

Law and Economics

PHIL 420

Philosophy of Law

Distance Delivery

Richard Posner

- Born 1939
- Yale – 1959
- Harvard Law –1962
- Clerkship
- Solicitor General's office
- Stanford Law – 1968
- Chicago Law – 1969
- Seventh Circuit – 1981
- *Problems of Jurisprudence* -- 1990



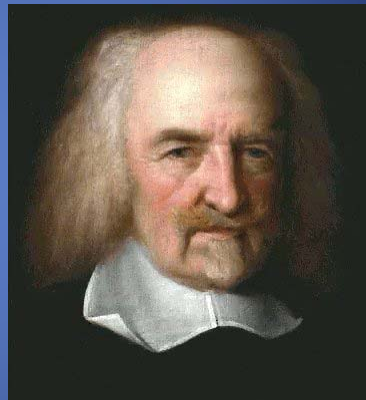
Pure Theory

- **Economic man**
 - Human nature
 - Rational utility maximizers
 - All (normal) human beings
 - All circumstances
- **Legal actors**
 - Criminal
 - Litigants
 - Legislators
 - Judges



State of Nature

- **State of Nature**
- **Social Contract**
 - Rational utility maximizers
 - Efficiency of government
- **Wealth maximization through government**
- **Democracy as wealth maximizing?**
- **Constitution as wealth maximizing?**



Legislation

- Legislators as rational utility maximizers
- “Public interest”
- Interest groups
- Buying votes
- Statutes as deals
- Courts
 - Agents of the legislature
 - Interpretation
 - Judicial independence
 - Dispute resolution



Wealth Maximization

- Sum of all tangible and intangible goods and services
- Weighted by ...
 - Offer prices
 - Asking prices
 - Stamp collection e.g.
- Wealth and money
- Accidents and wealth maximization



Wealth Maximization and Law

- The Common Law
- Private property
- Crime and punishment
- Efficient breach
- Tort law
 - Strict liability
 - Negligence
 - Contributory negligence
- Economics as an empirical discipline



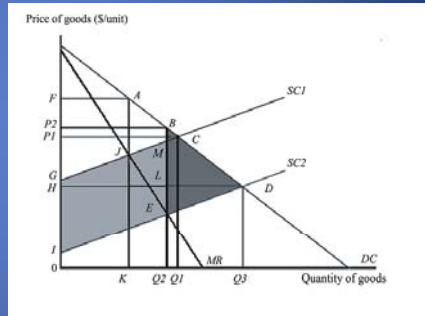
The Role of Judges?

- Why decisions in the direction of wealth maximization?
- Prosperity
- Controversy
 - Age
 - Compensation
 - Relative weakness
- Common law and laissez- faire ideology



Positive Law and Economics

- Positive and normative law and economics
- Is utility maximization true?
- Confirmation and disconfirmation
- Economics as an incomplete science
- Pragmatism
- Explaining the law
- Better than nothing



Normative Law and Economics

- Is wealth a value?
- Utilitarianism and collective good
- Wealth maximization and utilitarianism
- Individual rights?
- Distributional questions
- Pragmatic justification

