

Economics 522: Economics of Law
Fall 2010
Dan Quint

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Class website: <http://www.ssc.wisc.edu/~dquint/econ522>
(Lecture notes, homeworks, etc. will be posted here)

Lectures: Mondays and Wednesdays, 2:30-3:45 p.m., Education L196

Final Exam: Monday, December 20, 12:25-2:25 p.m., location TBA

Grades: Grades will be based on occasional problem sets (20%); two in-class midterms tentatively scheduled for October 13 and November 10 (20% each); and a final exam on December 20 (40%).

Readings: The “required” (whatever that means) textbook is [Law and Economics \(Fifth Edition\)](#), by Robert Cooter and Thomas Ulen (Addison Wesley 2007), available at the bookstore. Additional material is online at <http://www.cooter-ulen.com>. I don’t mind if you use an older version of the textbook, although the references in the book to the online material won’t match up. Copies of the textbook will also be on reserve at Memorial Library and the Social Science Library (8th floor of Social Sciences).

The bit of game theory I’ll use should be covered in whatever textbook you used for Econ 301 – I’ve listed the chapters in [Intermediate Microeconomics: A Modern Approach](#) by Hal Varian (W. W. Norton 2005).

The papers listed on the outline below are all available online. I’ve placed stars next to those that I feel are most important. Most are listed with links through JSTOR, which requires a subscription and therefore may only work from on-campus computers. The rest will be placed on electronic reserve through the UW library system; starting on the first day of class, you should be able to access them at <https://www.library.wisc.edu/course-pages/viewer/show/3656> or through your own My UW page. (Please let me know if you have any problem accessing any of the supplemental readings.)

Another excellent book on law and economics is [Law’s Order](#), by David Friedman (Princeton University Press 2001). I will refer to this book several times in lecture; you can think of it as an optional text for the course. It’s much less comprehensive than the textbook, but covers the intuition of what’s going on very well. (It’s also quite funny in places.) It’s a \$24 paperback on Amazon, and

available for free online as an e-book at
http://www.daviddfriedman.com/laws_order/index.shtml

Other Sources: Other good books on law and economics include [An Introduction to Law and Economics](#), by Mitchell Polinsky (Aspen 2003), and [Game Theory and the Law](#), by Douglas Baird, Robert Gertner, and Randal Picker (Harvard University Press 1998).

Throughout this course, we'll be assuming that peoples' behavior responds to the law. An interesting counterpoint is the view that it is often not the formal law, but informal social norms, which actually govern peoples' behavior. We won't get into this, but if you're interested, check out [Order without Law: How Neighbors Settle Disputes](#), by Robert Ellickson (Harvard University Press 2005); and for an example of such norms in action, see Daniel Nazer (2004), "The Tragicomedy of the Surfers' Commons," *Deakin Law Review* 29 ([link](#)).

At the end of the semester, we'll discuss behavioral economics and its interaction with the law. The paper listed on the syllabus (by Jolls, Sunstein and Thaler) is a good starting point; if you want more, check out [Behavioral Law and Economics](#), edited by Cass Sunstein (Cambridge University Press 2000).

Policy on joint work: **I encourage you to work together on homeworks. However, I ask that each person write up his or her own answers separately.** That is, you should feel free to discuss the questions and answers and come to a consensus on what you feel the right answers are; but then each person should go back and write up those answers individually, rather than passing around one set of answers for everyone to copy. Also, if you do work with other people, please list who you worked with on the first page of the homework.

Course Overview and Readings

(stars indicate most important readings)

INTRODUCTORY MATERIAL (2 lectures)

Course overview, a bit of history (the Common and Civil Law traditions)

* Cooter and Ulen ch 3

Robert Ellickson (1989), "A Hypothesis of Wealth-Maximizing Norms: Evidence from the Whaling Industry," *Journal of Law, Economics and Organization* 83 ([link](#))

Efficiency, should the law be efficient?, introduction to theory of static games

* Cooter and Ulen ch 1, ch 2

* Richard Posner (1980), "The Ethical and Political Basis of Efficiency Norm in Common Law Adjudication," *Hofstra Law Review* 8 ([link to online reserve](#))

Peter Hammond (1982), "Review: The Economics of Justice and the Criterion of Wealth Maximization," *Yale Law Journal* 7 ([link](#))

Varian ch 28.1 – 28.4

ECONOMICS OF PROPERTY LAW (6 lectures)

- * Cooter and Ulen ch 4 (theory) and ch 5 (applications)
- * Ronald H. Coase (1960), “The Problem of Social Cost,” Journal of Law and Economics 3 ([link](#))
Garrett Hardin (1968), “The Tragedy of the Commons,” Science 162 ([link](#))
- * Harold Demsetz (1967), “Toward a Theory of Property Rights,” American Economic Review 57 ([link](#))
- * Guido Calabresi and A. Douglas Melamed (1972), “Property Rules, Liability Rules, and Inalienability: One View of the Cathedral,” Harvard Law Review 85 ([link](#))
Lawrence Blume and Daniel Rubinfeld (1984), “Compensation for Takings: An Economic Analysis,” California Law Review 72 ([link to online reserve](#))
Some fun property law-related articles: the [amputated leg](#), [squatter’s rights](#), [unbundling](#)

ECONOMICS OF CONTRACT LAW (6 lectures)

