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Law and Market Economy

Reinterpreting the Values of Law and Economics

In this book, Malloy presents a fundamental critique of traditional law and economics based on an ethic of social responsibility and its relationship to creativity, entrepreneurism, and wealth formation. He examines the meaning and structure of the market exchange process, and demonstrates that wealth-promoting exchanges are sustainable only in so far as they are embedded within dynamic and multivalued communities. He uses numerous examples in reinterpreting classic problems related to rational choice, the Coase Theorem, public choice, efficient breach, social contract theory, and wealth maximization, among others.

Advance praise for *Law and Market Economy*

"Malloy develops a semiotic interpretation of work in law and economics that links exchange and creativity to ethical values. The result is a powerful new perspective on law and markets that brings to mind work from Hayek to Hurst. This book is an exceptionally important contribution to contemporary scholarship on the nature of law."

John Brigham, Professor of Political Science, University of Massachusetts
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"In bringing the language and concerns of ethics, moral theory, and social responsibility back into the discipline of market theory and law, this book is timely and significant, and should be read by anyone who cares about more just and inclusive alternatives to present forms of social organization."

Sharon Hom, Professor of Law, City University of New York

"Providing the reader with a rich menu of humanistic values, economic analysis, and interpretation theory, this work will enliven debate and open new avenues of inquiry in an academic field on the verge of becoming arid by its current confining focus."

Denis Brion, Professor of Law, Washington and Lee University

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Robin Paul Malloy

Professor of Law and Economics
Syracuse University, New York

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For Margaret
"As Time Goes By"

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Preface

In writing this book I see my primary audience as made up of people interested in legal theory, law and society, jurisprudence, applied semiotics, law and interpretation, and in market theory as more generally understood. I suspect that traditional practitioners of law and economics will find much here that is challenging, unfamiliar, and disquieting. I hope, however, that some of them will see this work as an exciting, new, and complementary addition to our search for a better understanding of the relationship between law and market theory.

In undertaking this project, I have benefited greatly from the research support of the Oxford Centre for the Environment, Ethics, and Society ("OCEES") at Mansfield College, Oxford University, where I served as a 1997 Sun Life Visiting Research Fellow, as well as from the Syracuse University College of Law. I also benefited from the feedback, discussion, and support of participants in a number of workshops, seminars, and conferences including: the 1997 Trinity Term Seminar Series of OCEES; the Tenth Round Table on Law and Semiotics sponsored by the University of Massachusetts at Amherst and the Pennsylvania State University; the Eighth Annual Canadian Law and Economics Association meeting (particularly participants in the working papers session on "Frontiers in Law and Economics"); the faculty workshop series at the University of Georgia, College of Law; the Twelfth Round Table on Law and Semiotics held at the Pennsylvania State University; the 1998 meeting of Law and Society (particularly participants in the working papers session on "Interpretation Theory and the Market"); the Tenth Annual Meeting of the Canadian Law and Economics Association; and the 1998 Annual Meeting of the Semiotic Society of America.

I extend special thanks to Peter Bell, Alan Childress, Maurie Cohen, Antonia Layard, and Bhaskar Vira for taking time to discuss some of my ideas for the book, and to Denis Brion, Maggie Chon, Kenneth Dau-Schmidt, Jerry Evensky, and Roberta Kevelson, for reviewing and commenting on various drafts. I thank Neil Summerton and Anne Maclachlan for their help and assistance while I was at Oxford, and

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Finally, I should say that I personally benefited from twelve years of ongoing support from Roberta "Bobbie" Kevelson who first turned my attention and then my mind to a consideration of the work of Charles Sanders Peirce. Over those years she constantly pushed me to think about law and about economics in a new and intellectually exciting way. She had a profound influence on the development of my work over those years. In November of 1998 Bobbie departed from this world. Her passing is a great loss to me for if I had never met Bobbie this book would never have been written and I would not be the person that I am today. Thank you, Bobbie.

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