Ronald Coase, 1910-2013: A Tribute

Ronald Coase, Nobel Prize-winning economist and member of the University of Chicago Law School faculty since 1964, passed away on September 2, 2013 at the age of 102. Professor Coase was a titan of Law and Economics, as well as an extraordinary colleague and friend.

This spring, the Coase-Sandor Institute for Law and Economics will produce a book in tribute to Professor Coase. The book will contain a few of his most famous articles, material related to the Nobel Prize, and photos and texts from his life and work. The centerpiece of the volume will be tributes to Professor Coase from his friends and colleagues. As is fitting for the interdisciplinary theme of this issue of the Record, we are delighted to reprint a few of the tributes here.

For more information about the book, please contact Joseph Burton at jburton@uchicago.edu.

Coase’s Journey
Douglas G. Baird

In the fall of 1931, a twenty-year-old undergraduate left England to spend a year in the United States on a traveling fellowship. Lenin had boasted that he would turn the Soviet Union into one giant factory. This raised the question of whether there was any natural limit on how large firms might become. It raised other questions as well. Why were large firms needed at all? What prevented production from taking place through transactions among arbitrarily small firms in the marketplace? Indeed, what was the difference between activity inside a firm and outside it?

This undergraduate believed that by spending a year touring the United States to interview its entrepreneurs and economists, he could learn the answer to such questions. This project was quite beyond the reach of an ordinary undergraduate. Ronald Coase, however, was no ordinary undergraduate. The paper Coase wrote on his return was “The Nature of the Firm.” It brought him the Nobel Prize sixty years later and contains the ideas essential to industrial organization and modern law and economics.

Coase’s paper solved part of the mystery about why economic activity was located within firms rather than in the market. A “firm” consists of the system of relationships that comes into existence when an entrepreneur oversees the direction of resources. Instead of the price mechanism directing the flow of resources, an entrepreneur takes command of them. The relationships, not the assets, are the firm.

Coase’s work, among many other things, establishes a fundamental challenge to anyone working in my field of corporate reorganizations, the law dedicated to preserving financially distressed firms. Coase’s insight into the nature of the firm puts a natural limit on how much value a law of corporate reorganizations can bring. To make the case that a business has substantial value as a going concern and is worth saving, one must establish both that the business’s relationships are costly to replicate and that the business is itself sound.

If the first virtue of the firm lies not in its assets but rather in the way production is organized, the synergy any particular firm possesses may be more modest than commonly believed. Indeed, the ability to engage in the same activity in the marketplace puts an upper bound on the value of any given firm.
Another lesson of “The Nature of the Firm” applies to corporate reorganizations but extends well beyond it. A large business enterprise today often consists of a corporate group that consists of many discrete legal entities. Even though they function as a single economic entity, the law operates on the discrete legal persons, not on the group as a whole. A law that focuses on the behavior of a discrete economic actor may miss the mark when the firm in the Coasean sense is a collection of related entities.

In a world in which the boundaries of the firm become less clear and the identity of those who control the firm becomes more fluid, regulations that focus on the conduct of specific firms is at best incomplete and often misguided. No longer are the entities providing the goods or services long-lived, atomistic firms with a readily identifiable governance structure. To the extent that it is still possible in a global economy, effective legal rules will increasingly focus on regulating economic activity, rather than on regulating distinct legal entities.

This idea, one that has also influenced my own recent work, is another that can be learned from Coase. Those who work in virtually any area of the law find lessons for their domain. By focusing fundamental questions with clarity and precision each time he wrote, Coase ensured that his work will continue to offer fresh insights for this generation of scholars and succeeding ones.

Douglas G. Baird is the Harry A. Bigelow Distinguished Service Professor of Law.

Coase’s Theory of the Firm and the Family

Mary Anne Case

I was intrigued to see in one of Ronald Coase’s last public lectures to the University of Chicago community, the April 20, 2012, lecture on “Markets, Firms and Property Rights,” the suggestion that “firms are usually based initially on the family.” I have long found the analytic framework Coase set forth concerning the choice between firm and market extraordinarily useful for examining developments in the law concerning the family. Just as one is now generally free, as Coase observes, to structure one’s business affairs in corporate or partnership form, as a franchise operation, or as a sole proprietorship through a series of individual, isolated market transactions, so both law and society now offer a variety of ways to structure one’s personal life. The provision of sex and of care (for example, elder and child care) and the production of children can each be outsourced or internalized within a legally recognized family structure. Lawyers, as well as economists and sociologists, can both learn from and contribute to the ways choices among possible structures are made.

