Palgrave on law & economics:  
A review essay

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“It is hard to imagine law ever again being free of the influence of the techniques and findings of objective economic analysis.”

Henry G. Manne


The objective of the New Palgrave Dictionary of Economics and the Law (Palgrave L&E) is ambitious: to give “a detailed account of the subject known as law and economics.” The ambitious goal was majestically accomplished: 399 entries with over 6800 bibliographical references commissioned to the leading exponents of the law and economics movement.

The general editor could hardly have brought together a more representative group of scholars: a total of 334 authors with the potential inclusion, as authors or editors, of almost every star in the law and economics firmament. The almost universal participation of the law and economics establishment presumably created an empty core problem in the search for an independent reviewer. With this disclaimer in mind, I will share a few impressions on the

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3 The present reviewer was a contributor to the Palgrave L&E.
overall architecture and practical usefulness of Palgrave L&E to practitioners and scholars of law and economics.

1. The contributors

The contributors’ list is enough to confer distinction on Palgrave L&E. A cursory glance at the list of 334 authors and 21 members of the editorial board reveals that potentially every scholar in the law and economics profession has contributed in one role or another to the Palgrave L&E. The editors have been successful at enticing the most prominent authorities in the field, with entries from scholars such as Ronald Coase, Harold Demsetz, Steven Shavell, James Buchanan, Robert Cooter, Mitchell Polinsky, Mark Roe, Roberta Romano, Richard Epstein, Oliver Williamson, Victor Goldberg, Orley Ashenfelter, David Kreps, William Landes, Saul Levmore, and Geoffrey Miller, just to mention a few. Browsing through the list of authors in search for the most active contributors, one finds Steven Shavell, Alan Sykes, and Jonathan Macey, with five entries each, followed by Richard Epstein, Lewis Kornhauser, Charles Rowley, Peter Stein, and Donald Wittman, with four entries each. A handful of authors contributed three entries, including Richard Posner, Douglas Baird, Daniel Rubinfeld, Lloyd Cohen, Larry Ribstein, and Francesco Parisi.

The editor’s Preface reminds the reader that only 80% of the invitations sent to potential contributors have been accepted and successfully delivered upon, and that any apparent omission in the grand list of contributors was most likely attributable to the lateness or inaction of the authors. Browsing through the index of contributors in search of the notable absentees, one notes the absence of three important exponents: Guido Calabresi, Henry Manne, and Gary Becker, who have preferred to enter the Palgrave L&E through the biographical entries devoted to the founding fathers of law and economics. Other founding fathers of law and economics, such as Richard Posner and Ronald Coase took a more active role as contributing authors to the Palgrave L&E, in addition to having a biographical entry celebrating their important contribution to the discipline.

As the editor’s preface proudly announces, the entries are all original contributions, commissioned and written for the specific purpose of the Palgrave L&E. The editor successfully motivated a large group of prominent scholars to produce an original piece of work for the purpose of a reference collection. This is quite impressive, given the general academic attitude toward encyclopedic dictionaries of various sort. No doubt, the success and reputation of the predecessors of Palgrave L&E facilitated this editorial task.

The choice of contributors is well balanced, given the underlying density of law and economics scholars across the various universities and research centers. Browsing through the institutional affiliations of the authors, the institutions listed in Table 1 surface with the highest number of entries and individual contributors.4

The list and ranking of the top 15 contributing institutions is not surprising, given the law and economics focus of those research centers. The top 15 schools account for approximately 4 Entries jointly authored with a member of a different institution have been counted as 2 for each institution.
47% of the total entries and 41% of the total number of contributors. This indicates that the academia of law and economics remains highly concentrated in a select group of research institutions.

In sum, the overall impression of the internal division of labor of Palgrave L&E is unquestionably positive: the various schools and methodologies are uniformly represented, with active involvement of the entire law and economics establishment. In no instance is the reader under the impression of an ideological bias in the matching of titles and authors. The editors sensibly avoided any single author playing a monopolistic role in the production of Palgrave L&E. At times, this necessitated the assignment of entries to less than obvious candidates. But, all things considered, there is no room for readers’ disappointment under most standards of evaluation.

### 2. The founding fathers

Palgrave L&E devotes several biographical entries to the founding fathers of law and economics.

