

Contents

Preface to Expanded Edition *vii*

Preface *xiii*

Introduction *i*

1. John Marshall and the Genesis of the Tradition *7*
2. Kent, Story, and Shaw: The Judicial Function and Property Rights *35*
3. Roger Taney and the Limits of Judicial Power *64*
4. Miller, Bradley, Field, and the Reconstructed Constitution *84*
5. Political Ideologies, Professional Norms, and the State Judiciary in the Late Nineteenth Century: Cooley and Doe *109*
6. John Marshall Harlan I: The Precursor *129*
7. The Tradition at the Close of the Nineteenth Century *146*

8. Holmes, Brandeis, and the Origins of Judicial Liberalism 150
 9. The Four Horsemen: The Sources of Judicial Notoriety 178
 10. Hughes and Stone: Ironies of the Chief Justiceship 200
 11. Personal versus Impersonal Judging: The Dilemmas of Robert Jackson 230
 12. Cardozo, Learned Hand, and Frank: The Dialectic of Freedom and Constraint 251
 13. Rationality and Intuition in the Process of Judging; Roger Traynor 292
 14. The Mosaic of the Warren Court: Frankfurter, Black, Warren, and Harlan 317
 15. The Anti-Judge: William O. Douglas and the Ambiguities of Individuality 369
 16. The Burger Court and the Idea of "Transition" in the American Judicial Tradition 421
 17. The Tradition and the Future 460
- Appendix: Chronology of Judicial Service 467
- Notes 471
- Bibliographical Note 523
- Index 537