- * Cooter and Ulen ch 6 (theory) and 7 (applications)
- * Ian Ayres and Robert Gertner (1989), “Filling Gaps in Incomplete Contracts: An Economic Theory of Default Rules,” Yale Law Journal 99 ([link](#))
Hadley v Baxendale decision ([link](#))
A fun contract-related article: [British company buying up souls](#)

ECONOMICS OF TORT LAW (5 lectures)

- * Cooter and Ulen ch 8 (theory) and 9 (applications)
- * Steven Shavell (1980), “Strict Liability versus Negligence,” Journal of Legal Studies 9 ([link](#))
Gary Schwartz (1994), “Reality in the Economic Analysis of Tort Law: Does Tort Law Really Deter?” UCLA Law Review 42 ([link to online reserve](#))
W. Kip Viscusi (1993), “The Value of Risks to Life and Health,” Journal of Economic Literature 31 ([link](#))

THE LEGAL PROCESS AND CRIMINAL LAW (3 lectures)

The Legal Process

- * Cooter and Ulen ch 10
Kathryn Spier (1994), “Pretrial Bargaining and the Design of Fee-Shifting Rules,” RAND Journal of Economics 25 ([link](#))

Economics of Criminal Law

- * Cooter and Ulen ch 11 and 12
- * David Friedman (2000), “Law’s Order,” Princeton University Press – chapter 15 ([link to online ebook](#))
- * Gary Becker (1968), “Crime and Punishment: An Economic Approach,” Journal of Political Economy 76 ([link](#))

Isaac Ehrlich (1996), "Crime, Punishment, and the Market for Offenses," *Journal of Economic Perspectives* 10 ([link](#))
Richard Craswell and John Calfee (1986), "Deterrence and Uncertain Legal Standards," *Journal of Law, Economics and Organisation* 2 ([link](#))
John Knowles, Nicola Persico and Petra Todd (2001), "Racial Bias in Motor Vehicle Searches: Theory and Evidence," *Journal of Political Economy* 109 ([link](#))
Ethan Cohen-Cole, Steven Durlauf, Jeffrey Fagan, and Daniel Nagin (2009), "Model Uncertainty and the Deterrent Effect of Capital Punishment," *American Law and Economics Review* 11 ([link](#))
Two examples of efficient punishment leading to an incentive for abuse: [traffic cameras](#) and [more traffic cameras](#)

CONCLUDING MATERIAL (2 lectures)

Some Interesting Digressions

Peter Leeson, "Ordeals" (unpublished) ([link](#))
Christine Jolls, Cass Sunstein, and Richard Thaler (1998), "A Behavioral Approach to Law and Economics," *Stanford Law Review* 50 ([link](#))
Tim Wu, "American Lawbreaking," *Slate* 10/14/2007 ([link](#))

Efficiency of the Legal System, Revisited

Robert Ellickson (1989), "A Hypothesis of Wealth-Maximizing Norms: Evidence from the Whaling Industry," *Journal of Law, Economics and Organization* 83 ([link](#))
* Gillian Hadfield (1992), "Bias in the Evolution of Legal Rules," *Georgetown Law Journal* 80 ([link to online reserve](#))

and some boilerplate from the Economics Department:

Grievance Procedure

The Department of Economics has developed a grievance procedure through which you may register comments or complaints about a course, an instructor, or a teaching assistant. Before utilizing the formal steps of this procedure, we ask that you utilize two other means of addressing your comments: our regular course evaluations, anonymous and confidential commentaries solicited at the end of each semester in every Economics class, and also by direct communication with the instructor or teaching assistant involved. The formal grievance procedure is designed for situations where neither of these channels is appropriate and where one or both of these have been tried.

If you wish to file a grievance, you should go to Room 7238 Social Science and request a Course Comment Sheet. When completing the comment sheet, you will need to provide a detailed statement that describes what aspects of the course you find unsatisfactory. You will need to sign the sheet and provide your student identification number, your addresses, and a phone where you can be reached. The Department will investigate comments fully and respond in writing to complaints.

Your name, address, phone number, and student ID number will not be revealed to the instructor or teaching assistant involved and will be treated as confidential. The Department needs this information because it may become necessary for a commenting student to have a meeting with the department chair or a nominee to gather additional information. Your street and e-mail addresses are necessary for providing a written response.

Misconduct Statement

Academic integrity is critical to maintaining fair and knowledge based learning at UW Madison. Academic dishonesty is a serious violation; it undermines the bonds of trust and honesty between members of our academic community, degrades the value of your degree and defrauds those who may eventually depend upon your knowledge and integrity. Examples of academic misconduct include but are not limited to: cheating on an examination (copying from another student's paper, referring to materials on the exam other than those explicitly permitted, continuing to work on an exam after the time has expired, turning in an exam for re-grading after making changes to the exam), copying the homework of someone else, submitting for credit work done by someone else, stealing examinations or course materials, tampering with the grade records or with another student's work, or knowingly and intentionally assisting another student in any of the above.

The Dept. of Economics will deal with these offenses harshly following UWS14 procedures (<http://students.wisc.edu/saja/misconduct/UWS14.html>):

1. The penalty for misconduct in most cases will be removal from the course and a failing grade.
2. The department will inform the Dean of Students as required and additional sanctions may be applied.
3. The department will keep an internal record of misconduct incidents. This information will be made available to teaching faculty writing recommendation letters and to admission offices of the School of Business and Engineering.

If you think you see incidents of misconduct, you should tell your instructor about them, in which case they will take appropriate action and protect your identity. You could also choose to contact our administrator (Mary Beth Ellis: mellis@ssc.wisc.edu) and your identity will be kept confidential.