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. McClenmen, 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, M4-4.


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


The question of land use: LDB to Alice Brandeis, July 28, 1911, Brandeis Family Letters, Goldfarb Library, Brandeis University; LDB to Robert M. La Follette, July 29, 1911, BP, SC 1-2; LDB to Robert M. La Follette, July 31, 1911, BP, NMF 39-1; LDB to Amos Pinchot, August 2, 1911, BP, NMF 39-1.

**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.


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


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


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

Headnote Sources

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.

Headnote Sources

CHAPTER 6: ZIONISM: PROGRESSIVES AND PILGRIMS IN PALESTINE

Selection Sources


Headnote Sources


CHAPTER 7: GOVERNMENT IN A DEMOCRACY

**Selection Sources**

*Myers v. United States*, 272 U.S. 52, 240 (1926) [dissenting]

*Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 341 (1936) [concurring]


**Headnote Sources**


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]

*Olmstead v. United States*, 277 U.S. 438, 471 (1927) [dissenting]

**Headnote Sources**


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,

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.

Near v. Minnesota, 284 U.S. 697 [1931].

Whitney v. *California*, 274 U.S. 357 [1927] [concurring].

**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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