ECONOMIC PRINCIPLES OF LAW

Economic Principles of Law applies economics to the doctrines, rules and remedies of the common law. In plain English and using non-technical analysis, it offers an introduction and exposition of the 'economic approach' to law – one of the most exciting and vibrant fields of legal scholarship and applied economics. Beginning with a brief history of the field, it sets out the basic economic concepts useful to lawyers and applies these to assess the core areas of the common law – property, contract, tort and crime – with particular emphasis on their doctrinal structure and remedies. This is done using leading cases drawn from the birthplace of the common law (England and Wales) and other common law jurisdictions. The book serves as a primer to the wider use of economics which has become increasingly important for law students, lawyers, legislators, regulators and those concerned with our legal system generally.

Cento Veljanovski is Managing Partner of Case Associates; IEA Fellow in Law and Economics; Associate Research Fellow, Institute of Advanced Legal Studies, University of London; Visiting Fellow, Law and Economics Centre, Australian National University; and Affiliate, Interdisciplinary Centre for Competition Law and Policy, Queen Mary College, University of London. Dr Veljanovski was the first economist appointed to a lectureship in a law department at a British university and has written many books and articles on industrial economics, economic reform, and law and economics. He also serves on the editorial boards of several journals, including the UK Competition Law Reports and the Journal of Network Industries.
The mission of the Institute of Economic Affairs is to improve understanding of the fundamental institutions of a free society by analysing and expounding the role of markets in solving economic and social problems. It pursues its mission through publications of monographs, books and a journal, Economic Affairs; and through seminars and conferences. Much of the IEA's output is available free of charge on www.iea.org.uk.
To Annabel, Liddy and Tom
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Preface

The economics of law is an exciting enterprise and a permanent feature of legal scholarship and economics. But it has made limited inroads in Europe especially if one removes the areas of economic regulation and competition law. One of the reasons for this is the unavailability of texts that cover the subject in a non-technical way and without a focus on North American law. *Economic Principles of Law* has been written to redress this imbalance, and to show that the economics of law has equal applicability to the more than fifty common law jurisdictions outside North America, in this case that of England and Wales.

This book is an introduction to the economics of law for the law student and non-economist. It is neither a legal nor economics text. It is a sampler of the way that economics has been used to examine law generally, and in particular the core areas of the common law – property, contract, tort and crime. The economics used rarely goes beyond the first several chapters of an undergraduate economics text covering basic supply and demand analysis. The discussion is deliberately non-technical except for the odd lapses into diagrams (reflecting the author’s professional self-indulgence) which are relegated to boxes separated from the main text which may be skipped without destroying the discussion or sowing seeds of doubt in the readers’ mind. At the suggestion of one reviewer I have added an economics glossary to assist the lawyer further in dealing with any jargon.

The decision to write this book was sparked by a casual comment by Richard Epstein of the University of Chicago during a visit to London several years ago. The decision did not fully take into account the effort required to read and digest the mountain of literature on the subject, nor the effort required. As Winston Churchill remarked ‘writing a book is an adventure. To begin with it is a toy and an amusement. Then it becomes a mistress, then it becomes a master, then it becomes a tyrant. The last phase is that just as you are about to be reconciled to your
servitude, you kill the monster and fling him to the public.’ I couldn’t agree more.

Early drafts of various chapters benefited from the valuable and critical comments of Hugh Beale, Peter Cane, Stephen Copp, Roger Halson, Gary Sturgess, three anonymous referees selected by the Institute of Economic Affairs, and four by Cambridge University Press. My thanks to all of them. I also received encouragement from Philip Booth, the Editorial Director of the Institute of Economic Affairs and Chris Harrison, Commissioning Editor for Cambridge University Press. Last but by no means not least my warm appreciation goes to Rebecca Sarker and Annabel Veljanovski for their editorial assistance.

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