

Let's Make a Deal Understanding the Negotiation Process in Ordinary Litigation

Herbert M. Kritzer

Has "Equal justice under the law" given way to "Let's make a deal"? Nearly 90% of American civil cases are settled out of court. Analyzing findings from the Civil Litigation Research Project, begun in 1979 and sponsored by the U.S. Department of Justice, Herbert M. Kritzer examines the economics of bargaining, for both lawyers and their clients, and the extent to which litigation is governed by monetary concerns. His brilliant insights into the divergent interests of attorneys and clients go far toward assessing many of the standard economic theories of litigation and bargaining.

Paper \$12.95 Cloth \$37.50

New in paperback

Law and the Shaping of Public Education, 1785–1954

David Tyack, Thomas James, & Aaron Benavot

"The authors explore the relationship between law and public education from several nontraditional perspectives. They employ case studies, such as the compulsory public education system in Oregon in 1922, and a quantitative analysis of appellate decisions in public education. Overall, they pursue two themes: the use of constitutional and statutory law to build standardized state school systems, and the tension of majority rule and minority rights in education law."

—*Harvard Law Review*

Paper \$12.95 Cloth \$25.00

Wisconsin

The University of Wisconsin Press

114 N. Murray St. • Madison WI 53715 • VISA & MC orders (608)262-2994

The Journal of Law & Economics

*Sharpening your understanding of the relations
between law, economics, and political science*



Ronald Coase
Paul Joskow
Theodore Keeler
Benjamin Klein
Frank Mathewson
Peter Pashigian
Sam Peltzman
George Stigler
Kip Viscusi

The Journal of Law & Economics focuses on the influence of regulation and legal institutions on the operation of economic systems. Although typically varied, articles are most often concerned with the behavior of markets and the impact of governmental institutions on markets. As such, the *Journal* provides a basis for an informed discussion of public policy. For more than thirty years, scholars in law, economics, business, and political science have relied on *JLE* for rigorous research results in a wealth of related areas. Over the years, the *Journal* has presented the work of distinguished scholars such as those listed at left.

*Edited by
William M. Landes, Dennis W. Carlton, Frank H. Easterbrook, and
Sam Peltzman*

*Published semiannually in April and October
for the University of Chicago Law School
by The University of Chicago Press*

Regular One-Year Rates

Individuals \$25.00; institutions \$37.00; students (with copy of ID) \$15.00. Outside USA add \$5.00 for postage. Two-year subscriptions, as well as a combination subscription to *JLE* and *The Journal of Legal Studies* are also available; please write for more information. MasterCard and Visa accepted. To order, send check, purchase order, or complete credit card information to The University of Chicago Press, Dept. SS0SA, Journals Division, P.O. Box 37005, Chicago, IL 60637.

NEW FROM CHICAGO

Law and Public Choice

A Critical Introduction

Daniel A. Farber and Philip P. Frickey

The authors present a remarkably rich and accessible introduction to the central principles of public choice and of the implications for the American legal system. They also critique arguments based on public choice for the "new conservative judicial activism."

"A most valuable contribution to a burgeoning literature."—Cass R. Sunstein

Paper \$13.95 176 pages

10 figures, tables throughout

Library cloth edition \$34.95

Tournament of Lawyers

The Transformation of the Big Law Firm

Marc Galanter and Thomas Palay

Galanter and Palay explore how the "promotion-to-partner tournament" has spurred the exponential growth of large law firms and analyze the dangerous turning point to which that very success has inexorably led the profession.

"This is a book whose analysis and conclusion all lawyers—practitioners, teachers, and students alike—have a duty to confront."—Anthony Kronman

Cloth \$27.50 208 pages

56 graphs, 9 tables

The Scale of Imprisonment

Franklin E. Zimring and

Gordon Hawkins

Two of the nation's foremost criminal justice scholars offer a comprehensive assessment of the factors behind the overcrowding of American prisons. Their remarkable findings reveal that the growth of prison population has no direct relationship with the factors usually deemed responsible.

"If not crime rates, what has filled our prisons and jails to bursting point? . . . Zimring and Hawkins offer by far the best presently available answer."
—Norval Morris

Cloth \$29.95 264 pages

13 tables, 14 figures

Studies in Crime and Justice

**The University of
Chicago Press**

5801 South Ellis
Chicago, IL 60637

For incisive research on law, legal institutions, and related issues, look to



The Journal of Legal Studies

The Journal of Legal Studies presents theoretical and empirical research on law and legal institutions. The *Journal* emphasizes the use of social science research techniques to obtain new information about the actual functioning of legal systems. In addition to legal scholars, contributors to *JLS* include political scientists, economists, and sociologists. Because of its broad coverage and range of approaches, *JLS* represents a meeting ground for scholars of different disciplines to examine the full impact of legal institutions. Since its establishment in 1972, the *Journal* has published the work of such notable authors as

