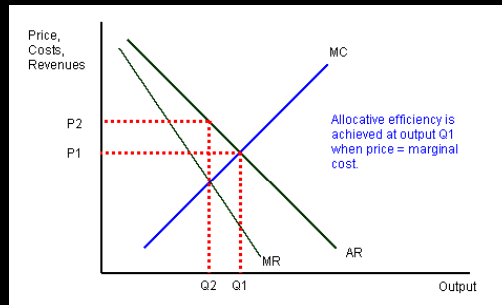


PHIL 420
Philosophy of
Law



Torts &
Law and
Economics

Distance
Delivery

Coleman's Accident Example

Criminal

Private

Against the state

Against the victim

No necessary loss

Loss necessary

Standards of conduct

Standards of conduct

Who enforces

Who enforces

Rules of Tort Liability

The defendant acted

The defendant's conduct was at fault

The victim suffered a compensable loss

Negligence

The defendant's action caused the loss

Strict liability

Function of torts

Forward-looking

Backward-looking

Efficiency - deterrence

Justice - annulment of losses

What serves this best?

What serves this best?

Brief History of Torts

Relatively new area in the law

Industrial revolution

Very limited writs

Strict liability

Few "stranger" accidents

Change to fault liability

Vincent v. Lake Erie Transportation

Facts of the case

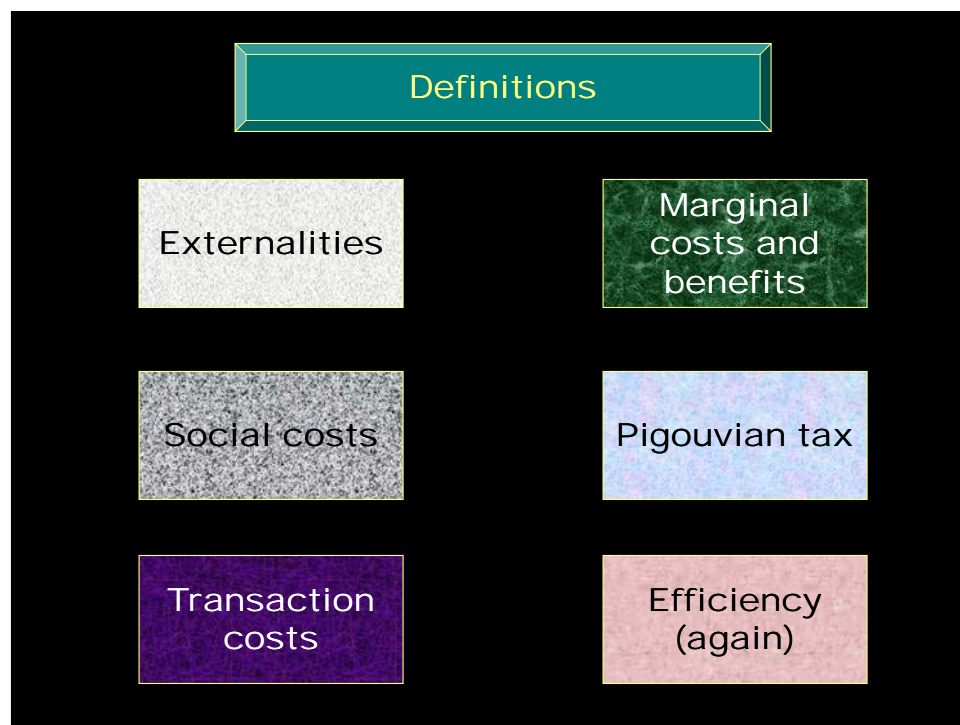
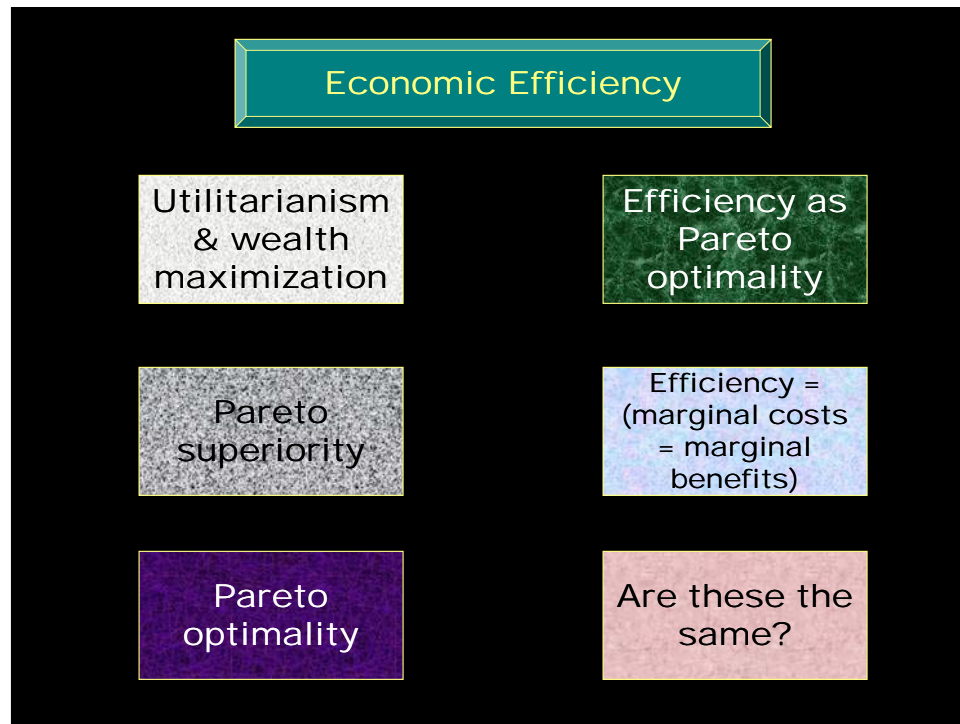
Court ruling for the dock owner

Argument that the captain was at fault

What do we make of this?

Court's rejection of this argument

Excellent analytical paper topic



Coleman's Example

	Marginal Profit to Rancher	Marginal Damage to Farmer
Cow 1	\$50	\$10
Cow 2	\$40	\$20
Cow 3	\$30	\$29
Cow 4	\$20	\$40
Cow 5	\$10	\$49
Cow 6	\$0	\$57

Efficient Number of Cows?

Marginal cost
= marginal
benefit

Give the
"right" to the
rancher

A Pigouvian
tax

Give the
"right" to the
farmer

Assumption
of perfect
information

Suppose they
marry

More on Coase

What he said
about his
work

But it matters a
lot to the
rancher and
framer

Doesn't matter
from a social
cost who gets
the right

Who should
get the right?

Law as Market Mimicker

Richard
Posner

Property
rules

Property
rights

Liability rules

Mimic the
market!

Inalienability
rules

Nuisance

Output	Marginal Profit	Marginal Damage
25	200,000	10,000
50	100,000	20,000
75	75,000	30,000
100	50,000	40,000
125	30,000	50,000

Accident Law

Liability schemes

Fault (negligence) liability

Strict liability

Fault liability with defense of victim negligence

Strict liability with defense of victim negligence

Efficiency?

Accident Law

Speeding Options for Smith	Benefits to Smith	Expected Damage	Joint Expected Gain
Fast	1,000	800	200
Moderately Fast	800	500	300
Moderate	600	200	400
Moderately Slow	400	200	200
Slow	200	50	150