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ECONOMIC FOUNDATIONS OF LAW AND ORGANIZATION

This book serves as a compact introduction to the economic analysis of law and organization. At the same time, it covers a broad spectrum of issues. It is aimed at undergraduate economic majors who are interested in law and organization, law students who want to know the economic basis for the law, and students in business and public policy schools who want to understand the economic approach to law and organization. The book covers such diverse topics as bankruptcy rules, corporate law, sports rules, the organization of Congress, federalism, intellectual property, crime, accident law, and insurance. Unlike other texts on the economic analysis of law, this text is not organized by legal categories such as property, torts, contracts, and so on, but by economic theory. The purpose of the book is to develop economic intuition and theory to a sufficient degree so that one can apply the ideas to a variety of areas in law and organization.

Donald Wittman is Professor of Economics at the University of California, Santa Cruz. He previously taught at the University of Chicago. Professor Wittman's book *The Myth of Democratic Failure* (1995) won the American Political Science Association award for the best book in political economy in the years 1994–1996. He is coeditor of the forthcoming *Oxford Handbook of Political Economy*. Professor Wittman's research has appeared in such journals as the *American Economic Review*, *Journal of Political Economy*, *American Political Science Review*, *Journal of Economic Theory*, *Journal of Legal Studies*, *Journal of Law and Economics*, and *Journal of Public Economics*. His research has been supported by various National Science Foundation programs.

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CAMBRIDGE UNIVERSITY PRESS
Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore, São Paulo

Cambridge University Press
32 Avenue of the Americas, New York, NY 10013-2473, USA
www.cambridge.org
Information on this title: www.cambridge.org/9780521859172

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First published 2006

Printed in the United States of America

A catalog record for this publication is available from the British Library.

Library of Congress Cataloging in Publication Data

Wittman, Donald A.
Economic foundations of law and organization / Donald Wittman.
p. cm.
Includes bibliographical references and index.
ISBN 0-521-85917-4 (hardcover) – ISBN 0-521-68524-9 (pbk.)
1. Law and economics. I. Title.
HB73.W58 2006
343'.07 – dc22 2006009907

ISBN-13 978-0-521-85917-2 hardback

ISBN-10 0-521-85917-4 hardback

ISBN-13 978-0-521-68524-5 paperback

ISBN-10 0-521-68524-9 paperback

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For Martha

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Preface

Economic Foundations of Law and Organization, as the name suggests, provides an economic explanation for law and organization and thus is appropriate for any course dealing with these topics. It is meant as an introductory text, but the book contains many ideas that are new and of interest even to those who are experts in the field. Unlike other texts on the economic analysis of law, this text is not organized by legal categories (property, torts, contracts, etc.) but by economic theory. The purpose of the book is to develop economic intuition and theory to a sufficient degree so that one can apply the ideas to a variety of areas in law and organization. Just as when learning supply and demand one applies these curves to the market for oranges, beef, illegal drugs, and marriage, rather than studying each of these markets in particular, the ideas learned here cut across the standard legal categories. As a consequence, this book does not give a complete picture of the law in any one area; indeed, it does not cover everything that economists have said about any particular topic in the law. However, it does provide a strong and cohesive explication of various economic ideas in the context of interesting legal topics. As a result, this book could be called *Microeconomics Made Interesting* and be used as a complement to standard texts in intermediate microeconomic theory.

The pedagogical intent is to focus most chapters on a particular theoretical approach so that the reader truly understands the underlying logic. The book employs both formal logic and intuition so that the reader will find the argument compelling. I want the reader to walk away with a clear understanding of the material, not just a vague idea regarding the results. For example, I want the reader to have more than a vague idea that negligence rules are good. I want readers to be able to demonstrate on their own that the equilibrium outcome under a negligence rule is efficient. This is the key to how I have written much of the book. For each chapter, the reader should be able to reproduce the underlying logic of the chapter and apply it elsewhere. I do this by focusing on a particular model of the world rather than bringing in lots of ideas at once. I make the chapters short and to the point. When chapters are too long, students tend to read the material quickly as if they are reading a novel rather than read carefully so that they can reproduce the logic. When chapters cover too many ideas or too many alternative models, students either conflate the models or just get a sense of the results rather than a deeper understanding. Instead, I concentrate on the economic model that yields the most insight into the legal issue.

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x **PREFACE**

Speaking of students, I would like to thank all of my students who suffered through earlier versions of this book. It was their questions in class and mistakes on exams that led me to simplify and clarify. I would also like to thank Judy Walsh who, as a teaching assistant, gave me invaluable advice about writing when I first started on this adventure.

Finally, if you want to discuss any issues raised in this book, I am at wittman@ucsc.edu.