

# Contents

Acknowledgments ix

Introduction I

## **PART I. Why Does the Law Spurn Win-Win Transactions?**

CHAPTER 1. Things We Can't Consent To,  
Though No One Knows Why 15

CHAPTER 2. A Parable 25

CHAPTER 3. Lessons 33

CHAPTER 4. The Social Choice Connection 57

## **PART II. Why Is the Law So Full of Loopholes?**

CHAPTER 5. The Irresistible Wrong Answer 71

CHAPTER 6. What Is Wrong with the Irresistible Answer? 87

CHAPTER 7. The Voting Analogy 93

CHAPTER 8. Turning the Analogy into an Identity 107

CHAPTER 9. Intentional Fouls 127

## **PART III. Why Is the Law So Either/Or?**

CHAPTER 10. The Proverbial Rigidity of the Law 139

CHAPTER 11. Line Drawing as a Matter of Life and Death 157



**PART IV.     Why Don't We Punish All We Condemn?**

CHAPTER 12.   The Undercriminalization Problem   185

CHAPTER 13.   Multicriterial Ranking and the Undercriminalization  
                    Problem   199

Final Thoughts   209

Notes   213

Index   233