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Reply to Professors Ellickson and Stigler

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At the outset of his comment on my article, Professor Ellickson emphasizes that the identity prediction, which I attribute to the Coase Theorem, applies only if transaction costs are zero.[1] Of course, I have tried to emphasize this point as well.[2] Ellickson goes on to assert that in my article "Coase's name is consistently attached to propositions that [Coase] has explicitly repudiated. Predictions identified as 'Coasean' are predictions that Coase would never make."[3] It should be noted, however, that Ellickson does not dispute the claim that if transaction costs were zero, all the predictions I attribute to the Coase Theorem would indeed be correct. Presumably Ronald Coase would also agree with this claim. Professor Ellickson's point is simply that instead of referring to these predictions as "Coasean" predictions, I should refer to them as predictions based on zero transaction costs. As long as we can agree on what is or is not meant by "Coasean," I would think the precise term should make little difference, and I am happy to accept Professor Ellickson's suggested terminology.

Furthermore, Ellickson's implicit claim that Coase would be "appalled" by a discussion of what would happen in the zero-transaction-cost world is at best arguable. In fact, evidence to the contrary can be found in the writings of the two principal exponents of the Coase Theorem: George Stigler and Ronald Coase. As Coase has recently observed, he "did not originate the phrase, the 'Coase Theorem,' nor its precise formulation, both of which we owe to Stigler."[4] Since Professor Stigler's comment on my article is clearly predicated on the assumption of zero transaction costs,[5] I at least appear to be following in the footsteps of the man who played a key role in the development of the Coase Theorem. Perhaps Stigler has led us astray from the true vision of Ronald Coase, but then Professor Ellickson's attack should be directed at a far more formidable figure in the Law and Economics community than me.

As to whether Stigler's or Ellickson's conception of the Coase Theorem comports more closely with Coase's own, I am not at all convinced that

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1. Ellickson, *The Case for Coase and Against Coaseanism*, 99 YALE L.J. 611, 613 (1989).
2. Donohue, *Diverting the Coasean River: Incentive Schemes to Reduce Unemployment Spells*, 99 YALE L.J. 549 (1989).
3. Ellickson, *supra* note 1, at 611 (footnote omitted).
4. R. COASE, THE FIRM, THE MARKET, AND THE LAW 157 (1988).
5. See his example of homesteading in Kansas. Stigler, *Two Notes on the Coase Theorem*, 99 YALE L.J. 631, 632 (1989).

Ellickson prevails over Stigler. In the penultimate chapter of his recent book, *The Firm, the Market, and the Law*, Coase traces the development of his insight from its first mention in his 1959 article entitled *The Federal Communications Commission*[6] to its fuller and more famous exposition a year later in *The Problem of Social Cost*.[7] In *The Federal Communications Commission*, Coase introduced his idea in a discussion of *Sturges v. Bridgman*.[8]

> [The case] involved a doctor disturbed by noise and vibration resulting from the operation of a confectioner's machinery. Using a line of argument which must now be quite familiar, I showed that, whether or not the confectioner had the right to make the noise or vibration, that right would in fact be acquired by the party to whom it was most valuable. . . . I summed up by saying that while "the delimitation of rights is an essential prelude to market transactions . . . the ultimate result (which maximizes the value of production) is independent of the legal decision." *This is the essence of the Coase Theorem*. I repeated the argument in "The Problem of Social Cost," making clear that this result was dependent on the assumption of zero transaction costs.[9]

It seems therefore that Professor Ellickson, while swearing allegiance to Coase, has picked a fight not only with Stigler but also with Coase himself.

But this debate over the use of the term "Coasean" and over the use of the zero-transaction-cost assumption is somewhat beside the point of my Article. In Sections II and III my analysis of the world of zero transaction costs adheres to an august Coasean tradition and would presumably be endorsed by Coase, Stigler, and Ellickson. More importantly, the Article goes on in Sections IV and V to demonstrate on the basis of the results of the Illinois experiment that commentators as well as policymakers should be reluctant to assume that predictions based on the assumption of zero transaction costs will hold in the real world. I would have thought that Professor Ellickson would heartily embrace this demonstration of a position he clearly endorses. I did not intend to assert that Coase believes that transaction costs are in fact zero.[10] To the extent my Article creates this erroneous impression, I am grateful for Professor Ellickson's clarification.

6. 2 J.L. & ECON. 25 (1959).
7. 3 J.L. & ECON. 1 (1960).
8. 11 CH. D. 852 (1879).
9. R. COASE, *supra* note 4, at 157–58 (emphasis added).
10. Indeed, I note Coase's ultimate interest in the real world as opposed to the zero-transaction-cost world in the second footnote of my Article.