

Contents

Preface x

1. An Introduction to Law and Economics	1
I. What Is the Economic Analysis of Law?	3
II. Some Examples	4
III. The Primacy of Efficiency Over Distribution in Analyzing Private Law	7
IV. Why Should Lawyers Study Economics? Why Should Economists Study Law?	9
V. The Plan of This Book	10
2. A Brief Review of Microeconomic Theory	11
I. Overview: The Structure of Microeconomic Theory	11
II. Some Fundamental Concepts: Maximization, Equilibrium, and Efficiency	12
III. Mathematical Tools	14
IV. The Theory of Consumer Choice and Demand	18
V. The Theory of Supply	26
VI. Market Equilibrium	28
VII. Game Theory	33
VIII. The Theory of Asset Pricing	37
IX. General Equilibrium and Welfare Economics	37
X. Decision Making Under Uncertainty: Risk and Insurance	43
XI. Profits and Growth	49
XII. Behavioral Economics	50
3. A Brief Introduction to Law and Legal Institutions	55
I. The Civil Law and the Common Law Traditions	56
II. The Institutions of the Federal and the State Court Systems in the United States	59
III. The Nature of a Legal Dispute	62
IV. How Legal Rules Evolve	64

4.	An Economic Theory of Property	70
I.	The Legal Concept of Property	73
II.	Bargaining Theory	74
III.	The Origins of the Institution of Property: A Thought Experiment	76
IV.	An Economic Theory of Property	81
V.	How are Property Rights Protected?	94
VI.	What Can be Privately Owned?—Public and Private Goods	102
VII.	What May Owners Do with Their Property?	105
VIII.	On Distribution	106
	Appendix: The Philosophical Concept of Property	109
5.	Topics in the Economics of Property Law	112
I.	What can be Privately Owned?	112
II.	How are Property Rights Established and Verified?	143
III.	What May Owners Do with Their Property?	156
IV.	What are the Remedies for the Violation of Property Rights?	166
6.	An Economic Theory of Tort Law	187
I.	Defining Tort Law	189
II.	An Economic Theory of Tort Liability	199
	Appendix: Liability and Symmetry	228
7.	Topics in the Economics of Tort Liability	230
I.	Extending the Economic Model	230
II.	Computing Damages	253
III.	An Empirical Assessment of the U.S. Tort Liability System	261
8.	An Economic Theory of Contract Law	276
I.	Bargain Theory: An Introduction to Contracts	277
II.	An Economic Theory of Contract Enforcement	283
III.	An Economic Theory of Contract Remedies	287
IV.	Economic Interpretation of Contracts	291
V.	Relational Contracts: The Economics of the Long-Run	299

9. Topics in the Economics of Contract Law	307
I. Remedies as Incentives	307
II. Formation Defenses and Performance Excuses	341
Appendix: Mathematical Appendix	373
10. An Economic Theory of the Legal Process	382
I. The Goal of the Legal Process: Minimizing Social Costs	384
II. Why Sue?	386
III. Exchange of Information	391
IV. Settlement Bargaining	399
V. Trial	403
VI. Appeals	410
11. Topics in the Economics of the Legal Process	419
I. Complaints, Lawyers, Nuisances, and Other Issues in the Legal Process	419
II. An Empirical Assessment of the Legal Process	442
12. An Economic Theory of Crime and Punishment	454
I. The Traditional Theory of Criminal Law	455
II. An Economic Theory of Crime and Punishment	460
13. Topics in the Economics of Crime and Punishment	485
I. Crime and Punishment in the United States	485
II. Does Punishment Deter Crime?	491
III. Efficient Punishment	501
IV. The Death Penalty	510
V. The Economics of Addictive Drugs and Crime	518
VI. The Economics of Handgun Control	522
VII. Explaining the Decline in Crime in the United States	526
Case Index	533
Name Index	535
Subject Index	539