

Index

- Adair v. United States*, 51
 agriculture, 28–43; cartelization of, 36–37, 42; Clayton Act and, 31–32; in European Union, 70; governmental dispensation to, 24–26, 27; insulation of, 28–30; intellectual property and, 41; political sympathy for, 26; production increase for, 33–34; regulation of, by Congress, 36; right to farm in, vii–viii, 28–30; without state intervention, 28; state-protected/organized (cartels of), xiii, 32–33, 36–37; subsidies damaging to, viii; subsidies for, 29–30, 38–42, 70; technological advances in, 61
- Allnut v. Inglis*, 38
 American legal education, 1–2
 antitrust laws, 21; as
 counterpressure to unions, 50;
 trade unions exempt from, viii;
 U.K., unions and, 52
 at-will agreement, administrative
 costs of, 46; dismissal, cause,
 and, 46–48; informal method of
 bonding and, 46–47; labor and,
 44–48, 50; rival employer,
 employee, and, 48–49; self-
 correcting, 46
- bargaining, agent, exclusive, 55;
 collective, 51, 55–56, 58; good-
 faith, 56
- Bhagwati, Jagdish, 72
 bill of rights, second, 29
 Black, Conrad, 7
 Blackstone, 3
 boycott, secondary, 54, 60
 Brandeis, Louis, xiii
 Bush, George W., 60
 buyer, willing, 29
- cartels/cartelization, for agriculture,
 36–37, 42; cheating among, 22,
 23, 33; classical liberal and
 voluntary, 33; competition and,
 21–27; destruction of wealth by,
 27; development of, in labor,
 49–52; judiciary resistance to
 state-sponsored, 37–39;
 minimalist strategy and internal
 failure of, 22–23; monopoly
 power of, 22; new members,
 pricing, and, 33; preconditions
 for, 21–27; prohibition against,
 32; self-interested, 42; social
 losses from, 22; standardization
 of products for, 24–25;
 successful, 27; tariffs and, 40; in
 United Kingdom, 52–53; in
 United States, 53–59
- cases, easy, 4, 6, 61, 75; agriculture
 as, 30–35; freedom of contracts
 in labor markets as, 44–49;
 multilateral free trade as, 73–74;
 between socialism and
 libertarianism, 8–11, 17, 18, 20

- cases, hard, 4, 6, 66–67; between socialism and libertarianism, 8–11
- chancellors of the Exchequer (U.K.), 68
- Chiang Kai-shek, 7
- child labor, 58–59
- choice, “yes or no,” 5–6
- Clayton Act, 31, 32, 53, 55
- Coase, R. H., 69
- Coase theorem, 67n2
- coercion, state, 12–13; taxation, finance, and, 15–16
- collective bargaining, 51, 55–56, 58
- collectivism, weakness of, 9–10, 11, 68
- command-and-control economy, xi
- commerce, beyond, 53–54
- commerce power, affirmative, 36–37; of Congress, 34–37, 58; dormant/negative, 34–35
- Commonwealth v. Hunt*, 50
- competition, 61; cartels and, 21–27; exemption from, with state-cartel, 33; foreign, 60; free trade with, 71, 73; labor and exemption from, 54, 57–58; precondition for, 21–27; pricing and, 28; rival employer, employee, contracts, and, 48–49; state monopoly, new firms, and, 57–58; state power enforcing, against collusive agreements, 24
- Competition Commission (U.K.), 75
- competitive harms, competitive markets and compensation for, 17–20
- competitive markets, competitive harms’ compensation and, 17–20; standardization of products for, 24–25
- Congress, agriculture and manufacturing regulation by, 36; commerce power of, 34–37, 58
- Constitution, U.S. written, 2
- constitutional doctrine, intellectual attack on, xiii–xiv; mistakes in, xii
- contracts, breach of, 52; employer forced to deal with, 56–57; free, limitations on, xiii, 56–57; freedom of, 44–49, 56–57, 74–75, 76; long-term, 48; term, 48; yellow dog, 53. *See also* at-will agreement
- Conybeare, Richard, 72
- Coppage v. Kansas*, 51
- Corn Laws (U.K.), 72
- criticism, standard of, 6
- currency, tariffs and reducing demands on, 42
- deflation, 36
- democracy, 43
- DeSoto, Hernando, 15, 69, 69n5
- developing countries, Western subsidies damaging, viii, 70
- dismissal, 46–48
- economics, law and, 65–66, 76–77
- economy, integrated national, 37; private law governing unregulated, 1–2
- employer, rival, 48
- English legal education, 1–2
- English private law, 1–2, 22, 37–38
- European Union, 74; agriculture in, 70
- evil, source of, 4
- farm. *See* agriculture
- fatalism, economic, 8
- favoritism, political, 16
- federalism, 2
- Fetter, Frank, 72
- Financial Times*, 3
- fraud, 12–13
- free contract, limitations on, xiii, 56–57

