment of Rights and Externalities.....	186
C. The Negligence Standard	190
1. The Hand Formula	190
2. Distributive Consequences.....	191
D. Refining the Negligence Model: Contributory Negligence	192
1. The Conventional Doctrine	192
2. Reconciling Contributory Negligence and Efficiency	193
E. Refining the Negligence Standard: Comparative Negligence.....	196
1. Apportioned Comparative Negligence.....	197
2. Unapportioned Comparative Negligence ...	200
F. Assumption of the Risk.....	201
G. Strict Liability	202
1. Efficiency and Strict Liability.....	203
2. Risk-Aversion and Loss Spreading.....	207
3. Duty to Rescue	213
4. Defenses to Strict Liability	214
a. Unforeseeable Misuse	215

b. Unreasonable Assumption of Risk	216
c. Contributory and Comparative Negligence	217
H. Damages	218
1. What Is Compensatory?	218
2. Future Losses	219
3. Hedonic Losses	223
4. Punitive Damages	224
5. The Collateral Source Rule	227

Chapter Seven. The Economics of

Settlements	229
A. Why Do Some Cases Settle?	229
B. Why Don't All Cases Settle?	237
1. Asymmetrical Expectations	237
2. Bilateral Monopoly	239
3. Human Factors	240
4. Some Empirical Evidence	242
C. The Costs of Settlement	244

Chapter Eight. Economic Analysis of

Criminal Law	247
A. Why Have Criminal Law?	248
1. Creating an Incentive for Market Exchanges	250
2. Criminal Law and Externalities	254
a. Externalities Generally	255
b. Externalities and "Victimless Crimes"	258
3. Criminal Law and Behavior	262
B. Administering Criminal Sanctions	266
1. The Optimal Level of Criminal Conduct ...	266
a. The Basic Model	266

b. Limitations of the Model.....	269
2. Deterrence Options.....	272
C. Criminal Procedure.....	278

Chapter Nine. The Economics of

Antitrust.....	283
A. The Competitive Extremes of Perfect Competition and Monopoly	284
1. Demand and Supply	284
2. Market Equilibrium, Producer and Consumer Surplus	288
3. The Individual Firm Under Perfect Competition: The Marginal Cost = Marginal Revenue Rule.....	292
4. Cost Curves	294
5. Equilibrium and Perfect Competition	297
6. Monopoly	300
7. Perfect Competition and Monopoly Compared	302
8. Some Limits on the Comparison.....	305
B. Market Power and Market Definition	309
1. Market Power.....	309
2. The Lerner Index	310
3. The Determinants of Market Power.....	311
4. Market Definition and Cross-Elasticity	312
5. Geographic Markets	314
6. Supply Elasticity.....	315
7. A Classic and a Contemporary Example....	316
a. <i>United States v. Aluminum Company of America (Alcoa)</i>	317
b. <i>United States v. Microsoft</i>	319
C. Applying Antitrust Law.....	320
1. Agreements	320

2. Monopolization.....	322
3. Tying.....	323
4. Mergers.....	324

Chapter Ten. The Economics of Government Regulation.....	327
A. The Natural Monopoly Rationale.....	327
1. The Theory of Natural Monopoly.....	327
2. Agency Regulation	332
a. Revenue Requirement	332
b. Rate Regulation	334
c. Cross-Subsidization.....	339
3. Contestable Markets	342
B. Excessive Competition.....	344
C. The Allocation of Inherently Scarce Resources.....	347
D. Reactions to Transaction Costs and Externalities.....	350
1. Rationalizing an Industry	351
2. Increasing the Availability of Information	352
3. Direct Reactions to Externalities.....	357
E. Social Justice Regulations.....	364
F. Regulation and Happiness	367
Chapter Eleven. Intellectual Property.....	371
A. The Economic Rationale	372
B. Limiting Protection.....	377
C. Striking the Balance	379
1. The Doctrine of Equivalentents	379
2. Fair Use.....	381
3. Useful Articles	386

D. Duration	387
E. Remedies.....	390

Chapter Twelve. The Evolution of Law 395

A. The Evolutionary Process.....	395
B. A Closer Look at the Evolutionary Theory.....	399
C. Evaluation and Examples	403

Chapter Thirteen. Tax Policy and Taxes

on Intergenerational Transfers	411
A. The Inheritance Tax	413
B. The Good Tax	415
C. How Do Inheritance Taxes Measure up?.....	420
1. Cost of Administration	420
2. Avoidability	421
3. Neutrality.....	427
D. Inheritance in Context.....	428

**Chapter Fourteen. Marriage, Partnerships,
and Divorce 431**

A. The Economics of Marriage Generally	433
B. Why Join Together?	436
C. Law and the Partner Market	439
D. The Economics of the End of a Marriage.....	445

Chapter Fifteen. Public Choice..... 453

A. Why Have a Government?.....	454
B. Approaches to Government	458
1. Utilitarianism	459
2. Rawls' Theory of Justice.....	462
C. Why Vote at All?	464
D. Problems of Ascertaining Preferences Through Voting	465
1. Unanimity and Majority Voting	465

2. Arrow's Theorem and Possible Solutions ...	470
a. Logrolling	474
b. Single-Peaked Preferences.....	475
E. The Economic Theory of Legislation.....	476
1. What Do Legislators Want?	477
2. Interest Groups.....	479
3. The Market for Legislation	481
INDEX.....	485