

1 / Index

- Abreu, D., 187, 289
- Absolute priority rule. *See* Bankruptcy law
- Accidents. *See* Tort law
- Adverse selection (hidden information). *See* Information
- Aghion, P., 158, 289
- Akerlof, G., 158, 289
- Alaska Packers' Association v. Domenico*, 109-112
- Alchian, A., 120, 295
- Aluminum Co. of America v. Essex Group, Inc.*, 116
- American Column and Lumber Co. v. United States*, 176
- American rule. *See* Civil procedure
- American Tobacco Co. v. United States*, 282
- Americans with Disabilities Act, 92
- Anomalies, 47, 275
- Antidiscrimination laws: game theory and, 79, 136-137, 144, 145
- Antitrust, 1; game theory and, 76, 186; market preemption, 1, 50, 60-61, 77, 312; network externalities and, 211-212; predatory pricing, 2, 178-186, 187, 312; price leadership, 175; standards and, 211-212; strategic commitment and, 50, 61-62; tacit collusion, 2, 165-166, 168-177, 187; trade associations and, 176-177
- Arbitration, 111, 155-56
- Arrow, K., 218, 289
- Aspremont, C.d., 218, 289
- Assurance game. *See* Games
- Ausubel, L., 242, 289
- Automatic stay. *See* Bankruptcy law
- Axelrod, R., 48, 187, 289
- Axiomatic bargaining. *See* Bargaining
- Axioms. *See* Bargaining, axiomatic
- Ayres, I., 5, 121, 158, 279, 289
- Babcock, L., 267, 289, 296
- Backwards induction, 50, 54-55, 58-59, 63, 64, 65, 67, 70, 77, 78, 85-86, 159, 161, 182, 209, 210, 302; limits of, 163-164, 186-187; Nash equilibrium and, 63
- Baer, J., 284, 289
- Baird, D., 218, 242, 243, 290
- Banerjee, A., 218, 284, 290
- Banking law: unraveling principle and, 94-95
- Bankruptcy law: absolute priority rule, 234, 301; automatic stay, 3, 233, 236; bargaining and, 232-237, 243; Chapter 11, 77, 233; corporate reorganization, 233, 266; exclusivity period, 77, 284, 306; game theory and, 5, 77, 232-237, 243; going concern value, 232, 308; going concern surplus, 236-237; liquidation value, 233-237; new value "exception," 3, 234-236, 284; plan of reorganization, 233, 235;

2 / Index

- prisoner's dilemma and, 4, 201; statute, 284-285
- Banks, J., 158, 290
- Bargained-for-share. *See* Bargaining
- Bargaining, 3; alternating offers, 221-224; axiomatic, 241-242, 301, 302; bankruptcy law and, 232-237; bargained-for share, 226-228, 234-237, 239-240, 302; civil procedure and, 244-267; collective bargaining, *see* Labor law; common values, 267; contract law and, 224-232; cooperative, 242, 305; credible commitments and, 43; discovery and, 262-265; dynamic, 3, 45; experimental, 242; firm-specific skill and, 238-239; game theory and, 219-267; irrational behavior and, 242; labor law and, 237-241, 243; litigation and, 248-267; Nash bargaining model, 243; Nash program, 242, 305, 310; National Labor Relations Act as creating bargaining structure, 237; noncooperative, 3, 217-267, 311; private information, 229-231, 248-251, 266; Rubinstein game, 43, 220-228, 231, 233-234, 238-243, 279, 314; splitting a dollar, 43, 220-224; take-it-or-leave-it offers, 43, 277, 248-251; two-sided private information, 253-260, 267. *See also* Exit options
- Battle of the sexes. *See* Games
- Bayes's rule, 83, 88-89, 302; updating of beliefs and, 101
- Bayesian Nash Equilibrium. *See* Equilibrium
- Bazerman, M., 242, 297
- Bebchuk, L., 5, 158, 243, 266, 286, 290
- Becker, G., 46, 187, 290
- Beer-quiche game. *See* Games
- Beliefs, 83, 87, 101, 303. *See also* Solution concepts
- Ben-Porath, E., 218, 290
- Bergman, Y., 243, 290
- Bergström, C., 243, 290
- Best response. *See* Nash equilibrium
- Bifurcated trials. *See* Civil procedure
- Bimatrix. *See* Games
- Binmore, K., 4, 290
- Bisexual, Gay, and Lesbian Law. *See* Antidiscrimination laws
- Bolton, P., 158, 290
- Boulewarism, 49, 277, 302
- Branches, in extensive form game, 51, 303
- Brilmayer, L., 5, 290
- Brown, J., 47, 290
- Buchanan, J., 4, 290
- Calabresi, G., 4, 48, 290, 291
- California Book of Approved Jury Instructions, 275
- California Civil Code, 279
- Callen, J., 243, 290
- Camerer, C., 267, 289, 296
- Carlton, D., 186, 218, 291