As the Sigourney Weaver character Chafee Bicknell, proprietor of an upscale surrogacy business, explains to the potential client played by Tina Fey in Baby Mama:

I started this business because I saw a growth market. We don’t do our own taxes anymore. We don’t program our computers. We outsource. And what is surrogacy if not outsourcing? Let me ask you a question. Do you plan on hiring a nanny? How is this any different? A nanny is someone you trust to take care of your baby after it’s born. A surrogate mother is someone you trust to take care of your baby before it’s born. Either way it’s your baby.
Although films such as Baby Mama suggest that outsourcing aspects of the production of children is something new, I think it is important to remember that the mom-and-pop production of children is no more universal a model than is the mom-and-pop business enterprise. Defenders of the so-called traditional family model tend to overlook not only the polygamy of the Old Testament patriarchs but also biblical surrogacy arrangements such as that of Jacob with Rachael and her maid Bilhah, along with Leah and her maid Zilpah, which produced the progenitors of four of the twelve tribes of Israel. Of course, the surrogacy arrangements in Genesis, like the use of slave wet nurses and mammies in the pre–Civil War American South, were not technically outsourcing, but keeping the production of children within the family firm: slavery, like marriage, was domestic relations.

Now, with adoption, the new reproductive technologies, and market provision of childcare, what portions of parenthood can be outsourced? Is there a limit on how many and a limit on which? Similar questions arise with respect to relations between adults, with civil marriage analogous to the firm and alternatives including registered domestic partnership, cohabitation with or without explicit contracting, and the single life. As the legal landscape of family law evolves rapidly, I find it increasingly fruitful to put my earlier work on the new reproductive technologies in an explicitly Coasean context, as well as analogies between marriage and the corporation. I’m deeply regretful that Ronald Coase himself is no longer around to tell me, as he told himself and so many of our colleagues, where the analysis on reflection appears unsound and where it has promise.

Mary Anne Case is the Arnold I. Shure Professor of Law.

1 Available at http://www.youtube.com/watch?v=ZAq06n79QIs.
2 In Chaffee Bicknell’s very name is a lesson in theory of the firm and the family: “I thought Chaffee and Bicknell were two different people,” says the potential client. What gives the outward impression of a partnership turns out to be a sole proprietorship, but one whose proprietor’s own name may stem from the American WASP tradition of announcing the merger of two families by giving children their mother’s maiden name as a first name.
3 See Genesis 30:1–13 (describing how Rachel while she was barren and Leah when she had stopped child bearing each encouraged their husband Jacob to have sex with one of her maids, with the sons that resulted being viewed as the sons of Jacob and Rachel or Leah, respectively).

Coase and Finding the Interesting Problem

Ronald Coase made his great contributions by tackling problems that other people did not see as problems in the first place, because they thought the analysis obvious. Why are corporations organized as they are? Because entrepreneurs command others to do their bidding. Why does the government build lighthouses? Because they are public goods, which the market cannot provide. Why do monopolists lease their goods? To ensure that used durable products cannot compete with new ones. Why does government allocate the airwaves? To prevent interference. How should government regulate externalities? By taxation.

Coase showed that all of these answers are wrong. Corporations take the form they do because fiat competes with organization through markets. Lighthouses are not public goods; private associations built and operated many of them. Durable goods cannot be monopolized, because rational actors anticipate the future and therefore will not pay more for the initial offerings than for later ones. Property rights in broadcast frequencies will prevent interference as well as government can and will improve allocative efficiency in the process. “Externalities” assume a causal chain they may not exist: when transaction costs are low, interference among activities can be solved by bargaining better than by taxation. The articles employed that rarest of skills, persuasive exposition. No equations, no regression coefficients, and using only the sort of data that an undergraduate could gather from with persistent effort.

When Coase wrote these and other articles, “everyone” knew them to be wrong. It is a mark of his persuasive power that today everyone thinks them right—so obviously right that some of his essential points have come to be called tautologies. Turning the profession around marks a great achievement. Today his work deeply influences legal doctrine (including the work of the federal courts) even though legislators and judges do not know the provenance of the ideas they implement.

I first met him in 1972, in my second year of law school. There were competing seminars in economic analysis of law. Coase taught one, using his articles and questioning what other people thought “obvious.” His seminar also featured
work that other scholars had begun to do following his example, such as William Baxter’s analysis of airport noise. The rival was Richard Posner’s first seminar in economic analysis, based on a photocopy of an early draft of the book eventually published as *Economic Analysis of Law*. Posner was interested in the economics of legal doctrine, Coase in the economics of market transactions that had acquired a legal overlay (such as the allocation of broadcast frequencies). I took both seminars and learned a great deal (not always the same thing) from each.