Index

81

- free speech, 57
 free trade, 40, 60, 71–72;
 multilateral or unilateral, 73–74
- gain, competitive markets and
 exhausting, 19–20; mutual, viii,
 13, 17
- Germany, 7
- globalization, 60
- goods/services, 10, 13, 22, 25, 34;
 overproduction of, from
 subsidies, 39
- government, agricultural and labor
 dispensation by, 24–26, 27;
 agriculture without intervention
 of, 28; behavior, 6; competition
 policy against collusive
 agreements by, 24; against
 excessive individualism, xii–xiii;
 price regulation by, for public
 interest, 38; price regulation,
 monopoly, and, 38; private
 markets needing, 16; public
 choice analysis of, 68n3;
 separation of power in, xii;
 takeover’s regulation by, 74–76;
 voluntary exchange and
 regulation of, 16. *See also*
 commerce power
- grocery business, 74–76
- Grotius, 3
- guilds, 49
- Hale, Matthew, 38
- Hammer v. Dagenhart*, 59
- harm (loss), with actionable injury,
 18–19, 69–70; from cartels/
 monopolies, 22; competitive, 17–
 20; fearing competitive, 23;
 without injury, 18, 69–70; no
 compensation for loss from, 20,
 73
- Hayek, Friedrich, 7, 10
- Hitchman Coal & Coke Co. v.*
Mitchell, 51
- ideas, great, 3
- immunity, official, 6
- income/wealth, 10, 13; cartel’s
 destruction of, 27
- independent contractors, 49
- individual, deception of, 12
- injunctive relief, 51, 54, 55
- intellectual property, 5; agriculture
 and, 41
- interest groups, market rigged by,
 vii
- judiciary, state-sponsored cartels
 resisted by, 37–39, 58–59
- Kennedy, John F., 13
- labor, antitrust laws as
 counterpressure to, 50; at-will
 contract with, 44–48, 50;
 bargaining of, 51, 55–56, 58;
 cartelization of, xiii, 44–60, 71;
 cartel’s development in, 49–52;
 Clayton Act and, 31–32;
 corruption in, 60; dismissals,
 recruitment, and, 46–47; exempt
 from antitrust laws, viii;
 exemption from competition
 with, 54, 57–58, 71; freedom of
 contracts in, 44–49;
 governmental dispensation to,
 24–26, 27; mechanization of, 4;
 organization of, 59; picketing
 by, 54–55; political sympathy
 for, 26; restraints on, 59–60; self-
 protection by, 52–53
- laissez-faire, 1
- Landrum-Griffin Act, 60
- law, economics and, 65–66, 76–77
- lawsuits, 20
- liberal, classical, 9, 21–22, 31;
 limited government approach of,
 xi, 16; voluntary cartels and, 33
- liberal democracy, 9; coercion
 systems, taxation, and, 15

- libertarianism, competitive markets, competitive harms' compensation, and, 17–20; easy cases between socialism and, 8–11, 17, 18, 20; hard cases between socialism and, 8–11; self-interest assumed by, 12–13, 15; social infrastructure underplayed by, viii–ix; strengths of, 12–14; voluntary exchange, social gains, and, viii, 12–14, 68–69; weakness of, 14–16
- liberty, disrespect of individual, 6–7, 68
- Lochner v. New York*, 58
- Locke, John, 3
- Loewe v. Lawler*, 50
- losses, social. *See* harm
- manufacturing, Congress regulation of, 36
- Mao Tse-tung, 7
- market, arbitrary, power, 45; choice, 6; failures of, 11; inferior structure of, with cartels, 27; public systems needing private, 16; state intervention in, 11; unworkable areas in, 11
- means of production, collectivism, weakness for, 9–10; competitive free markets organizing, 8
- medical ethics, 17
- mercantile transactions, 17–18
- mercantilism, 41
- monopoly, 21; bilateral, 56; cartel, 22; fear of, xiii; price regulation, government, and, 38–39; return limited for, 38; risk of, 31; state-protected, xiii, 32–33, 36–37, 57, 62; technology mitigating, 61–62. *See also* cartels/cartelization
- multilateralism, 73
- mutual gain, viii, 13, 17
- National Labor Relations Act, viii, 45, 55–56; limitations/influence of, 57–58
- National Labor Relations Board v. Jones & Laughlin Steel Corp.*, 59
- national socialism, socialism v., 7
- nationalization, 11
- natural reason, 3
- natural resources, 4
- Nebbia v. New York*, 39
- New Deal, xii, 34, 59
- Norris-LaGuardia Act, 55
- Office of Fair Trading (U.K.), 65
- parity principle, 28–29
- Parker v. Brown*, 32–33
- patents, 4–5
- Peel, Robert, 72
- picketing, 54–55
- political favoritism, ix
- political sympathy, 26
- positive-sum games, 12
- predation, 23
- pricing, cartels, new members, and, 33; competitive, 28; determination of, 37; discrimination of, 25; government regulation of, for public interest, 38; lower, for maximizing profits, 42; maintenance of, 28–29; monopoly, government, and regulation of, 38; as restraint of trade, 30–34; stabilization, 35
- private initiatives, 69
- private property, 13, 68; contempt for, 6–7; limitations on, xiii; security for, 16
- products, fungible, 24; individualized, 24–25; raw, 42; standardization of, 24–25
- Progressives, xii–xiii
- property rights, 12, 14
- prosperity, social, 8
- protectionism, 35, 36, 41, 42, 73

