Brandeis on Democracy
Strum, Philippa

Published by University Press of Kansas

Strum, Philippa.
Brandeis on Democracy.

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Notes

Source notes for the selections from Brandeis's works appear first, followed by notes referencing the editor's introductory material.

ABBREVIATIONS USED

LDB: Louis D. Brandeis
BP: Brandeis archives, University of Louisville
BP-HLS: Louis D. Brandeis papers, Harvard Law School Library
FF-HLS: Felix Frankfurter papers, Harvard Law School Library
FF-LC: Frankfurter papers, Library of Congress

CHAPTER 1: INTRODUCTION

LDB "dwarfed the Court": William Hitz to Felix Frankfurter, December 17, 1914, BP, Addendum, Scrapbook.
Letter about law school: LDB to Otto Wehle, March 12, 1876, BP, M 1–2.
Company of labor men: LDB to Alfred Brandeis, June 18, 1907, BP, M 2–4.
"Important public work": LDB to Edward F. McClenm, February 17, 1916, BP, NMF 76–2.
Berating politicians: Speech in Brighton, Massachusetts, December 2, 1904, Typescript, BP, Clippings I.
Senate Committee on Interstate Commerce, Hearings on Control of Corpora-
Avoiding socialism: LDB to Dix Smith, November 5, 1913, BP, NMF 47–2.


Dembitz and the Athenians: LDB to Stella and Emily Dembitz, April 22, 1926, BP, M 4–4.


Delivering an opinion orally: Reported in an article entitled "Justice Brandeis," no author, St. Louis Post-Dispatch, and reprinted in a Louisville newspaper, November 13, 1931. Cutting in Louisville Free Public Library, Kentucky Authors Scrap Book Part I # 8, referring to the case of St. Louis & O'Fallon Railway v. United States, 279 U.S. 461, 488 (1929) [dissenting].

Citing law reviews: the first case in which he did so was Adams v. Tanner, 244 U.S. 500, 597 (1917) [dissenting].


Stock dividends case: Eisner v. Macomber, 252 U.S. 189, 220 (1920) [dissenting].


in Mason, *Brandeis*, p. 618. The cases were *Panama Refining Co. v. Ryan* and *Amazon Petroleum Corp. v. Ryan*, 293 U.S. 388 (1935).


**Chronology**


**CHAPTER 2: DEMOCRACY AND PUBLIC SERVICE**

**Selection Sources**


Speech to the Good Government Association, December 11, 1903, Boston, BP, typescripts, Clippings I.


Interview in the *New York Times Annalist*, January 27, 1913, p. 36, reprinted in


Headnote Sources

Corresponding regularly: In addition to the five-volume Letters, see Urofsky and Levy, "Half-Brother. Half-Son."

CHAPTER 3: THE LIVING LAW

Selection Sources

LDB to William H. Dunbar, February 2, 1893, FF-LC.


Headnote Sources

LDB's income: Mason, Brandeis Way, pp. 103, 691.

"Rather have clients": quoted by Ernest Poole, "Brandeis," in LDB, Business—a Profession, pp. 1–11.


Notes to Chapter 4 / 247

Description of oral argument: Charles Warren to Felix Frankfurter, April 6, 1939, referring to a "contemporary note made by me," FF-LC, Box 127.


Goldmark's additional findings: Josephine Goldmark, Fatigue and Efficiency [New York: Russell Sage Foundation, 1912].


On Perkins: LDB to FF, February 23, 1933, FF-LC.

CHAPTER 4: JUSTICE FOR THE WORKER

Selection Sources


Truax v. Corrigan, 257 U.S. 312, 354 (1921) [dissenting].


"Laborers as Directors with Boss Possible, Says Louis D. Brandeis, Who Heard Carnegie and Rockefeller," interview, February 14, 1915, Boston Post, BP, Scrapbook II.

Hitchman Coal & Coke Co. v. Mitchell, 245 U.S. 229, 263 (1917) [dissenting].

Duplex Co. v. Deering, 254 U.S. 443, 479 (1921) [dissenting].

Bedford Cut Stone v. Journeymen Stone Cutters' Association, 274 U.S. 37, 64 (1927) [dissenting].
Headnote Sources

Labor hire capital: Interview, Boston Post, February 14, 1915, BP, Scrapbook II.
Comment by biographer: Mason, Brandeis Way, p. 585.

CHAPTER 5: BUSINESS AND “THE CURSE OF BIGNESS”

Selection Sources


“Interlocking Directorates,” in LDB, Other People’s Money and How the Bankers Use It [New York: Stokes, 1914], pp. 36–37. The passage quoted here was from an article originally published as “Endless Chain” in Harper’s Weekly, December 6, 1912, pp. 13–17, and reprinted under the title “Interlocking Directorates” in Other People’s Money.

New State Ice Co. v. Liebmann, 285 U.S. 262, 280 (1932) [dissenting].
Liggett Co. v. Lee, 288 U.S. 517, 541 (1933) [dissenting].

Headnote Sources

CHAPTER 6: ZIONISM: PROGRESSIVES AND PILGRIMS IN PALESTINE

Selection Sources


Headnote Sources

LDB's tour of Palestine: deHaas, Brandeis, pp. 115-117; Strum, Brandeis, pp. 243-246.

CHAPTER 7: GOVERNMENT IN A DEMOCRACY

Selection Sources

Letter to Elizabeth B. Rauschenbush, November 19, 1933, Brandeis Papers, SUNY-Albany.

Headnote Sources

Brandeis's involvement with policy: Strum, Brandeis, pp. 381-384, 387-390, 393.

CHAPTER 8: THE RIGHT TO BE LET ALONE

Selection Sources

Letters to Felix Frankfurter, November 26, 1920, July 2, 1926, FF-HLS.
Burdeau v. McDowell, 256 U.S. 465, 476 (1920) (dissenting)
Casey v. United States, 276 U.S. 413, 421 (1928) (dissenting).

Headnote Sources

Roscoe Pound to Senator William Chilton, included in letters printed in U.S. Congress, Senate, Committee on the Judiciary, Nomination of Louis D. Brandeis, 64th Cong., 1st sess., 1916.
Letters to Alice Goldmark, November 29 and December 28, 1890, collection of Alice Brandeis Popkin.
Constitutions: see, e.g., the constitutions of Alaska, Arizona, California, Florida,
Notes to Chapter 9 / 251


Citation from Truax v. Corrigan, 257 U.S. 312, 376 (1921).

To niece: Fannie Brandeis’s notes of a 1931 conversation, BP, Addendum, Box I.

CHAPTER 9: THE RIGHT TO FREE SPEECH

Selection Sources

Schaefer v. United States, 251 U.S. 466 (1920) (dissenting).
Pierce v. United States, 252 U.S. 239 (1920) (dissenting).

Letters to Felix Frankfurter, June 25 and July 16, 1926, FF-HLS.

Headnote Sources


LDB on expression of differences: “Jewish Unity and the Congress,” address delivered in Baltimore, Maryland, September 27, 1915, and published as a pamphlet by Jewish Congress Organization Committee.

LDB on citizen’s engaging in political discussion: Gilbert v. Minnesota, 254 U.S. 325, 335 (1920) (dissenting), at 338, and “Jewish Unity and the Congress.”


LDB to Frankfurter on “things that are fundamental”: Felix Frankfurter, “Memorandum” of conversations with Brandeis during the 1920s, BP-HLS Box 114–7, pp. 19, 20–21.

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