

IN THE SPRING of 1864, Oliver Wendell Holmes Jr. was fighting in the Civil War as a Union Army captain. He had enlisted three years earlier, soon after the war began, when he was 20 and in his last term at Harvard College, in the class of 1861. As an infantry officer in Virginia, he had received a near-fatal wound at Ball's Bluff in his first battle, where he was shot through the chest in a Union raid that backfired. He had proved his valor by rejoining his men after he was shot, defying an order to have his wound tended. At

Antietam a year later, where he was briefly left for dead on the bloodiest day in U.S. Army history, a bullet ripped through his neck. At Chancellorsville, in another eight months, an iron ball from cannon shot badly wounded him in the heel. Near there in winter, "Holmes lay in the hospital tent too weak even to stand as he suffered the agonies of bloody diarrhea," Stephen Budiansky, M.S. '79, writes in a new biography of Holmes: "The disease killed more men than enemy bullets over the course of the Civil War."

That spring, generals Ulysses S. Grant and Robert E. Lee met on the battlefield for the first time. Grant, the newly appointed commander of the Union Army, had shifted its main target from Richmond, the capital of the Confederacy, to Lee and his roving Army of Northern Virginia. The Battle of the Wilderness was the opening fight. In fierce encounters over two days, of 119,000 Union soldiers, one of seven died or was injured; one-sixth of Lee's 65,000 troops were casualties. Holmes filled a new role as an officer on horseback in the Wilderness. As Budiansky recounts, he faced "the most intense and nightmarish episode of the entire war for him, nine weeks of nonstop moving, fighting, and killing that would often find him falling asleep in the saddle from sheer fatigue, escaping death by inches, and witnessing carnage on a close-up scale that eclipsed even his own previous experiences."

It is impossible to imagine a current Supreme Court justice being forged in such

circumstances—with the survival of the nation, as well as of the multitudes fighting, so uncertain. In part because of changes that Holmes himself brought to the law, and ultimately to the Court, it is now a very different institution from the one he served on. The lives of the justices appear distant from the experiences of their fellow citizens. Yet there are important parallels between Holmes's era and the current one, and between the challenges for the Court in

his time and now. A century ago, as today, politics splintered the nation and inequality segregated it. The Court was subject to ideology, unchecked partisanship, and the kind of political warfare expected only in high-stakes campaigns.

In these circumstances, Budiansky's new *Oliver Wendell Holmes: A Life in War, Law, and Ideas*—coming during the centennial year of Holmes's most momentous opinion, which was a visionary dissent about free speech—is especially consequential. It's the latest in a considerable library of biographies and studies. Many scholars have recognized the war's critical influence on Holmes. Yet Budiansky, whose previous books include six on military history, renders Holmes's war, and how it lodged in his psyche, as no writer has before.

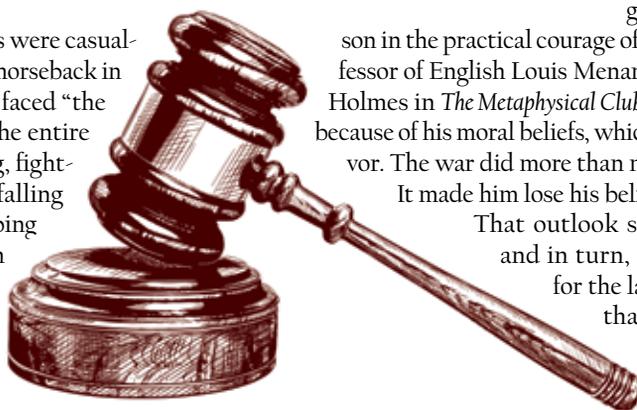
"In a war where romantic chivalry, high-minded zeal for a great cause, and even heroism in the conventional sense of the word had lost its meaning in an orgy of almost random death," he writes, "duty was one thing he could cling to." The war gave Holmes "a profound lesson in the practical courage of everyday life." As Bass professor of English Louis Menand wrote of the abolitionist Holmes in *The Metaphysical Club*, "He had gone off to fight because of his moral beliefs, which he held with singular fervor. The war did more than make him lose those beliefs. It made him lose his belief in beliefs."

