



The Transformation of American Law, 1780-1860

Morton J. Horwitz

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Awarded the Bancroft Prize in American History in 1978, Morton J. Horwitz's *The Transformation of American Law, 1780-1860* is considered one of the most significant works ever published in American legal history. Since its publication in 1977, it has become the standard source on early nineteenth century American law.

In this monumental book, Morton J. Horwitz offers a sweeping overview of the emergence of our national (and modern) legal system from English and colonial antecedents. He begins with the common law, which emerged during the eighteenth century as the standard doctrine with which to solve disputes in an egalitarian manner. He shows that the turning point in the use of common law came after 1790, when the law was slowly transformed to favor economic growth and development and the courts began to spur economic competition instead of circumscribe it. This new instrumental law would flourish during the nineteenth century as the legal profession and the mercantile elite forged a mutually beneficial alliance to gain wealth and power. Horwitz also demonstrates how the emergence of contract law corresponded to the development of economic and legal institutions of exchange. And he discusses how the rise of the market economy influenced legal practices, how contracts became ways to negate preexisting common law duties, and how (to the benefit of entrepreneurs and commercial groups) the courts were able to overthrow earlier anticommercial legal rules.

Previous historical studies have viewed law and policy as an accurate reflection of the needs of an undifferentiated society. In *The Transformation of American Law*, Horwitz successfully challenges this misconception and shows how in the eighty years after the American Revolution, a major change in law took place in which aspects of social struggle turned to legal channels for resolution. Looking into the distribution of wealth and power during this time, Horwitz finds indeed that the change in legal ideology enabled commercial groups to win a disproportionate amount of wealth and power in American society. An accessible account of the history of law, this is a powerful statement on the great role of the legal system in American economic development.

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