



# HISTORICAL SOCIETY *of the* NEW YORK COURTS

## THE EVOLUTION OF JUSTICE ALONG THE ERIE CANAL

### Essay Prompts

#### 1. *Eminent Domain* Cases

The New Jersey Nets will get a new stadium in Brooklyn if the Atlantic Yards redevelopment takes place. Similarly, travel between New York and Canada will involve a lot less tedium and delay if the Peace Bridge in Buffalo (on the international border) is expanded. Both projects highlight a problem common to major civic redevelopments—the land needed for the undertaking is owned by a large number of individual homeowners and business. In the 19<sup>th</sup> century, New York courts focused on the public benefit derived from economic development rather than on the rights of individual property owners to make the construction of the Erie Canal possible.

Referring to Erie Canal *eminent domain* cases, explain how the common law evolved to remove legal obstacles to the construction of the Erie Canal.

#### 2. *Tort* Cases

Today, the Internet is described as the “Information Super Highway.” It has brought tremendous benefits to our lives but has also enabled people to harm others through cyber torts. The Erie Canal, described as “America’s First Super Highway,” was the technological marvel of its time. It brought huge commercial benefits to those living and working in its vicinity, but also increased the possibility that people or their property would be injured. At the beginning of the 19<sup>th</sup> century, the New York courts developed a common law of tort based on negligence that benefitted the canal authorities but also left some who had been harmed by the canal without legal remedy.

Referring to Erie canal tort cases, explain how the New York courts changed the way that people were compensated for injuries by requiring negligence on the part of the wrongdoer.

#### 3. *Contract and Commercial Law* Cases

Today, commercial transactions are governed by the Uniform Commercial Code which all states in the United States have enacted. In 1993, recognizing that commercial litigation is highly sophisticated and complex, the Unified Court System created the New York Commercial Division—a specialized court devoted to commercial litigation. In the



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19<sup>th</sup> century, the Erie Canal opened up markets to the West and greatly expanded opportunities for interstate and international commerce.

Referring to Erie Canal contract and commercial law cases, explain how the New York Courts in the 19<sup>th</sup> century encouraged the development of business law that led to New York City's commercial preeminence.

#### 4. **Judicial Activism v. Judicial Restraint**

Today the media labels the opinions of judges as examples of “judicial activism” or “judicial restraint.” In the early years of the State’s existence, judges simply applied fixed common law doctrines to resolve disputes between litigants. Changes in the law were achieved through legislation. As 19<sup>th</sup> century dawned, judges became increasingly aware that the decisions they made had public policy implications, and as legal historian Morton Horowitz stated, the courts “came to play a central role in directing the course of social change.”

Referring to these Erie canal cases, show how the judges in 19<sup>th</sup> century New York used the common law to create a legal environment that was favorable to the construction of the Erie Canal and encouraged commercial growth.

#### 5. **Sovereign Immunity**

Under the common law doctrine of *sovereign immunity*, a government cannot be sued in its own courts without its consent. Today, New York State waives immunity and permits civil litigation seeking damages against the State of New York to be brought in the New York Court of Claims. In the 1823 appeal in *Jerome v. Ross*, Chancellor Kent stated: *If there was ever a case [canal construction] in the ordinary pacific operations of government, in which all petty private interests should be made subservient to the interest of an entire people, this is the one.* Kent held that the canal authorities had an absolute right to enter on land and take stone needed for the construction of the canal, but he also found that the State had waived sovereign immunity under the Canal Acts, and that Ross could seek damages for the stone taken from his land. This was the final case decided by Chancellor Kent in the course of his illustrious career.

Referring to the holding in *Jerome v. Ross*, discuss how Chancellor Kent extended the State’s very limited waiver of sovereign immunity under the Canal Acts and strove to balance the interests of the State and the individual citizen.