3 / Index

- Carroll, S., 48, 294
Carter v. Kentucky, 91
Case v. Los Angeles Lumber Products, 235
Caveat emptor, 79
Chain-store paradox. *See* Repeated games
Chang, H., 243, 290
Chapter 11. *See* Bankruptcy law
Cheap talk, 243, 285, 303
Chicago Board of Trade, 216
Chicken. *See* Games
Cho, I.-K., 157-158, 291, 302
Chung, T.-Y., 48, 291
Circuit breakers, 216-217
Civil damages, 270, 304; game-theoretic modeling of, 24; information requirements and administrability, 139-140, 157; in games of private, nonverifiable information, 138-140, 157; social optimum implemented with, 31, 202, 205-206; strictly dominant strategies and, 30, 31, 276-277, 304
Civil procedure: American rule, 266, 301; appeal, 245; bargaining and, 244-267; bifurcated trials, 3, 255-260, 267; civil litigation as embedded game, 195; complaint, 244, 304; differences-of-opinion models of versus information models of, 247; discovery, 3, 96, 244, 246, 261-267, 306; English rule, 245, 266, 306; Federal Rules of Civil Procedure, 285; game theory and, 4, 244-267; information gathering, 96; optimism model, 245, 247, 251-252, 260-261, 266-267, 285, 311; pretrial settlement, 5; private information model, 245, 248-261, 266; rules of, 3, 244-245; selection bias, 260-261; sequential trials, *see* Civil procedure, bifurcated trials; settlement of litigation, 67-68; subpoena as information gathering device, 96; summary judgment, 244; unitary trials, 251-255, 257, 259-260, 267; unraveling result, discovery and, 263-265; verifiable information, discovery and, 261-267; writ of execution, 245
Civil rights. *See* Antidiscrimination laws
Clarke, E., 218, 291
Clarke-Groves mechanism, 205-206, 304
Coase conjecture, 267, 304
Coase theorem, 4, 47
Coase, R., 4, 47, 120, 267, 291
Collateral. *See* Secured transactions
Collective action, 2-3, 31-32, 188-218; effect of private, nonverifiable information on, 202-208; herd behavior and, 213-217; inability to bind other players and, 32; modeling dynamics of, 45; prisoner's dilemma as aid to solving, 194-195; problem of, 1; reduction to two-person

4 / Index

- game, 32; tragedy of the commons, 34, 49, 316-317; transaction costs and, 32; voting schemes and, 202-203
- Collective bargaining. *See* Labor law
- Column player. *See* Games
- Command-and-control laws, 140, 158
- Commercial law, 266
- Commitment strategies: antitrust and, 50, 77; contracts and, 117-118, 121; transactions costs and, 118, 121; wasting of resources and, 61-62. *See also* Bargaining
- Common knowledge, 108-109, 120, 164, 165, 167, 184, 208, 279, 304
- Common law: "efficiency" of, 24
- Comparative negligence. *See* Tort law
- Compensatory damages, 76; Anglo-American tort law as regime of, 24; strict liability and, 28-31
- Competition: unfair methods of, 57, 63
- Complaint. *See* Civil procedure
- Complete information. *See* Information
- Computer Associates International, Inc. v. Altai, Inc.*, 284
- Conflict of laws: game theory and, 5
- Consequential damages. *See* Contract damages
- Consumer product safety laws, 190
- Contract damages, 307; achieving social optimum with, 74; as perturbation of payoffs, 56, 71-72; compared with torts, 72; consequential, 147-150, 281; expectation, 75, 151; foreseeable, 148-150; reliance, 313; schedule of, 74. *See also* Contract law; Contracts
- Contract law, 1; assumptions, 75; bargaining and, 224-232; debt contracts, 50, 64, 77; default rules and, 5, 147-153, 158, 225, 281, 305; duress, 109; "efficiency" of, 75; exit options in bargaining and, 225-231; extensive form game and, 76, 281; game theory and, 56, 68-75; gap-filling function of, 68-69; incentives and, 225; mitigation, 50, 74-75, 278, 309; mutually beneficial trade and, 56-57; offer and acceptance, 5; parol evidence rule, 76; penalty defaults, 152, 281; perfect tender rule, 231-232, 312; preliminary negotiations and enforceability, 160-162; renegotiation and, 2, 57, 109-118, 120-121; social optimum and, 75; specific performance, 3, 152, 225-231, 315; Statute of Frauds, 2, 76, 159-160, 162, 315; substantial performance, 232, 316; transaction costs and, 148-151; warranty, 50, 69, 71, 124. *See also* Contract damages; Contracts

5 / Index

- Contracts: and investment decisions, 114; as creating a bargaining structure, 220; as inducing pooling or separating, 154-155; as transformation mechanisms, 55; game-theoretic understanding of, 55, 76; incomplete, 112, 120-121, 279, 308; legal enforceability of, 54; long-term, 111, 116, 121; oil and gas, 80; procurement, 117-118; relational, 121; terms in as signals, 144, 146, 147, 152-153; verifiable information and, 110. *See also* Contract damages; Contract law
- Contributory negligence. *See* Tort law
- Cooper, R., 40, 47, 277, 291
- Cooperation. *See* Long-term cooperation
- Cooperative bargaining. *See* Bargaining
- Coordination game. *See* Games
- Cooter, R., 5, 48, 242, 267, 279, 291
- Copyright law, 212-213
- Corporate law: game theory and, 5. *See also* Securities law
- Corporate reorganizations. *See* Bankruptcy law
- Cost of accidents, 6, 74; due care and, 25-27; optimal care and, 13
- Costs: internalization of, 14, 25
- Crawford, R., 120, 295
- Credible promises: debt contracts and, 51
- Credible threat, 59, 61, 228, 305; subgame perfection and, 65-66
- Criminal law: game theory and, 43
- Crocker, K., 121, 291
- Curran, C., 48, 291
- Custom: legal rules and, 5
- Damages: tort law and, 14. *See also* Contract damages
- Dashed line, 52
- Daughety, A., 266, 291
- Deaton, A., 46, 291
- Debtor-creditor law, 1, 77; collection costs, 57; extensive form games and, 54; game theory and, 50, 63-66. *See also* Bankruptcy law; Secured transactions
- Decision nodes, 51, 66, 305, 311
- Decision theory, 46
- Decisionmaking. *See* Simultaneous decisionmaking
- Default rules. *See* Contract law
- DeJong, D., 40, 47, 277, 291
- Dekel, E., 218, 290
- Deneckere, R., 242, 289
- Dewatripont, M., 120, 292
- Diamond, P., 48, 292
- Direct mechanism, 282, 305. *See also* Mechanism design; Revelation principle
- Disclosure laws, 97, 107, 108, 270; unraveling and, 95-98,