Coase’s work on broadcast frequencies has conquered the globe. Yet his first great article, on corporate structure, has had little apparent influence. State legislatures ignore it, and Delaware’s judges do not cite it. When I was in law school, the academy was dominated by a view that competition among jurisdictions is pernicious. That was still a common view when I took up teaching in 1979. Daniel Fischel and I set out to see what could be said about corporate law from Coase’s perspective. Our articles (and the book *The Economic Structure of Corporate Law*) concluded that Coase had largely prevailed through market forces. We dedicated that book to him. The whole legal profession, and society at large, is in his debt even if they do not know of him. He will be sorely missed.

Frank H. Easterbrook is a Judge on the United States Court of Appeals for the Seventh Circuit and a Senior Lecturer in Law.

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**Coase Is (Still) Everywhere**

Saul Levmore

I will miss both Ronald Coases. There was the personable, gentlemanly, but critical Coase, whose company I enjoyed over many lunches. He was contrarian, relentless in advancing a particular vision of law and economics, an insightful critic of experimental economics, most empirical work, and mathematical models. And then there was the iconic Coase, whose two most important works had a profound effect on most of what I (and many other people) do. In one case, Coase asked the game-changing question, What and why do firms do some things within themselves, but do other things through outsourcing or explicit contracts? And then in “The Problem of Social Cost,” Coase asked, When do legal rules matter? He then went ahead and answered the question by breathing the idea of transactions costs across the pages of law reviews for years to come. As with every innovation, we might ask when it would have come along if the first pathbreaker had never materialized? Given how long it took the Coase theorem to take root, I am confident that it would have been a while before someone else impressed upon us that in the absence of transaction costs, law’s allocation of rights, or at least transferable rights, would not affect behavior. Much has been made of the difficulty economists had in accepting the idea when it was first presented. Law professors were no better. Contrarian ideas have that effect. In turn, once the idea was understood, everyone in both disciplines seemed to think he or she knew it all along.

A lasting if personal effect of the iconic Coase is that I never stop puzzling over situations where people do not bargain around legal rules. You say the British rule of loser pays winner’s legal fees is superior; why don’t parties bargain for it before or during litigation? You say discovery is too expensive; why don’t parties pay one another not to ask some pretrial questions? You say you are grateful for no-smoking hotels; why did you not ever offer to pay more for a room with no smokers nearby?

And then there are larger questions. The iconic Coase can be understood, only sometimes incorrectly, as justifying the status quo. Thus, perhaps public-sector corruption is a Coasean reaction to inefficient legal rules. Should it be welcomed because it represents nothing more than parties’ bargaining around rules? Are all interest groups just engaging in the sort of bargains that looked inviting when Coase started making us see conflicts as nicely resolved when the higher-valuing “user” prevailed in law? Or if not, by purchasing rights outside of law? And perhaps even Coase thought on too small a scale. For example, in his last project he marveled at the rise of capitalism in China and offered some ideas about why and how China evolved. But we could out-Coase him and say that perhaps capitalism emerged because parties found it worthwhile to “buy” or otherwise bargain for the right to own property and to engage with one another through markets. It has taken me many years to work my way up to these larger questions, but the more manageable ones we deal with in law occupy most of my day and are more fun. I will always be indebted to Coase for the questions I use to understand phenomena all around us.

Saul Levmore is the William B. Graham Distinguished Service Professor of Law.
My Friend and Mentor
Ronald Coase

Richard L. Sandor

Professor Ronald Coase was a true giant. This great man and scholar forever changed those of us who had the good fortune to be his students or to even catch a glimpse of his warm smile at a lecture. Professor Coase was my mentor and teacher for forty years. His unwavering determination has always been a strong example and encouragement to me.

As a child, he had physical difficulties and was placed in an institution that specialized in handicapped children. It was his first exposure to school. At the time, it was the custom to assume physical handicaps were accompanied by mental disabilities. He was taught to weave baskets and not to read. However, he was determined to learn. He taught himself how to read by reading the labels of the bottles of medicine he had to take.

Professor Coase worked as a young analyst in Churchill’s war cabinet during World War II. His first task was to determine the number to airplanes, tanks, and other armaments the Germans were manufacturing. This was a military secret. Coase estimated the production by determining the amount of inputs such as coal, iron, and copper that were imported into Germany. The method proved to be valuable. Churchill then asked Coase to make the same determination for Great Britain. The Prime Minister was concerned that British industry was overreporting their production. Coase proved that this concern was correct, and the prime minister used Coase’s data to better steer the war. It was an excellent example of using caution with data and recognizing that individuals do not want to disclose their own waste and inefficiencies.

