# CONTENTS

## VOLUME I  CHICAGO LAW AND ECONOMICS

*Acknowledgments*  
xiii  
*Chronological table*  
xv  
*Foreword*  
xxiii  

**Introduction**  
1  

1 *Extract from* Chicago economics: permanence and change  
   **MELVIN W. REDER**  
   7  

2 Law and economics at Chicago  
   **R.H. COASE**  
   21  

3 The problem of social cost  
   **R.H. COASE**  
   35  

4 Some thoughts on risk distribution and the law of torts  
   **GUIDO CALABRESI**  
   79  

5 Legal fiction: the place of the Coase theorem in law and economics  
   **STEVEN G. MEDEMA**  
   135  

6 Wealth maximization in normative law and economics: a social choice analysis  
   **CHARLES K. ROWLEY**  
   159  

7 Micro and macro legal efficiency: supply and demand  
   **PAUL H. RUBIN**  
   183
CONTENTS

8 What happened to property in law and economics? 197
THOMAS W. MERRILL AND HENRY E. SMITH

9 Economic analysis of contract law after three decades: success or failure? 237
ERIC A. POSNER

10 Law and neoclassical economics: science, politics, and the reconfiguration of American tort law theory 285
JAMES R. HACKNEY, JR

11 Antitrust policy: a century of economic and legal thinking 331
WILLIAM E. KOVACIC AND CARL SHAPIRO

12 Talking 'bout my antitrust generation 349
FRED S. McCHESNEY

13 The economic theory of public enforcement of law 365
A. MITCHELL POLINSKY AND STEVEN SHAVELL

14 The outrageous pragmatism of Judge Richard Posner 405
JAMES RYERSON

VOLUME II PUBLIC CHOICE

Acknowledgments vii

Introduction 1

15 Creating the “Virginia School”: Charlottesville as an academic environment in the 1960s 7
WILLIAM BREIT

16 James M. Buchanan and the rebirth of political economy 19
PETER J. BOETTKE

17 Political economy: 1957–82 39
JAMES M. BUCHANAN

18 The public choice perspective 49
JAMES M. BUCHANAN
CONTENTS

19 The domain of constitutional economics  
JAMES M. BUCHANAN  
57

20 The welfare costs of tariffs, monopolies, and theft  
GORDON TULLOCK  
72

21 The political economy of the rent-seeking society  
ANNE O. KRUEGER  
81

22 Is the theory of rent-seeking here to stay?  
ROBERT D. TOLLISON  
98

23 Rent-seeking and the law  
GORDON TULLOCK  
112

24 Interest groups and the political process  
DANIEL A. FARBER AND PHILIP P. FRICKEY  
122

25 Are bureaucrats budget maximizers? The Niskanen model and its critics  
ANDRÉ BLAIS AND STÉPHANE DION  
147

26 Bureaucrats as public policy-makers and their self-interests  
MORTEN EGEBERG  
164

27 Restoring positive law and economics: introduction to public choice theme issue  
MAXWELL L. STEARNS  
175

28 Opting out of regulation: a public choice analysis of contractual choice of law  
ERIN ANN O’HARA  
209

29 Extract from Federalism and environmental regulation: a public choice analysis  
RICHARD L. REVESZ  
257

30 Public choice and tort reform  
PAUL H. RUBIN  
280
CONTENTS

31 Ways of criticizing public choice: the uses of empiricism and theory in legal scholarship 294
TOM GINSBURG

32 Should law professors teach public choice theory? 322
GUIDO PINICIONE

33 Public choice and the future of public-choice-influenced legal scholarship 338
BOOK REVIEW ESSAY BY DAVID A. SKEEL, JR.

VOLUME III INSTITUTIONAL LAW AND ECONOMICS AND NEW INSTITUTIONAL ECONOMICS

Acknowledgments ix

Introduction 1

PART I Institutional law and economics 9

34 Institutional economics 11
JOHN R. COMMONS

35 Institutional economics: then and now 21
MALCOLM RUTHERFORD

36 Law and economics 44
JOHN R. COMMONS

37 Law and economics: an institutional perspective 55
WARREN J. SAMUELS AND A. ALLAN SCHMID

38 A general paradigm of institutions and performance 60
A. ALLAN SCHMID

39 Property in a social context 82
A. ALLAN SCHMID

40 The legal-economic nexus 94
WARREN J. SAMUELS
CONTENTS

41 Property rights: Locke, Kant, Peirce and the logic of volitional pragmatism 116
DANIEL W. BROMLEY

42 Environmental resources, property regimes, and efficiency 128
ARILD VATN

43 What are institutions? 148
GEOFFREY M. HODGSON

PART 2
New institutional economics 175

44 The new institutional economics: taking stock, looking ahead 177
OLIVER E. WILLIAMSON

45 The new institutional economics: its start, its meaning, its prospects 200
RUDOLF RICHTER

46 Transaction costs, institutions, and economic history 234
DOUGLASS C. NORTH

47 An introduction to institutions and institutional change 244
DOUGLASS C. NORTH

48 Institutions, economic theory, and economic performance 251
DOUGLASS C. NORTH

49 Introduction: the property rights model 262
YORAM BARZEL

50 The economic role of political institutions: market-preserving federalism and economic development 273
BARRY R. WEINGAST