6 / Index

- 120; statutes and regulations, 278-279
- Discount factor, 168, 305
- Discovery. *See* Civil procedure
- Dixit, A., 4, 77, 292
- Dominant strategy. *See* Strategy
- Dominated strategy. *See* Strategy, dominant
- Due care. *See* Tort law
- Dye, R., 121, 292
- Dynamic consistency, 76-77, 78
- Dynamic interactions: modeling as extensive form game, 52
- Easterbrook, F., 120, 187, 267, 282, 292
- Economic analysis of law: game theory and, 4
- Eisenberg, T., 267, 292
- Ellickson, R., 5, 187, 292
- Elster, J., 46, 280, 292
- Embedded games. *See* Games
- Emons, W., 218, 292
- Employment law. *See* Labor law
- Environmental law: game theory and, 48
- Epstein, R., 278, 292
- Equilibrium dominance. *See* Refinements
- Equilibrium path, 66, 73, 74, 306
- Equilibrium, 37-38; Bayesian Nash, 206-208; beliefs and, 84; contracts as creating separating equilibria, 154 Cournot-Nash, *see* Nash equilibrium; focal point, 39, 40, 44, 307; laws as creating separating equilibria, 138, 156; laws as destroying separating equilibria, 141, 146-147; mixed strategy 309, 313; Nash, *see* Nash equilibrium; perfect Bayesian, *see* Perfect Bayesian equilibrium; pooling, 83, 130, 138, 141, 155, 156, 230, 249, 312; pure strategy, 37, 313; renegotiation-proof, 173, 313; separating, 83, 130, 138, 140-141, 146-147, 154, 156, 229, 248, 250, 314; stationary, 226; testing for, 104-105; Schelling point, 39, 307, 314; subgame perfect, *see* Subgame perfect Nash equilibrium. *See also* Solution concepts
- Excess inertia, 209, 210
- Excess momentum, 209, 210-211
- Exclusivity period. *See* Bankruptcy law
- Exit options, 226, 242, 307; bankruptcy law and, 232-237; hiring replacement working as, 239-240; labor law and, 238-241; manager's alternative wage as, 234-237; new value "exception" as 235-237; private information and, 229-232; sale of firm's assets as, 238-239; specific performance as 225-231; workers' alternative wage as, 238
- Expectation damages. *See* Contract damages
- Expected utility theory, 47, 275
- Experiments. *See* Game theory
- Extensive form game. *See* Games

7 / Index

- Externality, 215, 307. *See also*
Network externalities
- Family law: Family and Medical
Leave Act of 1993, 281; game
theory and, 5, 111, 122-123,
142-145, 158, 281
- Farber, D., 4, 292
- Farrell, Grossman, and Perry
refinement. *See* Refinements
- Farrell, J., 158, 187, 218, 243,
266, 285, 290, 292
- Federal Rules of Civil Procedure.
See Civil Procedure
- Federal Rules of Evidence, 278
- Federal Trade Commission Act,
57
- Federal Trade Commission v.*
E.I. DuPont de Nemours &
Co., 57, 63
- Fernandez, R., 243, 285, 293
- Fifth Amendment: unraveling
result and, 90-91
- Finitely repeated game. *See*
Repeated games
- Firm-specific skills. *See*
Bargaining
- First-mover advantage, 43, 60
- Fischel, D., 120, 292
- Fishman, M., 120, 293
- Fixture. *See* Real property
- Focal point. *See* Equilibrium
- Folk theorems. *See* Repeated
games
- Foreseeable damages. *See*
Contract damages
- Forsythe, R., 40, 47, 277, 291
- Free-riding, 176, 189, 203, 308
- Frickey, P., 4, 292
- Friedman, D., 48, 293
- Friedman, J., 47, 293
- Frivolous lawsuits. *See* Negative
expected value lawsuits
- Fudenberg, D., 4, 77, 78, 119,
158, 187, 267, 283, 293
- Game theory, 308;
antidiscrimination laws and,
79, 136-137, 144, 145;
antitrust and, 1, 2, 50, 60-62,
76-77, 165-187, 211-212,
312; assumptions of, 7, 11,
13, 15, 18, 24, 27, 28, 46;
banking law and, 94-95;
bankruptcy law and, 3, 4, 5,
77, 196-202, 232-237, 243,
266, 284-285, 301, 306, 308;
bargaining and, 219-267;
bimatrix, 46, 303; civil
damages and, 24, 30, 31, 138-
140, 157, 202, 205-206, 270,
276-277, 304; civil procedure
and, 3, 4, 5, 67-68, 96, 195,
244-267, 285, 301, 304, 306,
311; comparing legal regimes,
14-19; conflict of laws and, 5;
contract law and, 1, 2, 3, 5,
50, 56-57, 64, 68-77, 109-
118, 120-121, 124, 147-153,
158-162, 224-232, 278, 281,
307, 309, 312, 313, 315, 316;
copyright law and, 212-213;
corporate law and, 5; criminal
law and, 43; debtor-creditor
law and, 1, 50, 54, 57, 63-66,
77; division of gains from
trade and, 219-224; economic
analysis of law and, 4;
environmental law and, 48;