The biographical entries cover two broad categories: (1) precursors of law and economics, with twenty-one entries ranging from Adam Smith to Jeremy Bentham and from William Blackstone to Oliver Wendell Holmes; and (2) founders of modern law and economics, with ten entries on scholars whose work contributed to the birth and success of the law and economics movement.

Given the relatively young age of modern law and economics, the biographies includes several living scholars. Under most circumstances the selection of names would have been difficult and disputable, but the editors have come up with a list that reflects the common wisdom in the discipline.
Already on prior occasions, the law and economics community has celebrated the accomplishments of four leading exponents of law and economics. The readers who had the good fortune to be at the inaugural meeting of the American Law and Economics Association, held in Champain-Urbana (Illinois) on May 24–25, 1991, probably remember that, just a few months prior to receiving the Nobel Prize in Economics, Ronald Coase was recognized, with Guido Calabresi, Henry Manne and Richard Posner, as one of the founding fathers of Law and Economics. Since 1991 parental rights have successfully been claimed by other important figures in the history of law and economics. The editors of Palgrave L&E wisely commissioned ten encyclopedic entries to celebrate the life and work of these scholars.

The great honors have been extended to a total of six economists and four academic lawyers, including: Gary Becker, James Buchanan, Guido Calabresi, Ronald Coase, Aaron Director, Henry Manne, Richard Posner, Henry Simons, George Stigler, and Gordon Tullock. The distribution of the honors is highly concentrated with six Chicago scholars, three scholars from the George Mason school, and one scholar from Yale: a clustering that reflects the historical origins and evolution of the law and economics movement.

All the entries for the ten founders of modern law and economics allude, in one way or another, to the scholars’ paternity of the field of law and economics. But the biographies are not a mere celebration of leading personalities. To the contrary, these are among the best papers in Palgrave L&E, authored by prominent players in the field of law and economics who provide us with valuable- and, often, previously unpublished-information on the life and work of those who started the fascinating enterprise of law and economics. Just think of the following entries: a full-scale article on Ronald Coase, masterly written by Harold Demsetz; an entry on Aaron Director, in turn written, with a wealth of first-hand information, by Ronald Coase; James Buchanan, written by Dennis Mueller; Gary Becker, written by William Landes; Henry Manne, written by Jonathan Macey; Gordon Tullock, written by Charles Goetz; and Richard Posner, written by David Friedman.

3. Architecture and substantive coverage

Each of the three volumes of Palgrave L&E is preceded by a detailed subject classification. The 399 individual entries are divided into seven general Sections, each divided into multiple headings and sub-headings.

The main partition into seven general categories was not successfully conceived. The chosen categories are: 1. Society; 2. Economy; 3. Polity; 4. Law in General; 5. Common Law Systems; 6. Regulation; and 7. Biography. The classification does not follow any established criterion in the law and economics literature. The choice of general and non-technical categories was probably conceived for the occasional amateur user, browsing through the Palgrave L&E. The aesthetic and user-friendly appeal of such classification, however, provides little or no guidance to the professional user in search of a substantive topic.

The adoption of non-technical categories creates substantial overlaps, often compelling the editors to insert entries under more than one category. As a result, some of the classifications appear awkward or out of context. A few examples shall illustrate the point. Under Section 1, entitled “SOCIETY,” one finds listings such as “contract formation and
interpretation,” “comparative negligence,” “international sanctions,” and “joint and several liability.” Section 2, entitled “ECONOMY,” includes listings such as “standing,” “trespass and nuisance” and “immigration policy.” Section 3, entitled “POLITY,” contains entries such as “statute of frauds,” “ownership and control in Europe,” “just price,” “corruption” and “equity.” Under Section 4, entitled “LAW IN GENERAL” we encounter “Pareto optimality” and “Max Weber.” Section 5, entitled “COMMON LAW SYSTEMS,” includes entries such as “holdouts” “Gary Becker” and “anthropological law and economics.” In the same section, the numerous entries on corporate law are classified under the ambiguous category of “Ownership,” without further specification. Under Section 6, entitled “REGULATION,” we find entries such as “path dependence,” “Aaron Director,” “arbitration,” and “Kaldor-Hicks compensation.” Finally, in Section 7, entitled “BIOGRAPHY,” the various entries have been grouped in four mutually exclusive categories: (a) economists; (b) lawyers; (c) philosophers; and (d) other social scientists. The resulting classification is occasionally artificial, given the eclectic and interdisciplinary approach of several of the early authors, and in one instance mistaken (Gordon Tullock is listed as an economist, whereas his educational background is in law). Likewise, precursors of law and economics and historical figures such as Adam Smith, Jeremy Bentham, and David Hume are listed together with living scholars such as Richard Posner and Henry Manne.