Index

83

- public goods, rules for provision
of, ix
public interest, 38
- reciprocity, sequential, 72
recruitment, costs of, 47
res extra commercium, 53–54
Ricardo, David, 42
The Road to Serfdom (Hayek), 7
Robinson, Joan, 71
Roman legal education, 1–2
Roosevelt, Franklin D., vii, 29, 36;
misguided economic policies of,
7
- Sacks, Jonathan, 69n4
Safeway, 74–75
self-correction, 46
self-help, 14
self-interest, 12–13, 15, 42
self-protection, 53
Sherman Act, 31, 32, 50
Skepticism and Freedom (Epstein), 9
Smith, Adam, xiii, 21–22, 41
Smoot-Hawley tariff, 36
social improvement, 18
socialism, computer calculation
debate for, 9–10; easy cases
between libertarianism and, 8–11,
17, 18, 20; hard cases between
libertarianism and, 8–11; national
socialism v., 7; weakness of, 9–
10, 11, 68
Soviet Union, 7
Stalin, Joseph, 7
standardization, of products, 24–25
state, intervention in market, 11,
24–26, 27, 28–30; monopoly for
decentralized economy, 14–15; -
protected cartel/monopoly, xiii,
32–33, 36–37, 57, 62. *See also*
government
strike, 59; in United Kingdom, 52
subsidies, viii; agricultural, viii, 29–
30, 38–42, 70; overproduction of
goods from, 39; public benefit
for, 39; tariffs, protection, and,
38–42
supermarkets, 26n1
supply and demand, 21, 29
Supreme Court, National Labor
Relations Act supported by, 59;
procompetitive rulings by, viii;
yellow-dog contract defended by,
53
- Taft-Hartley Act (1947), viii, 59–60
takeover, 74–76
tariffs, xii, 34, 36; agriculture,
protectionism, and, 39–42;
cartels and, 40; currency,
reducing demands on, and, 42;
reducing, 72; steel, 60
taxation, 15, 16
technology, 61–62
territorial principle, 43
tort law, 52, 66
trade, liberalization (U.K.), 72;
negotiations, 73; restraint of, 30–
34
Trade Disputes Act (U.K.), 52
trade unions. *See* labor
- unions. *See* labor
United Kingdom (U.K.),
cartelization in, 52–53, 71;
Competition Commission in, 75;
law, economics, and, 65–66, 76–
77; Parliament as supreme in,
58; takeover regulation in, 74–76
United States (U.S.), cartelization
in, 53–59
United States v. E.C. Knight Co., 58
U.S. v. Wrightwood, 37
- Veljanovski, Cento, 65–66
voluntary exchange, free
international trade from, 71;
libertarianism, viii, 12–14, 68–
69; security for, and government

- voluntary exchange (*continued*)
 regulation, 16; undue influences
 on, 17–18
- wage, minimum, 58
- Wagner, Johanna, 48
- The Wealth of Nations* (Smith), 22,
 41
- Webb-Pomerine Act, 33
- West Coast Hotel v. Parrish*, 58
- Wickard v. Filburn*, 37
- Wincott, Harold, vii, 3, 8
- Wm. Morrison, 75
- worker, compensation, 58;
 unorganized, 55–56
- working hours, 74
- World Trade Organization, 40, 41,
 73
- yellow-dog contract, 53