8 / Index

- experiments, 39-40, 47; family law and, 5, 111, 122-123, 142-145, 158, 281; information economics and, 4; insurance laws and, 123-124, 153; labor law and, 43-44, 46, 92, 93, 94, 97, 145, 190-191, 237-241, 243, 266; mandatory disclosure laws and, 79, 107, 108, 120; microeconomics and, 4; opera and, 41-42; plant closing laws and, 79, 145-147, 278, 281; predictive power of, 13, 39, 44, 271; privilege against self-incrimination and, 90-91; property law and, 31-41, 46; secured transactions and, 200-202; securities law and, 79, 94, 97-98, 278; social optimum, implementing in strictly dominant strategies, 31, 304; tax law and, 76-77; tort law and 6-31, 46, 47-48, 269; Williams Act and, 79, 278; Worker Adjustment and Retraining Notification Act and, 79, 145-147, 278, 281
- Game tree, 51, 55
- Games: assurance, 44, 277, 301; battle of the sexes, 41-42, 44, 302; beer-quiche, 126-127, 157-158, 280, 302-303, *see also* Nonverifiable information games; bimatrix, 10, 14, 70; chicken, 43-44, 303; column player, 10; coordination, 40, 191-192; creation of, 8; embedded, 3, 45, 189, 191-195, 269; extensive form, 50, 51, 52, 75, 77, 78; extensive and normal form, equivalence of, 52; installment game, 161-164, 167; matching pennies, 1, 42-43, 309; modeling legal regimes as, 9; normal and extensive form, relationship between, 52; normal form, 6-8, 50, 52, 53, 70, 75, 311; payoffs, 8-12, 10, 14, 15, 60, 74, 311; player, 8, 312; prisoner's dilemma, *see* Prisoner's dilemma; repeated games, *see* Repeated Games; row player, 10; Rubinstein bargaining, 220-224; sequence of moves, relevance of, 59-60; signaling, *see* Nonverifiable information games; solving, 11; splitting a dollar, 43, 220-224; stag hunt, 1, 35-36, 44, 49, 188, 301, 315; stand alone, 3; stationary, 169, 315; strategic form, 7, 311, 315; supergame, *see* Repeated games; three-by-three bimatrix, 21, 40; three-by-two bimatrix, 71, 72; two-by-two bimatrix, 10-11, 31, 33, 35, 45, 46, 48; zero-sum, 43, 317. *See also* Nonverifiable information games; Prisoner's dilemma; Repeated games
- Geanakoplos, J., 120, 279, 293
- General Foods v. Valley Lea Dairy*, 68-69, 83-87
- Gerard-Varet, L.-A., 218, 289
- Gertner, R., 121, 158, 279, 289
- Ghemawat, P., 77, 293
- Gibbons, R., 4, 49, 119, 158, 243, 283, 285, 292, 293
- Glazer, J., 243, 285, 293
- Goetz, C., 158, 293

9 / Index

- Going concern value. *See*
Bankruptcy law
- Gordon, J., 5, 293
- Gould, J., 266, 293
- Grand Central Station: as focal
point, 39-40
- Green, E., 187, 293
- Griffin v. State of California*, 91
- Grim strategy. *See* Strategy
- Grossman, S., 119, 120, 158,
266, 293
- Groves mechanism. *See* Clarke-
Groves mechanism
- Groves, T., 218, 293
- Gul, F., 267, 293
- Hadfield, G., 121, 294
- Hadley v. Baxendale*, 147-150,
158
- Hagerty, K., 120, 293
- Hammitt, J., 48, 294
- Hampton, J., 47, 294
- Hardin, G., 188, 217, 294
- Hart, O., 119, 120, 293, 294
- Hayashi v. Alameda County
Flood Control and Water
Conservation District*, 277
- Herd behavior, 3, 213-217
- Hermalin, B., 158, 289
- Hidden action. *See* Information,
moral hazard
- Hidden information. *See*
Information, adverse selection
- Hirschhoff, J., 48, 291
- Hirshleifer, J., 4, 119, 294
- Högfeldt, P., 243, 290
- Holmstrom, B., 120-121, 294
- Hughes, J., 266, 294, 299
- Hylton, K., 48, 294
- Imperfect information. *See*
Information
- Implied warranty of
merchantability, 74, 278
- Incomplete contracts. *See*
Contracts
- Incomplete information. *See*
Information
- Infinitely repeated game. *See*
Repeated game
- Information set, 52, 53, 64, 66,
70, 85, 86, 309
- Information: acquisition, 102,
103, 108, 120; adverse
selection (hidden information),
153, 154, 301; aggregation,
213-217; asymmetric, 79;
auditing, 190; Bayes's rule, 83;
certification, 190; complete, 3,
10, 31, 172, 305; contractual
arrangements regarding
disclosure as signals, 146;
contractual terms as signals,
144, 146, 147, 152-53; court's
ability to gather, 75, 96, 102,
268-270, 278; disclosure of,
89, 91, 93-94, 107, 120, 122,
146, 263-265; extensive form
game and, 50; Fifth
Amendment and, 90-91;
imperfect, 10, 31, 48, 53, 126,
206, 308, 312; incomplete, 2,
3, 10, 126, 305, 308; inquiry
limits, 91-92, 93; legal
regulation of, 97; legal rules as
altering signaling, 135, 136,