An educated sampling of the entries further reveals an erratic distribution of general and specific topics. The editors have preferred to commission more than one entry on the same general topic, rather than narrowing the scope of each entry to avoid duplications. Most likely, this strategy had two practical purposes. First, it provided an easy way to edge against the risk of non-performance for the more important topics. Second, it allowed the editors to avoid hard choices in the selection of authors, offering different perspectives on the more debated issues. The result is the presence of substantial overlaps between entries, rendered less noticeable by the lack of a clear tree structure in the table of contents.

It is likely that the imperfection of the classification scheme is partially attributable to the editor’s attempt to utilize categories and sub-categories that were familiar to both lawyers and economists, and accessible to the occasional non-professional readers. In doing so, the editor ignored an important criticism registered by George Stigler in his review of the New Palgrave Dictionary of Economics: “The loose design of topics invites duplication, omissions, and costly search by readers.” While avoiding biases in favor of one or the other professional tradition, however, the adoption of an ad hoc scheme, indeed, penalizes the average academic reader of the Palgrave L&E. In this respect, Whitaker’s critique also appears readily applicable: “How valuable, especially to a neophyte, is a reference work that ... fails to carve the map of knowledge decisively into clearly defined regions and subregions with an appropriate tree structure?”

Frequent users are likely to find their way through the wealth of information contained in the Palgrave L&E, accessing the entries directly through their alphabetical arrangement and

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making use of the better organized sub-sections of the classification chart, such as the more traditional common law categories, as well as the two well structured sub-sections on “Conventions and Norms” and “Game Theory.”

The quality and prestige of Palgrave L&E commands a broad readership. The substantial price of US $550 per set of the Palgrave L&E will, however, limit the current use to libraries and practitioners of the field. Hopefully the publisher will remedy this problem with the publication of a soft-bound abridged version similar to the one that was issued for the *New Palgrave Dictionary of Economics*, partially reprinted by Norton Publishers in smaller soft-bound volumes organized around general topics. When planning the popular edition, the editors may want to revisit their classification scheme, grouping the entries around substantive categories while avoiding the use of generic and uninformative headings such as “society,” “economy” or “polity.” The editors should adopt more practical categories, such as the “economics of contract law,” the “economics of norms and conventions,” or the “economics of crime and criminal law.” A sensible grouping and an affordable pricing may indeed render a soft-bound edition with autonomous theme volumes a very good candidate for graduate readings in law and economics.

4. Conclusion

The present generation of legal scholars has witnessed an irreversible process of transformation in contemporary legal science, and it is hard to imagine legal science growing apart of the rigorous methodology of law and economics. Our discipline has indeed grown at an astonishing pace, and the publication of Palgrave L&E marks an important milestone in the life of law and economics.

The most obvious merit of Palgrave L&E is the successful achievement of two important objectives: (a) creation of a standard reference work in the relatively new field of law and economics; and (b) maintenance of uniformly high standards in the choice of authors and the quality of the entries. The editors have done a commendable job in selecting the more relevant topics and commissioning them to the most qualified practitioners of law and economics.

Palgrave L&E was launched in 1995 and was published in 1998, six months in advance of the originally planned publication date. Given the size of the project, the number of contributors, and the final quality of the product, the timing of production was astonishing. The experience accumulated by the general editor in his past editorial enterprises no doubt facilitated the overall success of the project. The plans for the publication of competing encyclopedias of law and economics probably added an additional incentive for the timely publication of Palgrave L&E.

As a general rule, the best proof of the success of any reference work is given by the frequency of its use. The theoretical and historical emphasis of most entries and the limited use of time sensitive empirical data is certainly a good recipe for longevity. One should hope that the researchers in law and economics profit from the valuable and current information contained in Palgrave L&E, including it as a necessary item in their bibliographical research.

For years to come, Palgrave L&E is deemed to offer the most authoritative, and yet
practical, way of gaining a 360-degree panorama of the various applications of economics to the law. The prestige of its contributors will permit Palgrave L&E to outlive its function as a reference dictionary, remaining a valuable instrument for a historical understanding of the law and economics research program.