Later in the war he wanted to publish a monthly balance...
sheet on where armaments were stored by the British army. This would allow weapons and ammunition to be redeployed to the theater of war where they were most needed. After three months, the generals simply stopped reporting their data to protect their power, and the project failed. He told me this story when I told him about my failure to convince members of the US government about the need to address climate change. Professor Coase told me that he had failed too. He said, “The fate of the western world was in the hands of generals who would not share accurate data with the prime minister.” Mine was a small failure compared to his. It was a teaching moment and made me understand the need to learn from failure and the importance of determination.

I met Professor Coase when I was a young professor at the University of California, Berkeley. I contacted Professor Coase, who was at that time editor of the *Journal of Law and Economics*, to determine his interest in publishing my article on the plywood contract at the Chicago Board of Trade. He was not only interested in publishing it but took a personal interest in the editing of the article. His comments—and many criticisms—vastly improved my paper. Years later, we joked that he was the only editor that would have accepted the paper for publication. It was not only a paper that dealt with a real business case, but it also showed the reasons why the plywood contract failed. He would often tell me that we have much to learn from failure—a lesson that would serve me well in life.

All of these stories show his response in the face of adversity. As a scholar, many of his ideas were not at first understood by his own peers. While others might have been discouraged and changed course, Professor Coase proceeded undaunted.

Few scholars have changed the face of economics like Ronald Coase, and in the process, he helped create a new field: Law and Economics. He brought a very rare commodity to the economics profession—clarity. His prose was elegant but objective. His teachings were clear and his precise questioning meant to guide his students to the heart of the matter.

Ronald Coase will easily be on a list of the top five most influential economists of the twentieth century, alongside such names as John Maynard Keynes and Milton Friedman.
We can also put him in the same category as Adam Smith and David Ricardo. As they did, Professor Coase built a framework for us to think about fundamental issues as diverse as the organization of firms, pollution, the Internet, and the economic growth of China. This framework will continue to be as influential a hundred years from now as when it was recognized by the Nobel committee in 1991. I am proud and humbled to have been his friend and student. We will miss you, Professor Coase.

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Ronald Coase and the Freedom of Speech
Geoffrey R. Stone

In his groundbreaking 1977 article “Advertising and Free Speech,” Ronald Coase challenged conventional wisdom in an important area of First Amendment law. What especially interested Coase was the sharp divergence between the law’s profound commitment to the free market in the realm of speech and its lack of confidence in the free market in the economic realm. Invoking Justice Oliver Wendell Holmes’s assertion that “the best test of truth is the power of the thought to get itself accepted in the competition of the market,” Coase noted that First Amendment doctrine in regard to speech is largely premised on “an extreme faith in the efficiency of competitive markets and a profound distrust of government regulation.” But in the realm of “goods and services,” the very same “intellectual community” that celebrates the marketplace of ideas demands ever-more extensive government regulation. Coase suggested that this disparity “calls for an explanation” but lamented that such an explanation “is not easy to find.”

Coase thus rejected the then-prevailing proposition that the First Amendment excluded commercial advertising from the ambit of its protection. He predicted that over time the Court would come to “see the value of advertising in providing information” and as it comes to understand “the failures of governmental regulatory agencies” is likely “to contract the regulation of advertising.” Indeed, Coase suggested, there is no principled “resting place before reaching the point at which all advertising is covered by the First Amendment.” In the end, he concluded, the Court should allow the government to regulate only false and deceptive advertising.

Even before “Advertising and Free Speech” hit the newsstands, Coase’s predictions proved true. The Supreme Court overruled its precedents to the contrary and made clear that the notion that “commercial speech is unprotected” by the First Amendment was the result of a “simplistic approach.” The Court rejected the argument that “speech which does ‘no more than propose a commercial transaction’ is so removed from any ’exposition of ideas,’ and from ‘truth, science, morality, and arts in general, in its diffusion of liberal sentiments on the administration of Government,’ that it lacks all protection.”

The Court explained that commercial advertising has significant informational value. The individual “consumer’s interest in the free flow of commercial information,” for example, “may be as keen, if not keener by far, than his interest in the days’ most urgent political debate.” Moreover, “so long as we preserve a predominantly free enterprise economy, the allocation of our resources in large measure will be made through numerous private economic decisions. It is a matter of public interest that those decisions, in the aggregate, be intelligent and well-informed. To this end, the free flow of commercial information is indispensable.”

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“Even if the First Amendment were thought to be primarily an instrument to enlighten public decision making in a democracy, we could not say that the free flow of information does not serve that goal.” Ronald Coase was not a constitutional scholar, but in this instance he was one step ahead of the Supreme Court.

Geoffrey R. Stone is the Edward H. Levi Distinguished Service Professor.