10 / Index

- 137, 156; mandatory disclosure, 79, 107, 108, 120; modeling, 9-10; moral hazard, 117, 153, 154, 309; observable and nonverifiable, *see* Nonverifiable information; observable and verifiable, *see* Verifiable information; ownership of, 106; perfect, 10, 312; perfect Bayesian equilibrium and, 89; pooling equilibrium and, 83, 130, 137, 138, 141, 142; private, 3, 89, 122, 142, 242, 313, *see also* Nonverifiable information, Verifiable information; privilege against self-incrimination and, 90-91; probability and, 83-84; regulation of, 98-99; reliance on, 12; revelation of, 89, 263-265; screening, 2, 123, 153-56, 158, 314; separating equilibrium and, 83, 130, 138, 140-141, 229; sequential rationality and, 87; signaling, 2, 123, 124, 126-127, 135-137, 142, 143-144, 146-148, 152-153, 156, 157-158, 183, 315; silence, drawing inferences from, 2, 89-90, 96, 100-101, 104; social benefit and private benefit compared, 98-99, 102, 106; strikes as screening mechanism, 94; tort law and, 27; two-sided private, 3. *See also* Nonverifiable information; Unraveling principle; Verifiable information
- Initial node, 51
- Inquiry limits. *See* Information
- Insurance Law, 123-124, 153
- Insurance: optimal, 281-282
- Interest rate: relation to discount factor, 305
- Intuitive criterion. *See* Refinements
- Irrational behavior: bargaining and, 242
- Issacharoff, S., 267, 289, 296
- Iterated dominance. *See* Strategy; Solution concepts
- Jackson, T., 5, 218, 290, 294
- Johnston, J., 5, 158, 294
- Joskow, P., 279, 294
- Jovanovic, B., 119, 294
- Jury instructions: comparative negligence and, 19-20
- Kahneman, D., 47, 294
- Kaplow, L., 158, 281, 294
- Katz, A., 5, 266, 294, 295
- Katz, M., 218, 295
- Kennan, J., 266, 278, 295
- Klamer, J., 218, 291
- Klein, B., 120, 267, 287, 295, 298
- Knetsch, J., 47, 294
- Kohlberg, E., 158, 217, 295
- Kornhauser, L., 5, 48, 295, 296
- Kramer, L., 5, 295
- Kreps, D., 4, 46, 47, 49, 77, 78, 119, 157-158, 187, 242, 276, 284, 291, 295, 302
- Kronman, A., 77, 120, 295
- Kydland, F., 78, 295

11 / Index

- Labor law, 266; Americans with Disabilities Act, 92, 145; collective bargaining, 237-241, 243; disclosure of information and, 93, 97; employer retaliation, 92; game theory and, 43-44, 46, 92, 237-241; good faith bargaining, 237; National Labor Relations Act (NLRA), 190-191, 237; plant closing laws, 79, 145-147, 278, 281; replacement workers, 239-240, 241; strikes, 237-241, 266; strikes as screening mechanism, 94; unfair labor practices, 239; Worker Adjustment and Retraining Notification Act, 79, 145-147, 278, 281
- Labor negotiations: collective bargaining, 237-241, 243; good faith bargaining, 237; strategic commitment and, 43-44; strikes, 44, 237-241
- Laffont, J.-J., 119, 121, 218, 295, 296
- Laidlaw v. Organ*, 98, 99, 103
- Landes, W., 47, 48, 266, 267, 276, 285, 296
- Law and economics: Nash equilibrium and, 47-48
- Law enforcement and mixed strategies, 43
- Leebron, D., 5, 296
- Legal error, 31
- Legal rules: as creating a bargaining environment, 220, 269; as exit options, 224-241; incentives and, 14; information structure and, 268-271; modeling through alteration of payoffs, 14, 16, 17
- Leinfellner, W., 49, 296
- Liggett Group, Inc. v. Brown and Williamson Tobacco Corp.*, 175
- Lithell, K., 243, 290
- Litigation bargaining, 248-267; contrast with standard bargaining, 250-251; inferences in, 257; selection bias in, 260-261
- Litigation: costs, 55; stakes in litigation and, 64. *See also* Civil procedure
- Loewenstein, G., 267, 289, 296
- Long-term cooperation: contract law enabling, 57; contract law and, 76, 111, 116, 121; repetition enabling, 173-174; reputation enabling, 57, 181-186
- Lott, J., 187, 296
- Lotus Development Corp. v. Borland International, Inc.*, 212-213
- Maltese Falcon, 81-83
- Mandatory disclosure laws: game theory and, 79, 107, 108, 120
- Maple Flooring Manufacturers' Association v. United States*, 176
- Market preemption. *See* Antitrust
- Marks, S., 5, 242, 291
- Maskin, E., 187, 218, 292, 295
- Masten, S., 121, 291
- Matching pennies. *See* Games