That outlook shaped his legal thinking, and in turn, shaped a set of principles for the law and the Supreme Court that are now valuable to reconsider. More broadly, Budiansky's is now the

America's Great Modern Justice

A new biography of
Oliver Wendell Holmes Jr.
illuminates the Supreme Court
during the centennial of
his most momentous dissent.

by LINCOLN CAPLAN



most engrossing of the major Holmes biographies. It vibrantly recounts the influence on his extraordinary public experiences of his extraordinary private ones. The result matters because, as Warren professor of legal history emeritus Morton J. Horwitz put it, Holmes was the “one great American legal thinker.” He was the first member of the Supreme Court to face up to the reality that, contrary to what nineteenth-century legal thinking held, justices were not oracles who divined principles of law. In applying law to facts, he made clear, they were law-makers, unconstrained by law itself—a role society would accept only if these law-makers were not tainted by partisanship.

For 40 years, from the end of the nineteenth century to the end of the Great Depression, including Holmes’s time on the Court, a conservative majority (it did not include him) repeatedly struck down federal and state laws regulating social and economic conditions intended to improve the lives of America’s have-nots. The conservatives did that because of their *policy* views: they objected to what they saw as unjustified government meddling in the market. Today’s Court continues on a similar, half-century-long move to the right. It’s unsurprising that, in the past two terms, Chief Justice John G. Roberts Jr. ’76, J.D. ’79, has joined a few times with the liberal justices to make five-vote majorities—about as often as he did in his first 12 terms on the Court. He has assumed its swing-vote seat as a result of its right-ward movement and his concern about its reputation for partisanship. The Court is widely seen as partisan in this way: the justices (five Republican-picked conservatives, four Democrat-picked liberals) have regularly voted in the most divisive cases as they would be expected to, based on what members of the party of the president who picked each justice likely want to happen.

As a justice, Holmes did what current justices seldom seem to: in dissent, he regularly voted to *uphold* laws whose policy impact

he despised. The approach he employed to justify his decisions and preserve their legitimacy was judicial restraint: except in rare instances, he believed, courts should uphold laws as long as they had a reasonable basis, because they reflected the will of the community enacted by elected legislators. Between his tenure and now, judicial restraint became a political slogan, invoked by conservatives who disliked the liberal judicial activism of the

Warren Court of the 1950s and ’60s, and by liberals who have disliked the conservative judicial activism of the Burger, Rehnquist, and Roberts courts since the 1970s.

For Holmes, judicial restraint was a professional imperative, the key to reconciling the role of the independent judge in assessing the lawfulness of democratically arrived-at laws in an undemocratic way. In taking that stance, he redefined the position of an American justice. He has bedeviled Holmes scholars who have struggled to reconcile his powerful analytic bent with his recognition that the world intrudes on ideals. Some have savagely faulted some of his opinions and prejudices. But in this centennial year of the 1919 Holmes judicial opinion that redefined the purpose of free speech in American life, it’s illuminating to recall how he became, with Chief Justice John Marshall, one of the two most illustrious justices

to serve on the Supreme Court.

Skepticism

MANY SCHOLARS have contended that Holmes was a cynic—icy and aloof, mean-spirited and dark, and supremely self-centered. To Budiansky, the Civil War made Holmes a *skeptic*—doubting and fatalistic—but not a cynic: it made him question “the morally superior certainty that often went hand in hand with belief: he grew to distrust, and to detest, zealotry and causes of all kinds.” It also helped make him charming, exuberant, and very ambitious, searching, open-minded, and unquenchable. As he put it in a letter to a friend: “My old for-



After graduating from the College in 1861, Holmes obtained a commission as first lieutenant in the Twentieth Massachusetts Volunteer Infantry, known as the “Harvard Regiment.”

mula is that a man should be an enthusiast in the front of his head and a sceptic in the back. Do his damndest without believing that the cosmos would collapse if he failed.”

Holmes’s anti-exceptionalism helped define what made the United States exceptional in the twentieth century. In the decade after the Civil War, in the intellectual precincts of Brahmin Boston where he was born and bred an aristocrat, Holmes constructed ideas with other gifted thinkers, and helped shape pragmatism, the most American of America’s contributions to philosophy. It was “an idea about ideas,” Menand wrote, which “changed the way Americans thought” and “changed the way Americans live.” These thinkers believed, as he wrote, that ideas—“like forks and knives and microchips”—are tools that groups of people “devise to cope with the world” and that “their survival depends not on their immutability but on their adaptability.” The test of an idea was its impact.

The Civil War preserved the Union, but turned America into a different country. Menand emphasized, “For the generation that lived through it, the Civil War was a terrible and traumatic experience. It tore a hole in their lives. To some of them, the war seemed not just a failure of democracy, but a failure of culture, a failure of ideas,” because those ideas had become ideologies, “either justifying the status quo” in the South or “dictating some transcendent imperative for renouncing it” in the North.

