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Brain Damage from a Cleaning Product

Roger W. Shuy

in *Fighting over Words: Language and Civil Law Cases*

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Publisher: Oxford University Press
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Item type: chapter

This product liability case brought against a company that produced a ship cleaning product centered on the warning label for the cleaning product, which had caused a worker's brain damage. Comparison was made between the industry safety standards for the precautionary labeling of industrial chemicals and the text on the cleaning product's container. The wording of the warning section on the container was not prominent to the potential danger of the product. The communication of the dangers that users might encounter were unclear, and the advice about what to do if users got into trouble using it were not conveyed explicitly. The discourse sequencing within the warnings placed the least crucial information before the most crucial and provided no information about what to do to avoid the hazards that the product contained. The plaintiff also rewrote the text of the container to show how it could have been user-friendly and to communicate useful information and prevent further harm.

Worldwide Financial Reporting

George J. Benston, Michael Bromwich, Robert E. Litan, and Alfred Wagenhofer

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This book provides readers with reasonably concise descriptions of the state of global markets, the benefits and limitations of financial accounting and accounting/auditing standards, and the development, status, and current policy issues of corporate financial reporting in major countries and the European Union. The globalization of financial markets has contributed to a growing consensus that national financial

reporting standards should give way to a single, harmonized set of global reporting standards. This book takes a more practical approach and reaches a different conclusion: that global standards are unlikely to be achieved, and in any event, are not likely to remain unified in the face of continued changes in markets and financial practices. National accounting standards are likely to continue to be relevant for the foreseeable future, and for that reason, the book discusses the national systems and their origins in some detail. The authors also consider a range of other substantive reporting issues, notably the debate over the issue of “fair value” measurement of assets and liabilities, which the authors reject in favor of a system that marks to market only those assets with deep traded markets, coupled with additional disclosures, where relevant.

Rational Risk Policy

W. Kip Viscusi

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Ideally, individual risk-taking decisions and government risk policies should be based on a rational balancing of risk and cost. Unfortunately, private decisions are subject to a number of biases including overestimation of small probabilities and alarmist responses to ambiguous risks. Hazard warnings can potentially be effective, but are not always ideal, as the people now overestimate the risks of smoking. Labour market estimates of the value of life can provide a rational reference point for benefit-cost tests of risk regulations. The pressures exerted by irrational public responses to risk often lead to regulations that impose inordinately high costs per life saved. Excessive regulation potentially makes society worse off from a health and safety standpoint as shown by the risk-risk analysis methodology developed in this book. Similarly, liability rules and social insurance systems also should be structured to reflect an efficient balancing of risk and cost.

The Case for Marking Public Plan Liabilities to Market

Jeremy Gold and Gordon Latter

in *The Future of Public Employee Retirement Systems*

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State and local US pension plans hold an estimated \$3 trillion in assets, with market values regularly disclosed in plan financial statements. By contrast, public defined benefit pension liabilities are routinely reported at actuarial values that may differ substantially from market values. The authors propose that a more accurate way to value plan liabilities measures the present value of accrued benefits discounted at market interest rates for fixed income investments that are (or are nearly) default-free. They illustrate the difference between these measures for a set of public sector pensions using publicly available information.

Killing in War

Jeff McMahan

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Killing a person is in general among the most seriously wrongful forms of action, yet most of us accept that it can be permissible to kill people on a large scale in war. Does morality become more permissive in a state of war? This book argues that conditions in war make no difference to what morality permits and that the justifications for killing people are the same in war as they are in other contexts, such as individual self-defence. This view is radically at odds with the traditional theory of the just war and has implications that challenge common sense views. It implies, for example, that it is wrong to fight in a war that is unjust because it lacks a just cause, that those who fight in a just war are not legitimate targets of attack, and that some civilians may, in principle if not in practice, be morally liable to suffer certain harms in war.

Between Scylla and Charybdis: Improving the Cost Effectiveness of Public Pension Retirement Plans

M. Barton Waring

in The Future of Public Employee Retirement Systems

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Unless defined benefit pension plans are managed much better and more cost-effectively, they will be replaced by defined contribution plans. Benefit and contribution policies need to be carefully evaluated to make sure that a reasonable level of ongoing contributions, together with investment income, are adequate to fund the defined benefit

plan without unpleasant surprises. Unless valuation and contribution conventions change to market-valued economically based quantities, decision makers will lack the right information with which to make informed policy decisions.

Distributive Principles of Criminal Law

Paul H. Robinson

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The rules governing who will be punished and how much determine a society's success in two of its most fundamental functions: doing justice and protecting citizens from crime. Drawing from the existing theoretical literature and adding to it recent insights from the social sciences, this book describes the nature of the practical challenge in setting rational punishment principles, how past efforts have failed, and the alternatives that have been tried. It ultimately proposes a principle for distributing criminal liability and punishment that will be most likely to do justice and control crime. This long-awaited volume, from one of the world's leading criminal law experts, is a brilliant synthesis of social science research and legal reasoning that brings together three decades of work on criminal liability and punishment issues in a compelling line of argument that addresses all of the important issues in assessing liability and punishment.

A Proposal to Use Transactions to Leverage Environmental Disclosure and Compliance

Michael B. Gerrard

in *Moving to Markets in Environmental Regulation: Lessons from Twenty Years of Experience*

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This essay proposes an information disclosure mechanism as a means of encouraging firms to comply with a variety of environmental laws. It argues that requiring environmental studies at the moment of property transfer could encourage compliance more than the traditional prescriptive approach. Such disclosure requirements are treated as market-based instruments because they take the characteristics of the property market into account when adjusting incentives, inducing buyers

and sellers to move toward compliance when it is in their economic interest to do so, rather than in response to a legal mandate. The essay provides an overview of CERCLA's liability scheme, noting that it has led to improved practices for the generation, handling, and cleanup of hazardous waste, and has also established a precedent for imposing requirements on buyers and sellers at the moment of property transfer.

Moral Responsibility and Greenhouse Gas Emissions

Steve Vanderheiden

in *Atmospheric Justice: A Political Theory of Climate Change*

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This chapter begins by introducing the normative principle of responsibility, then surveys several relevant distinctions within the concept of responsibility (causal vs. moral, positive vs. negative) along with some degrees of responsibility (fault, liability, moral blame), and applies these to problems analogous to the climate case. Three distinct problems for attributing responsibility for climate change are examined in the chapter: the first involves what Nagel terms the problem of moral luck; the second concerns the difficulty in establishing causation for harm that results from the aggregate effects of many similar acts; and the third involves the attribution of collective responsibility to nations. The chapter examines the mistakes that lead to these objections, illuminating the proper manner in which persons and nations can be held responsible for climate-related harm and how a climate regime might assign remedial liability on that basis.

Exchange Rate Management and Micro Tools for Macro-Management

Joseph E. Stiglitz, José Antonio Ocampo, Shari Spiegel, Ricardo Ffrench-Davis, and Deepak Nayyar

in *Stability with Growth: Macroeconomics, Liberalization and Development*

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This chapter looks at exchange rate management and other policy options for an open economy. It begins with an introductory discussion of overall macroeconomic management for open economies, including

the issues of internal and external balance and inflation targeting. It then examines how countries can attempt to manage the exchange rate. Topics covered in this section include the benefits of maintaining an undervalued exchange rate in some developing countries, government interventions to smooth out exchange rate fluctuations, and the trade-off between stability and flexibility when choosing an exchange rate regime. The chapter concludes with an analysis of other policy options in open economies, including heterodox microeconomic interventions, public sector liability management, and debt restructuring.