Gary Becker	Richard Posner
Jules Coleman	Alan Schwartz
Robert Cooter	Steven Shavell
Patricia Danzon	Franklin Zimring
Robert Ellickson	

Edited by
Richard A. Epstein and Geoffrey P. Miller

Published semiannually in January and June
for the University of Chicago Law School
by The University of Chicago Press

Regular One-Year Rates

Individuals \$25.00; institutions \$37.00; students (with copy of ID) \$15.00. Outside USA add \$5.00 for postage. Two-year subscriptions, as well as a combination subscription to *JLS* and *The Journal of Law & Economics* also available; please write for more information. MasterCard and Visa accepted. To order, send check, purchase order, or complete credit card information to The University of Chicago Press, Dept. SS05A, Journals Division, P.O. Box 37005, Chicago, IL 60637.

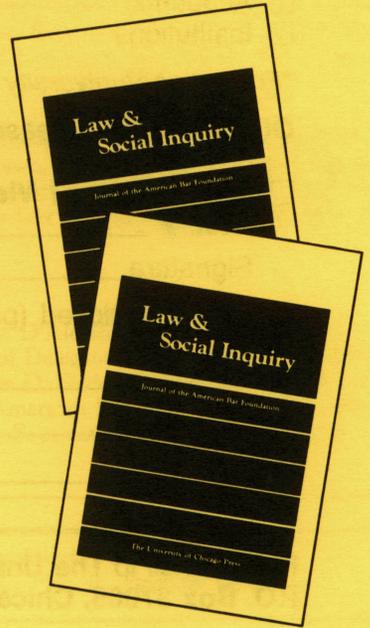
If you're the sort of reader who needs

Law & Social Inquiry

ask yourself these questions . . .

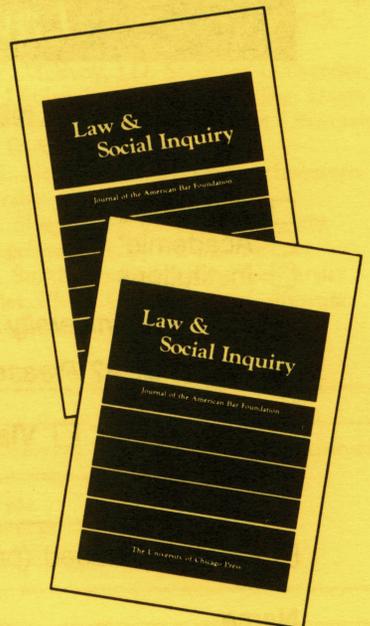
- Q** ■ How can you keep track of important research, yet make more efficient use of your time in the library?

- A** ■ By entering your personal subscription now, using the order form on reverse.



- Q** ■ How can you keep your collection of journals complete and avoid missing a single issue?

- A** ■ By renewing your subscription now, using the order form on reverse.



No other journal covers the field like

Law & Social Inquiry

Law & Social Inquiry

ENTER A NEW SUBSCRIPTION AND SAVE 15%!

- | | New | Renewal |
|---------------------------------------|--------------------------------------|----------------------------------|
| <input type="checkbox"/> Individuals | <input type="checkbox"/> \$28.00 (J) | <input type="checkbox"/> \$33.00 |
| <input type="checkbox"/> Academic* | <input type="checkbox"/> 22.00 (J) | <input type="checkbox"/> 27.00 |
| <input type="checkbox"/> Institutions | <input type="checkbox"/> 43.00 (J) | <input type="checkbox"/> 51.00 |

*For college/university faculty and students.

OUTSIDE USA? Please add \$6.00 for postage.

Charge my **Visa** **MasterCard** Exp. date _____
Acct. # _____
Signature _____

Check enclosed (payable to **Law & Social Inquiry**)

Name _____

Address _____

City _____

State/Country _____ ZIP _____

Please mail to **The University of Chicago Press, Journals Division,**
P.O. Box 37005, Chicago, IL 60637.

IX1XX

Law & Social Inquiry

ENTER A NEW SUBSCRIPTION AND SAVE 15%!

- | | New | Renewal |
|---------------------------------------|--------------------------------------|----------------------------------|
| <input type="checkbox"/> Individuals | <input type="checkbox"/> \$28.00 (J) | <input type="checkbox"/> \$33.00 |
| <input type="checkbox"/> Academic* | <input type="checkbox"/> 22.00 (J) | <input type="checkbox"/> 27.00 |
| <input type="checkbox"/> Institutions | <input type="checkbox"/> 43.00 (J) | <input type="checkbox"/> 51.00 |

*For college/university faculty and students.

OUTSIDE USA? Please add \$6.00 for postage.