51 Transaction cost economics and organization theory 306
OLIVER E. WILLIAMSON

52 The economics of hybrid organizations 355
CLAUDE MÉNARD

ix
<table>
<thead>
<tr>
<th>53</th>
<th>The new institutional economics meets law and economics</th>
<th>388</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>RICHARD A. POSNER</td>
<td></td>
</tr>
</tbody>
</table>

**VOLUME IV  SOCIAL NORMS AND LAW AND ECONOMICS**

*Acknowledgments* vii

*Introduction* 1

<table>
<thead>
<tr>
<th>54</th>
<th>Law and economics discovers social norms</th>
<th>7</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ROBERT C. ELLICKSON</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>55</th>
<th>Habit, custom, and norms in economics</th>
<th>21</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>KENNETH J. KOFORD AND JEFFREY B. MILLER</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>56</th>
<th>Social norms and the law: an economic approach</th>
<th>37</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>RICHARD A. POSNER</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>57</th>
<th>Extracts from The origin, development, and regulation of norms</th>
<th>43</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>RICHARD H. McADAMS</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>58</th>
<th>Do good laws make good citizens? An economic analysis of internalized norms</th>
<th>118</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ROBERT COOTER</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>59</th>
<th>Social meaning and social norms</th>
<th>138</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LAWRENCE LESSIG</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>60</th>
<th>Extracts from Social norms and social roles</th>
<th>145</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>CASS R. SUNSTEIN</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>61</th>
<th>Symbols, signals, and social norms in politics and the law</th>
<th>194</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ERIC A. POSNER</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>62</th>
<th>Extracts from Understanding norms</th>
<th>225</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LAWRENCE E. MITCHELL</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>63</th>
<th>The social police</th>
<th>280</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>JEFFREY ROSEN</td>
<td></td>
</tr>
</tbody>
</table>
CONTENTS

64 The new Chicago school
   LAWRENCE LESSIG 290

65 Opting out of the legal system: extralegal contractual relations in the diamond industry
   LISA BERNSTEIN 319

66 Extract from The Tuna Court: law and norms in the world's premier fish market
   ERIC A. FELDMAN 358

VOLUME V   NEW HAVEN SCHOOL OF LAW AND ECONOMICS
MODERN CIVIC REPUBLICANISM
AUSTRIAN LAW AND ECONOMICS

Acknowledgments vii

Introduction 1

PART I
New Haven School of Law and Economics 13

67 Property rules, liability rules, and inalienability: one view of the cathedral
   GUIDO CALABRESI AND A. DOUGLAS MELAMED 15

68 The renaissance of accident law plans
   GUIDO CALABRESI 50

69 Goals and subgoals of accident law
   GUIDO CALABRESI 60

70 Progressive law and economics: and the new administrative law
   SUSAN ROSE-ACKERMAN 67

71 Reforming environmental law: the democratic case for market incentives
   BRUCE A. ACKERMAN AND RICHARD B. STEWART 96
<table>
<thead>
<tr>
<th>Page</th>
<th>Title</th>
<th>Author(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>72</td>
<td>Opting for the British rule, or if Posner and Shavell can't remember the Coase theorem, who will?</td>
<td>John J. Donohue III</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>149</td>
<td>Modern civic republicism</td>
<td></td>
</tr>
<tr>
<td>73</td>
<td>Law's republic</td>
<td>Frank Michelman</td>
</tr>
<tr>
<td>199</td>
<td>Beyond the republican revival</td>
<td>Cass R. Sunstein</td>
</tr>
<tr>
<td>253</td>
<td>A civic republican perspective on the National Environmental Policy Act's process for citizen participation</td>
<td>Jonathan Poisner</td>
</tr>
<tr>
<td>297</td>
<td>Austrian law and economics</td>
<td></td>
</tr>
<tr>
<td>76</td>
<td>Welfare economics and externalities in an open-ended universe: a modern Austrian perspective</td>
<td>Roy E. Cordato</td>
</tr>
<tr>
<td>312</td>
<td>The genealogy of the Austrian position</td>
<td>Roy E. Cordato</td>
</tr>
<tr>
<td>78</td>
<td>Extracts from Exploring the complicationist gambit: an Austrian approach to the economic analysis of law</td>
<td>Gregory Scott Crespi</td>
</tr>
<tr>
<td>384</td>
<td>An Austrian economic view of legal process</td>
<td>Linda A. Schwartzstein</td>
</tr>
<tr>
<td>80</td>
<td>The impact of the Austrian school on law and economics</td>
<td>Rob Teijl and Rudi W. Holzhauer</td>
</tr>
</tbody>
</table>

Index 429