12 / Index

- Matsui, A., 243, 296
Maute, J., 158, 281, 296
McMillan, J., 49, 119, 187, 296
Mechanism design, 3, 202-208, 243, 266, 305, 309
Menell, P., 5, 218, 284, 296
Mertens, J.-F., 158, 295
Michigan Standard Jury Instructions, 275
Milgrom, P., 49, 119, 187, 295, 296
Mitigation. *See* Contract law
Mixed strategy equilibrium. *See* Strategy
Mixed strategy. *See* Strategy
Mnookin, R., 5, 242, 243, 291, 296
Model Code of Professional Responsibility, 278
Model Rule of Professional Conduct, 278
Moore, J., 120, 294
Moral hazard (hidden action). *See* Information
Morgenstern, O., 4, 47, 300
Mortgage. *See* Security interest
Most-favored-nation clause, 282
Muellbauer, J., 46, 291
Multiperson prisoner's dilemma. *See* Prisoner's dilemma
Mutually beneficial trade: contract law and, 56-57
Myerson, R., 4, 47, 158, 243, 267, 293, 297
Nalebuff, B., 4, 266, 292, 297
Nash equilibrium, 19, 21-23, 47-48, 53, 63, 64, 65, 72, 73, 81, 85, 86, 271, 276, 280, 310; Anglo-American tort law and, 25-27; backwards induction and, 63; best response and, 22, 23, 38, 72, 84, 104-105; compared with strict dominance, 31; deviations from, 23, 70; existence of, 22; importance of, 21; mixed strategy and, 37-39; multiple, 35, 39, 42, 73, 84, 86; pareto optimal, 173; predictive power of, 22, 276; preplay communication and, 40-41; rationality assumptions of, 23
Nash, J., 4, 21, 47, 242, 297
Nature, 126, 310
Neale, M., 242, 297
Negative expected value lawsuits, 286
Negligence. *See* Tort law
Negotiation. *See* Bargaining
Network externalities, 3, 208-213, 217, 310
New value "exception." *See* Bankruptcy law
New York Civil Practice Law and Rules, 275
New York Stock Exchange, 216-217
NLRB v. Burns International Security Service, Inc., 238
NLRB v. General Electric Co., 277
NLRB v. Mackay Radio and Telegraph, 239

13 / Index

- NLRB v. Truitt Manufacturing Co.*, 93-94
- Node, 51, 53, 86, 311
- Noncooperative bargaining. *See* Bargaining
- Nonverifiable (private)
information games, 126-127, 156-157; role of legal rules in, 135, 136, 137, 144; social welfare in, 134-135, 136, 141; unexercised rights in, 137. *See also* Information, signaling
- Nonverifiable information, 3, 89, 122, 270, 311; modeling approaches to private, 126; observable, 109-112, 228, 311; private, 229-231, 242, 246, 301; private and civil damages, 202, 205-206; private and civil procedure, 245
- Normal form game. *See* Games
- Norms: division of surplus and, 220
- Nozick, R., 47, 297
- Observable information. *See* Nonverifiable information
- Off the equilibrium path, 66, 73, 74, 76, 306, 311. *See also* Refinements
- Okuno-Fujiwara, M., 120, 297
- Olson, M., 188, 217, 297
- Opler, T., 187, 296
- Optimism model. *See* Civil procedure
- Ordoover, J., 48, 187, 297
- Orr, D., 48, 297
- Osborne, M., 242, 297
- Ostrom, E., 217, 297
- P'ng, I., 266, 298
- Palfrey, T., 243, 297
- Parental leave. *See* Family Law
- Pareto optimal, 173, 277, 302, 311
- Patent laws, 213
- Payoffs. *See* Games
- Pearce, D., 187, 289, 297
- Peevyhouse v. Garland Coal and Mining Co.*, 150-153, 158, 224-232, 241, 281
- Perfect Bayesian equilibrium, 83, 88-89, 102, 104, 119, 133-134, 248; implausible beliefs and, 132; multiple, 87, 131; refinements, 88-89, 102, 133-134, 138, 141, 142
- Perfect information. *See* Information
- "Perfection": game theoretic, 81, 84. *See also* Solution concepts
- Perfect tender rule. *See* Contract law
- Perloff, J., 186, 291
- Perry, M., 158, 266, 293
- Personal property, 312, 313
- Picker, R., 218, 242, 243, 290, 297
- Plan of reorganization. *See* Bankruptcy law
- Plant closing laws: game theory and, 79, 145-147, 278, 281
- Player. *See* Games
- Polaroid v. Eastman Kodak*, 285
- Polinsky, M., 48, 298

14 / Index

- Pooling equilibrium. *See* Equilibrium
- Porter, R., 187, 293
- Posner, R., 4, 47, 48, 158, 217, 242, 266, 276, 281, 296, 298
- Postlewaite, A., 120, 297
- Poundstone, W., 48, 298
- Predation. *See* Antitrust
- Predatory Pricing. *See* Antitrust
- Preemption. *See* Antitrust, market preemption
- Preferences: endogenous, 184-185
- Prescott, E., 78, 295
- Pretrial bargaining. *See* Litigation bargaining; Civil procedure
- Priest, G., 267, 287, 298
- Principal-agent problem, 117
- Priority claim, 233
- Prisoner's dilemma, 1, 5, 33, 48-49, 188, 191, 312-313; as solving collective action problem, 194-195; bankruptcy law and, 4, 201; legal disputes as, 33, 167; legal intervention justified by, 34; limits of, 34-35, 45, 217; modeling legal problems as, 45; multiperson, 1; repeated, 48, 187
- Private information. *See* Information; Nonverifiable information; Unraveling Principle; Verifiable Information
- Probability: information and, 83-84; sequential rationality and, 87; updating of, 83-84
- Profit-maximization, 11
- Property law: flooding and "common enemy," 32; game theory and, 31-41, 46; levees; regulation of, 34, 41
- PSI Energy, Inc. v. Exxon Coal USA, Inc.*, 280
- Public choice, 4
- Public good, 176, 189, 313; mechanisms for funding, 202-208
- Pure strategy equilibrium. *See* Equilibrium
- Pure strategy. *See* Strategy
- Rabin, M., 243, 298
- Raiffa, H., 242, 298
- Rasmusen, E., 4, 298, 302
- Rationality assumptions, 11, 12, 17, 18, 31, 46; alternative definitions, 282; Bayes's rule and, 83-84; beliefs and, 81; Nash equilibrium and, 23; necessity of, 27-28; reliance on, 12, 17, 18, 23
- Rea, S., 48, 298
- Real property, 313, 314
- Refinements, 39, 47, 157-158, 313; Cho-Kreps, 280, 304; equilibrium dominance, 133; Farrell, Grossman, Perry, 255, 266, 307; intuitive criterion, 133, 306, 309. *See also* Perfect Bayesian equilibrium; Subgame perfect Nash equilibrium
- Regulation: bargaining, 43; collective action and, 34; coordination and, 41;