In 1864, when Holmes began Harvard Law School’s then-two-year program, Budiansky writes, he “applied himself to the work with an intensity not dampened by the intellectual incoherence of the subject as it was then presented to students.” In 1865, he began listing each book he read in a small leather-bound volume. When he died 70 years later, two days short of his ninety-fourth birthday, they numbered more than 4,000: Plato and Homer in Greek; Dante in Italian; Balzac, Proust, and Rousseau in French; literature, plays, and poetry; history, religion, science, philosophy, economics, and sociology, plus murder mysteries; and, most of all, law. (He also read German and Latin.)

After getting his degree in 1866, at 25, he took his first of many trips to Europe. At a dinner in London, he was invited to join a climb in the Swiss Alps. Soon after, he scaled the Balmhorn, a 12,000-foot peak first climbed only two years before. The few weeks he spent in the Alps were the only time in his life that he climbed, yet to Budiansky, Holmes’s climbing reinforced his view that “true skepticism meant recognizing that the universe cares nothing about our existence, and that man ought to return the favor, and get on with life.” As Budiansky summarized, “Before Holmes had even begun to think of developing a comprehensive philosophy of law, he had worked out a philosophy of life.”

In Boston, Holmes practiced law ably for 15 years. He argued maritime, insurance, and tax cases for businesses before the U.S. District Court and the Massachusetts Supreme Judicial Court and won an admiralty case in the U.S. Supreme Court. He became a con-

tributor to the newly launched *American Law Review* and, in a few years, its co-editor. With James B. Thayer, class of 1852, LL.B. ’56, a prominent Boston lawyer who became an influential professor at the law school, he undertook a revision of Kent’s *Commentaries on American Law*, spanning the scope of the law. He completed the work in 1874, when he turned 33.

In 1879, describing the scope of his ambition in a letter to an English legal colleague, he noted that the articles he had been writing for the *American Law Review*, “though fragmentary in form and accidental in order are part of what lies as a whole in my mind—my scheme being to analyze what seem to me the fundamental notions & principles of our substantive law.” He completed the job in the lectures that became a paradigm-shifting book.

The Common Law, published in 1881, was Holmes’s giant contribution to the literature of pragmatism. The prevailing view about this form of law in the late nineteenth century was that judges didn’t make law, they expertly applied it from legal precedents and customs. Christopher Columbus Langdell, the law school’s dean for 25 years beginning in 1870, was a leading proponent of this view. His appointment as dean marked the start of the school’s national influence in American law.

In contrast, Holmes famously began: “The life of the law has not been logic: it has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the prejudices which judges share with their fellow-men, have had a good deal more to do than the syllogism in determining the rules by which men

should be governed.” He lampooned Langdell as “the greatest living legal theologian.” He rejected the notion that the common law was “a brooding omnipresence in the sky” that judges apprehended. Instead, as Budiansky recounts, he “set out to study the history of the law for the same reason Darwin studied fossils: to elucidate the actual purpose and functions underlying its accumulated appendages and outer forms.” From research on what Budiansky describes as “the gamut of the law”—governing contracts, torts, property, wills, crime, and more—he reached conclusions that were “strikingly original, as well as a radical assault on legal tradition.”

The law evolved “in a way that tended to hide the fact, by continually inventing new explanations for old rules.” Judges made choices and, in doing so, made law and policy—“solutions that addressed actual problems and needs of society,” reflecting “efforts by courts to work out a balance between competing interests in society.” And “most shocking to conventional sensibilities, the law as it actually was applied had little concern with moral culpability: in all branches of the law, there had been an evolution away from trying to determine whether a man had acted with evil intent, substituting rules based on external standards of conduct that reflected social needs and norms of behavior.”

Budiansky calls *The Common Law* “the single most important book

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in the history of American legal scholarship,” as others have similarly praised it. The book inspired the movement known as Legal Realism, which focused on law’s concrete effects rather than its formalistic axioms, and it remade American law.

On the strength of the book, Holmes rose from a part-time lecturer at the law school to a full-time, very short-term, faculty member in a new professorship endowed for him. At the end of 1882, after only his first academic term of full-time teaching, the Massachusetts Republican governor, who was about to be replaced by a Democrat, offered Holmes a seat on the state’s Supreme Judicial Court—and gave him an hour and a half to make up his mind. He instantly accepted. In December 1882, at 41, Holmes became the court’s junior justice.



