

Questions on 1st Midterm Readings from Friedman's *Law's Order***I. Introduction**

1. What is Friedman's response to the point that law ought not to be concerned with economic efficiency but with justice?

Ch. 1: What Does Economics have to do with Law?

2. What is Friedman's economic explanation for the difference between the criminal and civil standards of proof?
3. What does Friedman conclude will be the main effect of "nonwaivable warranty of habitability" and why?
4. How should legal rules be judged and why?
5. What does Friedman see as the three enterprises of law and economics?

Ch. 2: Efficiency and all that

6. What are the limitations of Marshall's (which is the same as our) notion of economic efficiency? Which does Friedman regard as most serious and why?
7. What is the "simple case for laissez-faire" and what is wrong with it?

Ch. 3: What's Wrong with the World, Part I

8. What are "pecuniary" (or "transfer") externalities and why do they not lead to inefficiency? How does Friedman illustrate this?
9. What does Friedman identify as the problems with direct EPA regulation of pollution?
10. What are the advantages of "Pigovian taxes" (aka, "effluent fees") over direct EPA regulation?
11. What is "rent seeking" and why is it inefficient? How is this illustrated by Friedman's example of theft? Specifically, why is theft inefficient?
12. What is wrong with "fraud on the market" lawsuits? How do they relate to the concept of pecuniary externality?

Ch. 4: What is Wrong with the World, Part II

13. Under what conditions could Pigovian taxes lead to inefficiency? Give an example.
14. Friedman's transition from "Nothing Works" to "Everything Works" depends on what possibility?
15. What are the advantages of general legal rules over case-by-case decisions?
16. What is the difference between "bright line rules" and "standards"? Is one always preferable to the other?

Ch. 5: Defining and Enforcing Rights: Property, Liability, and Spaghetti

(Note: I will attempt to clarify this chapter's potentially confusing "spaghetti" diagram in class.)

17. What is Friedman's basic principle for choosing between property rules and liability rules? Is it the same as the principle I developed in class?
18. What are some of the issues regarding the choice between liability rules (which treat pollution as a tort) and fines (which treat it as a violation of federal regulations)?

Ch. 8: Games, Bargains, Bluffs and Other Really Hard Stuff

19. How is strategic behavior related to conditions of bilateral monopoly?
20. What is the logic of the "Doomsday Machine"?

Ch. 10: Mine, Thine, and Ours: The Economics of Property Law

21. When bundling rights that make up ownership, what is the principle for determining what rights belong together? Give an illustration of rights which should, and which should not, be bundled together.
22. Friedman is generally critical of commons but concedes that the Internet is an example of a commons that works. Why?
23. Why *do* we owe civilization to the dogs? What is the point of this section?
24. What is Friedman's critique of homesteading? How does it relate to the problem of the commons?
25. What is the role of good record keeping in establishing property rights that are "good against the world?"
26. Friedman says that it is legally easier to pass on a benefit than a burden to future buyers of a piece of property. What is the economic reason for this?

Ch. 11: Clouds and Barbed Wire: The Economics of Intellectual Property

27. How did the engineers who cloned the ROM of the IBM PC avoid violating copyright law? What does this story illustrate about the law of copyright?
28. What are the advantages and disadvantages of broad versus narrow patent claims?
29. Friedman makes the claim that "The commons that the inventor depletes is much more depletable than the commons depleted by the writer." Explain and tell how this point relates to the difference between the protections accorded patent and copyright.