15 / Index

- information and, 93-95, 97;
- mixed strategies and, 42;
- multiple Nash equilibria and, 41; prisoner's dilemma and, 45; standardization and, 41, 98; unraveling result and, 93-95
- Reinganum, J., 266, 291, 298
- Reliance damages. *See* Contract damages
- Relles, D., 48, 294
- Renegotiation, 2, 109-118, 120-121; absence of a duty of, 112; bargaining power and, 109, 116; contract law and, 57, 112, 115
- Renegotiation-proof equilibrium. *See* Equilibrium
- Reorganization. *See* Bankruptcy law, plan of reorganization
- Repeated games, 2, 48, 186, 269, 308, 313; chain-store paradox, 186-187, 303; equilibrium selection strategies in infinitely repeated, 173; finitely, 167; folk theorems, 172-173, 187, 307; grim strategies, 169, 308; infinitely, 167-175, 180, 187, 313; supergame, 167, 172, 316; tit-for-tat, 171-172, 174, 316
- Reputation, 181-186, 187; as substitute for contract, 56; cooperation and, 56
- Revelation principle, 283, 305, 314. *See also* Mechanism design; Direct Mechanism
- Revesz, R., 48, 295
- Riley, J., 4, 119, 294
- Risk neutrality, 275, 311, 314
- Roberts, J., 49, 187, 295
- Roe, M., 282, 298
- Rogerson, W., 298
- Rosenthal, H., 243, 297
- Ross, D., 186, 299
- Ross, T., 40, 47, 277, 291
- Rotemberg, J., 187, 298
- Rothschild, M., 158, 298
- Rousseau, J.-J., 49
- Row player. *See* Games
- Rubinfeld, D., 48, 298
- Rubinstein bargaining game. *See* Bargaining
- Rubinstein, A., 221, 242, 297, 298
- Saloner, G., 187, 218, 292, 297, 298
- Sarig, O., 121, 298
- Satterthwaite, M., 267, 297
- Saxon, O., 284, 289
- Schelling point. *See* Equilibrium
- Schelling, T., 4, 39, 77, 299
- Scherer, F., 186, 299
- Schmalensee, R., 186, 299
- Schwartz, A., 121, 299
- Schwartz, G., 48, 275, 299
- Schweizer, U., 267, 299
- Scott, R., 158, 293
- Screening. *See* Information
- Secured transactions: as embedded game, 200-202; collateral, 237, 301, 304, 314; security interest, 233, 282, 314

16 / Index

- Securities and Exchange Commission, 94, 96
- Securities law: game theory and, 79, 278; unraveling principle and, 94, 97-98
- Seidmann, D., 243, 299
- Selection bias, 260-261
- Self-incrimination: privilege against, 90-91
- Self-interest, 11
- Selten, R., 78, 187, 299
- Separating equilibrium. *See* Equilibrium
- Sequential decisionmaking. *See* Herd behavior
- Sequential rationality. *See* Solution concepts
- Sequential trials. *See* Civil procedure
- Setear, J., 267, 299
- Settlement. *See* Bargaining, litigation
- Shapiro, C., 218, 295
- Sharing rules: comparative negligence and, 20
- Shavell, S., 47, 48, 120, 158, 267, 278, 279, 290, 299
- Signaling. *See* Information; Nonverifiable information games
- Silence: drawing inferences from, 2, 89-90, 96, 100-101, 104
- Simple rules, need for, 75
- Simultaneous decisionmaking, 3, 6, 52; collective action and, 34; imperfect information and, 53; modeling, 32; transaction costs and, 34
- Snyder, E., 266, 294, 299
- Sobel, J., 158, 267, 290, 299
- Sobelsohn, D., 48, 299
- Social costs: private costs and, 14, 24-27, 29-30
- Social optimum: contract law and, 75; implementing in strictly dominant strategies, 31, 304
- Solution concepts, 11, 47, 315; beliefs and, 12, 80-83; consistency between beliefs and actions, 81; assumptions and, 13, 18; iterated dominance, 80, 278, 309; limits of, 39-41, 47; rationality assumptions and, 13, 18, 31; sequential rationality, 87, 315. *See also* Backwards induction; Nash equilibrium; Perfect Bayesian equilibrium; Strictly dominant strategies; Subgame perfect Nash equilibrium
- Sonnenschein, H., 267, 293
- Southwest Engineering Co. v. Martin Tractor Co.*, 160-162
- Specific performance. *See* Contract law
- Spence, M., 77, 158, 299
- Spier, K., 121, 266, 299, 300
- Spulber, D., 266, 300
- Stacchetti, E., 187, 289
- Stag hunt. *See* Games
- Standards, 208-213
- Stationary games. *See* Games

