

# Chicago-Kent Law Review

---

Volume 65

Issue 1 *Symposium on Post-Chicago Law and Economics*

Article 1

---

April 1989

## Table of Contents - Issue 1

Chicago-Kent Law Review

Follow this and additional works at: <https://scholarship.kentlaw.iit.edu/cklawreview>



Part of the [Law Commons](#)

---

### Recommended Citation

Chicago-Kent Law Review, *Table of Contents - Issue 1*, 65 Chi.-Kent L. Rev. i (1989).

Available at: <https://scholarship.kentlaw.iit.edu/cklawreview/vol65/iss1/1>

This Front Matter is brought to you for free and open access by Scholarly Commons @ IIT Chicago-Kent College of Law. It has been accepted for inclusion in Chicago-Kent Law Review by an authorized editor of Scholarly Commons @ IIT Chicago-Kent College of Law. For more information, please contact [dginsberg@kentlaw.iit.edu](mailto:dginsberg@kentlaw.iit.edu).

# CHICAGO-KENT LAW REVIEW

---

---

VOLUME 65

1989

NUMBER 1

---

---

## CONTENTS

### SYMPOSIUM ON POST-CHICAGO LAW AND ECONOMICS

RANDY E. BARNETT  
JULES L. COLEMAN  
SYMPOSIUM EDITORS

#### FOREWORD: POST-CHICAGO LAW AND ECONOMICS

*Randy E. Barnett* 3

In his Foreword, Professor Barnett explains what is meant by the term, "Post-Chicago Law and Economics," and discusses how each of the contributions to this Symposium reflects this approach.

#### BRINGING CULTURE AND HUMAN FRAILTY TO RATIONAL ACTORS: A CRITIQUE OF CLASSICAL LAW AND ECONOMICS

*Robert C. Ellickson* 23

Professor Ellickson marshalls evidence that law-and-economics is no longer growing as a scholarly or curricular force within law schools. He argues that practitioners of law-and-economics should look to psychology and sociology to enrich their rational-actor model of human behavior.

#### THE FUTURE OF LAW AND ECONOMICS: A COMMENT ON ELLICKSON

*Richard A. Posner* 57

Judge Posner, commenting on Professor Ellickson's proposal that economically minded lawyers pay more attention to psychology and sociology, warns that the proposal may lead to overcomplicated models and urges instead that these lawyers make a greater effort to conduct empirical research on hypotheses drawn from simpler economic models.

#### AN ECONOMIC PERSPECTIVE ON STARE DECISIS

*Lewis A. Kornhauser* 63

Stare decisis requires a court to adhere to a decision it believes to be wrong. Such a practice on its face seems difficult to justify. An economic perspective on stare decisis seeks to justify the practice through identification of the decision problem to which stare decisis is the optimal solution. Examination of traditional justifications suggests various difficulties in formulating the appropriate decision problem.

#### THE INTERNAL AND EXTERNAL COSTS AND BENEFITS OF STARE DECISIS

*Jonathan R. Macey* 93

Professor Macey identifies four economic attributes to a system of stare decisis and argues that all of these attributes indicate that the weak form of stare decisis that is a

dominant mode of interpretation for U.S. judges is efficient, at least for legal systems that resemble ours. In addition to offering public interest justifications for stare decisis, Professor Macey offers a public choice account of a weak form of stare decisis.

RESPONSE TO MACEY *Lewis A. Kornhauser* 115

THE ECONOMICS OF POLITICS AND THE  
UNDERSTANDING OF PUBLIC LAW *Jerry L. Mashaw* 123

Is the application of public choice theory to public law either immoral or implausible? Although it already is fashionable to choose up sides on these questions, Professor Mashaw argues that neither question can now be answered.

DEMOCRACY AND DISGUST: REFLECTIONS ON  
PUBLIC CHOICE *Daniel A. Farber* 161

Professor Farber suggests that Mashaw's astute review of the literature is properly skeptical of the economic theory of legislation. Farber also discusses the implications of Arrow's Theorem for democratic legitimacy.

AFTERWORD: THE RATIONAL CHOICE  
APPROACH TO LEGAL RULES *Jules L. Coleman* 177

This article claims that traditional economic analysis should be replaced by a form of rational choice theory in which legal rules are viewed as schemes of rational cooperation for mutual advantage. If this suggestion is pursued, it will mean a greater focus on the distributive dimension of legal rules and on the contexts in which particular forms of cooperation are thought to be most suitable.

## SURVEY

CHICAGO-KENT LAW REVIEW  
FACULTY SCHOLARSHIP SURVEY *The Executive Board* 195

This survey ranks the leading law reviews based on frequency of citation as well as the productivity of law school faculties in those leading reviews.

## NOTES

THE GRAY MARKET AND THE CUSTOMS  
REGULATION—IS THE CONTROVERSY REALLY OVER  
AFTER *K MART CORP. v. CARTIER, INC.*? *Donna M. Lach* 221

*TURNER'S* ACCEPTANCE OF LIMITED  
VOIR DIRE RENDERS *BATSON'S* EQUAL  
PROTECTION A HOLLOW PROMISE *Barat S. McClain* 273

NEW TECHNOLOGY AND THE LIMITATIONS OF  
COPYRIGHT LAW: AN ARGUMENT FOR FINDING  
ALTERNATIVES TO COPYRIGHT LEGISLATION IN AN  
ERA OF RAPID TECHNOLOGICAL CHANGE *Mary L. Mills* 307