

Posner R A. *Economic analysis of law*. Boston: Little, Brown, 1972. 415 p.  
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Economics can be used to illuminate the entire range of legal fields, including the common-law fields such as contracts, torts, property, procedure, and criminal law and statutory and constitutional fields such as antitrust, corporations, taxation, welfare law, freedom of speech, and state taxation of interstate commerce. Common-law fields in particular often turn out to be best explained on the hypothesis that judges, in fashioning rules of law, are attempting to maximize social wealth. [The *Social Sciences Citation Index*® (SSCI)® indicates that this book has been cited in over 1,095 publications since 1972.]

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When I began teaching law in 1968, the use of economics in legal scholarship was heavily centered in antitrust law and public regulation of utilities and common carriers, with occasional applications to corporation law, taxation, and accident law. By 1972, when the first edition of *Economic Analysis of Law* was copyrighted (actual book publication was not until 1973), research in other areas had proceeded to the point where it was possible to conceive of the application of economics across the whole range of legal fields. My book was the first effort to do this (Gordon Tullock, however, in *The Logic of the Law*,<sup>1</sup> had applied economics to a few

fields of law, but the scope of his book was much more limited than the scope of mine). In addition, my book advanced the then-novel thesis that the common law, which is to say the fields that had been created largely by judges rather than by the framers of statutes or constitutions, was best explained as if the judges were trying to maximize wealth in the economist's sense. I stress the "as if" character of the hypothesis. Of course, judges rarely speak in the vocabulary of economics or conceive their function as one of wealth maximization, but the argument of my book is that a model of judicial behavior in which they are assumed to do just that provides the best "fit" with the actual pattern of the common law, historically and today.

This thesis has provided a focus of controversy, as well as a stimulus to economic research on the law, which no doubt explains the number of times it has been cited. I think also that people are struck (not always favorably) by the idea of trying to survey almost the whole of our legal system, albeit from a narrow perspective, within the covers of a single book. Finally, partly reflecting my own limitations as a self-taught rather than formally trained economist, the book presents economics in a simple and concrete form accessible to lawyers.

I published a second edition of the book (same title) in 1977.<sup>2</sup> This version was significantly enlarged. In March 1986 I will be publishing the third edition,<sup>3</sup> again significantly enlarged, this time reflecting some of the new issues of law that have come before me as a federal appellate judge, as well as the large volume of scholarly research on the economics of law that has appeared since 1977. The third edition, like the first and second, maintains a dual focus: the book is both textbook and treatise. The textbook format enables me to raise a lot of questions without having to commit myself to the answers, not all of which I am sure of!

1. Tullock G. *The logic of the law*. New York: Basic Books, 1971. 278 p.
2. Posner R A. *Economic analysis of law*. Boston: Little, Brown, 1977. 572 p.
3. -----, *Economic analysis of law*. Boston: Little, Brown. To be published, 1986.