17 / Index

- Statute of Frauds. *See* Contract law
- Stigler, G., 187, 300
- Stiglitz, J., 158, 298
- Stole, L., 158, 300
- Strategic behavior: defined, 1
- Strategic form game. *See* Games
- Strategy combination, 8, 14, 63, 72, 73, 85
- Strategy space, 8, 50, 82, 215, 316
- Strategy, 8, 53, 64-65, 315;
actions and, correspondence between, 53; combinations of actions as, 53; dominant, 11, 12, 15-16, 17, 18, 47, 53, 87, 275, 306; ; grim, *see* Repeated games; iterated dominance, 12, 15-16, 17, 23; mixed, 37-39, 42, 43; move order, importance of, 60, 62; pure, 37; trigger, *see* Repeated games, grim strategies
- Strict liability with comparative negligence. *See* Tort law
- Strict liability. *See* Tort law
- Strictly dominant strategies, 11, 12, 13, 47, 271; comparative negligence and, 29; implementing social optimum in, 31, 304; marginal incentives, 28-29; tort law and, 28-31; weakly dominant, 47
- Strikes. *See* Labor law; Labor negotiations
- Subgame perfect Nash equilibrium, 50, 65-66, 66-67, 73, 77, 78, 81, 86, 168, 170, 172-173, 180, 316; bargaining and, 221-223, 241
- Subgame, 66, 70, 72, 86, 316
- Substantial performance. *See* Contract law
- Sunstein, C., 187, 217, 282, 300
- Supergame. *See* Repeated games
- Surplus from trade, 3
- Sutter-Butte By-Pass Assessment No. 6. In re*, 277
- Sutton, J., 242, 300
- Suzumura, K., 120, 297
- Tacit collusion. *See* Antitrust
- Tax amnesty: dynamic consistency and, 76
- Tax law: game theory and, 76-77
- Terminal node, 51, 66, 311, 316
- Thaler, R., 47, 294, 300
- Tirole, J., 4, 77, 78, 119, 120, 121, 158, 186, 187, 267, 283, 293, 296, 300
- Tit-for-Tat. *See* Repeated games
- Title IX, 92
- Tort law: accidents and, 6; airplane accidents and strict liability, 16; assumptions of, 24; comparative negligence, 7, 19-23, 24, 29, 48, 269, 304; contributory negligence, 7, 305; damages, 14; due care, 8, 13, 20, 24-27, 31, 306; economic analysis and, 47-48; excessive care, problem of, 29-30; full compensation, assumption of, 15; game theory and, 46, 47-48; incentives to take care and, 16; informational assumptions of,

18 / Index

- 27, 48; internalization of costs, 76; last clear chance, 53; law and economics and, 6; legal error and, 31; marginal incentives and, 28-29, 48; Nash equilibrium and, 24-27; negligence, 16-17, 18, 24, 28-29, 48, 269, 310; no liability, regime of, 10; normatively troubling features of, 19; out-of-equilibrium behavior, importance of, 17, 18-19; precautions, ability to take, 16; principle underlying Anglo-American regimes, 24; rationality assumptions of, 18, 23; razor- and knife- edge features of, 19, 31; social optimum, implementing in dominant strategies, 31, 304; strict liability, 7, 14-16, 18, 24, 25, 28-29, 48, 269, 316; strictly dominant strategies and, 28-31
- Tragedy of the commons. *See* Collective action
- Transaction costs: as a commitment strategy, 118, 121; collective action and, 32, 148, 149, 150; contract law and, 148, 149, 150; simultaneous decisionmaking and, 34
- Tremble, 164, 317
- Trigger strategy. *See* Repeated games, grim strategies
- Trust Indenture Act, 194-195
- Tsebelis, G., 217, 300
- Two-by-Two Game. *See* Games
- Two-sided private information. *See* Information
- Ulen, T., 48, 279, 291
- Uniform Commercial Code, 74.
See also Secured transactions
- Unions. *See* Labor law; Labor negotiations
- Unitary trials. *See* Civil procedure
- United States v. American Tobacco Co.*, 282
- Unraveling principle, 2, 89-90, 94, 119-120, 190, 270, 317; assumptions of, 96-97; banking law and, 94-95; discovery and, 262-265; limits of, 95-96; securities law and, 94, 97-98, 120; updating beliefs in light of, 83, 101. *See also* Verifiable information
- van Damme, E., 218, 300
- Varian, H., 46, 119, 300
- Verifiable information, 89, 245, 270, 317; discovery and, 261-267; effective legal remedies and, 90; safe combination as, 89, 95. *See also* Unraveling principle
- Vickrey, W., 218, 300
- Vincent, D., 267, 300
- Von Neumann-Morgenstern expected utility theory, 47, 275, 317
- von Neumann, J., 4, 47, 300
- Voting Schemes. *See* Collective action
- White, M., 48, 300
- Wilde, L., 266, 298
- Wiley, J., 49, 300

19 / Index

Williams Act: game theory and,
79, 278

Williamson, O., 120, 300

Willig, R., 186, 299

Wilson, R., 5, 49, 119, 187,
243, 266, 267, 278, 293, 295,
296

Wittman, D., 267, 300

Worker Adjustment and
Retraining Notification Act:
game theory and, 79, 145-147,
278, 281

Zero-sum game. *See* Games