

Law and Economics
August 2003

1. What do you understand by the rational choice approach in law and economics?
 - a. What are the principle strengths of the rational choice approach as compared with legal formalism?
 - b. What are the principal weaknesses of the rational choice approach as compared with legal formalism?
 - c. Outline and critically evaluate two empirical studies based on the rational choice approach to legal analysis.

2. What do you understand by the normative approach to law?
 - a. How well does the normative approach reflect Bentham's theory of utilitarianism?
 - b. How well does the normative approach reflect the principles of Paretian welfare economics?
 - c. How well does the normative approach reflect the principles of the Kaldor-Hicks-Scitovsky potential compensation test?
 - d. How well does the normative approach reflect the principles of wealth maximization?
 - e. Explain The following cases within the framework of each of the above-mentioned normative theories
 - (i) Cidis and White (sale of spectacles to an infant);
 - (ii) Ross v Wilson (sale of schoolhouse to Church of God);
 - (iii) United States v. Causby (flight over chicken farm).

3. What do you understand by impossibility theorems in normative analysis?
 - a. Explain the importance for legal decisions of the Arrow Impossibility Theorem.
 - b. Explain the importance for legal decisions of the Sen Impossibility Theorem.
 - c. Explain the importance of the Coase Theorem for overcoming impossibility theorems via the legal system.
 - d. Explain the following cases from the perspective of the Coase Theorem:
 - (i). Sturges v. Bridgeman (1879) (confectioner and physician);
 - (ii). Fontainebleau Hotel Corp.v. Forty-Five Twenty-Five, Inc. (1959) (proposed hotel development will cast shadow on Eden Roc Hotel's swimming pool)

4. Explain the importance of property rules, liability rules and alienability rules in the law of property.
 - a. Explain the importance of transaction costs in choosing among these alternative rules.
 - b. Explain the difference between trespass and nuisance cases with respect to transaction costs
 - c. Explain the difference between Coase and Calabresi/Malamed with respect to the law of property.
 - d. Evaluate the following property law cases from the perspective of law and economics:
 - (i) Ploof v. Putnam (1908) (sloop caught in storm on lake).

(ii) Vincent v. Lake Erie Transport Co. (1910) (steamship attempting to moor to dock during a storm).

5. Carefully outline the essential elements of the classical law of contract.

a. Explain how and to what extent the classical law of contract was eroded during the 20th century. Is contract law now recovering from its decline and, if so, how?

b. What are the formation defenses to a contract?

b. What are the performance defenses to a contract?

c. Evaluate the following contract law cases from the perspective of law and economics:

(i) Wood v Lucy, Lady Duff-Gordon (1917) (creator of fashions allows her name to be used)

(ii) Wilkin v 1st Source Bank (1990) (case involving works of art by Mestrovic)

(iii) Campbell Soup Co. v. Wentz (1948) (contract involving the sale of carrots)

(iv) Redgrave v Boston Symphony Orchestra (1985) (case involving contract breach by Boston Symphony Orchestra)

6. What do you understand by the concept of due care in determining tort liability? Explain the difference between property rules and liability rules in the law of tort.

(a) Under what circumstances are the following tort liability rules efficient: (1) no liability; (2) strict liability; (3) negligence; (iv) negligence with contributory negligence; (v) comparative negligence; ?

(b) Review the following cases from the perspective of economic efficiency:

(i) Winn Dixie Stores, Inc. v Benton (1991) (plaintiff slips on pool of milk)

(ii) Drake v Lerner Shops of Colorado (1960) (Plaintiff falls inr strong sunlight)

(iii) United States v. Carroll Towing Co. (1947) barge slips mooring in New York Harbor)

(iv) McCarty v. Pheasant Run, Inc. (1987) (Plaintiff attacked in hotel room)

(v) Butterfield v Forrester (1809) (Plaintiff thrown from horse on highway)

7. How useful is game theory in analyzing the efficiency of legal rules. Use examples of normal, and extended form games involving legal rules to illustrate your answer.