Charge my **Visa** **MasterCard** Exp. date _____
Acct. # _____
Signature _____

Check enclosed (payable to **Law & Social Inquiry**)

Name _____

Address _____

City _____

State/Country _____ ZIP _____

Please mail to **The University of Chicago Press, Journals Division,**
P.O. Box 37005, Chicago, IL 60637.

IX1XX

American Bar Foundation

BOARD OF DIRECTORS

President, Wm. Reece Smith, Jr., of the Florida Bar • *Vice-President*, Robert W. Bennett, Northwestern University School of Law • *Secretary*, Martha L. Minow, Harvard University Law School • *Treasurer*, John L. Carey, of the Indiana Bar

Brooksley Born, of the D.C. Bar • Kenneth J. Burns, Jr., of the Illinois Bar • John C. Deacon, of the Arkansas Bar • Hon. Jerome Farris, United States Court of Appeals, Ninth Circuit • Daniel Gourash, of the Ohio Bar • Harry E. Groves, University of North Carolina School of Law • Robert MacCrate, of the New York Bar • Robert A. Stein, University of Minnesota Law School • Cathy S. Wright, of the Alabama Bar

ex officio:

John J. Curtin, Jr., President, American Bar Association • Talbot D'Alemberte, President-Elect, American Bar Association • N. Lee Cooper, Chairman, House of Delegates, American Bar Association • John L. Carey, Treasurer, American Bar Association • Herbert D. Sledd, President, American Bar Endowment • William G. Paul, Chairman, The Fellows of the American Bar Foundation • Charles M. Thompson, Vice-Chairman, The Fellows of the American Bar Foundation • Daniel L. Golden, Secretary, The Fellows of the American Bar Foundation

OFFICERS

Bryant G. Garth, *Director*
Joanne Martin, *Assistant Director*

Anne Tatalovich, *Assistant Director*
Hayden C. Flor, Jr., *Financial Officer*

RESEARCH FELLOWS

Lori B. Andrews, J.D. Yale University
Ian Ayres, J.D. Yale University; Ph.D. M.I.T.
Jonathan D. Casper, Ph.D. Yale University
Stephen Daniels, Ph.D. University of Wisconsin
Shari S. Diamond, Ph.D. Northwestern University;
J.D. University of Chicago
John J. Donohue, J.D. Harvard University;
Ph.D. Yale University
William L. F. Felstiner, J.D. Yale University
Bryant G. Garth, J.D. Stanford University; Ph.D.
European University Institute
Janet A. Gilboy, Ph.D. Northwestern University
Terence C. Halliday, Ph.D. University of Chicago
John P. Heinz, LL.B. Yale University
Keith N. Hylton, J.D. Harvard University; Ph.D.
Massachusetts Institute of Technology

Wayne A. Kerstetter, J.D. University of Chicago
Karyl A. Kinsey, Ph.D. University of Chicago
E. Allan Lind, Ph.D. University of North
Carolina at Chapel Hill
Arthur F. McEvoy, J.D. Stanford University;
Ph.D. University of California, San Diego
Elizabeth Mertz, J.D. Northwestern University;
Ph.D. Duke University
Robert L. Nelson, J.D., Ph.D. Northwestern
University
Susan P. Shapiro, Ph.D. Yale University
Peter Siegelman, Ph.D. Yale University
Kent W. Smith, Ph.D. Harvard University
Tom Tyler, Ph.D. University of California,
Los Angeles

VISITING RESEARCH FELLOWS

John Braithwaite, Professorial Fellow, Research School of Social Sciences, Australian National University
John L. Comaroff, Professor of Anthropology and Sociology, University of Chicago
Sandra Garcia, Professor of Psychology, University of South Florida
Anne M. O. Griffiths, Lecturer in Scots Law, University of Edinburgh
Carol A. Heimer, Associate Professor of Sociology, Northwestern University

LIAISON RESEARCH SERVICES PROGRAM

Joanne Martin, M.M. Northwestern University, J.D. Loyola University
Barbara A. Curran, LL.B. University of Connecticut, LL.M. Yale University

Law & Social Inquiry

Volume 16, Number 1, Winter 1991

ARTICLES

Courts, Constitutions, and Labor Politics in England and America: A Study of the Constitutive Power of Law

WILLIAM E. FORBATH

Practice and Paradox: Deconstructing Neutrality in Mediation

SARA COBB AND JANET RIFKIN

REVIEW ESSAYS

Understanding Prisons: The New Old Penology

JOHN J. DI IULIO, JR.

Commentary:

A Future for Research on Prisons

WALTER J. DICKEY

Reworking the Past, Imagining the Future: On Jacob's *Silent Revolution*

GRACE GANZ BLUMBERG

Commentary:

Reply to Blumberg

HERBERT JACOB

Love and Chicken Soup for Free: Goldstein's *Mother-Love and Abortion*

ELIZABETH B. CLARK

Seductions of Criminology: Katz on Magical Meanness and Other Distractions

AUSTIN T. TURK

BOOK NOTES