In the Fray

HOLMES WAS ERECT, lean, and six foot three when he took the bench, with thick brown hair, radiant blue-gray eyes, and a thick brown handlebar moustache. He spent 20 years on the state court, the last three as chief justice. (Harvard awarded him an LL.D. in 1895.) In December 1902, when he was 61 and not widely known outside Massachusetts, President Theodore Roosevelt, 1880, LL.D. 1902, selected him for the U.S. Supreme Court, where he served for 29 years until he was almost 91. By his ninetieth birthday, he had become an American hero (“the great overlord of the law and its philosophy,” his successor Justice Benjamin Cardozo called him) and appeared on a special 30-minute national radio broadcast honoring him. His hair and moustache retained their thickness as he aged, but turned white. By the time he retired almost 50 years after becoming a justice, he embodied the role—he was the *Yankee from Olympus*, as the biographer Catherine Drinker Bowen dubbed him in her bestseller. His judicial career was Herculean, leading the Supreme Court to grapple with what Menand described as “the way of life we call ‘modern.’”

His reputation, however, is also stained. The most controversial evidence comes from the opinion Holmes wrote in 1927, at the age of

86, in *Buck v. Bell*. By 8-1, the Court upheld the decision of the Virginia State Colony for Epileptics and Feeble-minded to sterilize Carrie Buck, an 18-year-old woman placed there after she was raped and became pregnant, because she was “feeble-minded.” Buck’s mother was there

for the same reason. Buck gave birth to a baby girl considered feeble-minded, too. If the nation could call on its “best citizens” to sacrifice their lives in war, Holmes wrote, it could demand a “lesser” sacrifice of those who “sap the strength” of society because of their dependence on it. One blunt sentence of Holmes’s short opinion made it infamous, playing up the accepted term then for people later termed retarded and now called intellectually disabled: “Three generations of imbeciles are enough.”

Imbeciles, the 2016 book by Adam Cohen, ’84, J.D. ’87, a one-time president of the *Harvard Law Review*, uses Holmes’s role in the *Buck* case as the basis for a biting indictment of the eugenics movement and, more pointedly, of Holmes (see “Harvard’s Eugenics Era,” March-April 2016, page 48). “In Holmes’s view,” Cohen wrote, “life was naturally competitive and cruel, and he had little inclination to rein in its harsh injustices.” A crucial source of Cohen’s grievance is the chasm he perceived between the “true Holmes” and the justice with the reputation for “transcendent nobility.” Part of that was that Holmes was not “a progressive”—a liberal—despite being known as that. He had no sympathy for the downtrodden.

Budiansky calls the *Buck* case “the one that would cast the longest shadow over” Holmes’s name. For the justice, he says, the case was not difficult because the decision to sterilize Buck was based on a Virginia statute authorizing that

practice by state institutions on people who had “idiocy, imbecility, feeble-mindedness” or “hereditary forms of insanity,” and the law allowed an inmate or her guardian to contest a decision to sterilize, as a lawyer for Buck had done, futilely.

In defense of Holmes, Budiansky writes that he didn’t know Buck’s appeal “had been largely a sham” because of blatant conflicts of interest of the lawyer who represented her. He



Holmes in his mid eighties: posing in 1926 with William Howard Taft, third of the four chief justices under whom he served (above), and strolling circa 1927-1928 with his friend and fellow associate justice Louis Brandeis

did not challenge bogus testimony that Buck, her mother, and her seven-month-old daughter were feeble-minded. Had Holmes been aware of the collusive nature of the appeal, Budiansky thinks, “he might very well have taken a different view of the matter.” But more broadly, Holmes was *not* a liberal, and didn’t pretend to be one: he was willing, Budiansky writes, “to uphold the rights of unions, free speech for socialists, and regulation of the economy not from any ideological sympathy for liberal causes but often in spite of a magnificent contempt for them,” because he practiced restraint. His *Buck* opinion wrenchingly shows he was sometimes as captive of the era he lived in as he called out other judges for being: prejudices that judges share with others, he stressed, can override reason in court rulings. Providing the fullest measure of Holmes’s life yet, Budiansky makes a sympathetic-to-Holmes and convincing case that the justice should not be dismissed based on the worst opinion he wrote.

The Court Made Modern

THE SUPREME COURT WAS a much less powerful institution in Holmes’s era than it is today. It was a forum of last resort, correcting lower-court mistakes, as it had done for 135 years, required to hear appeals about *all* federal cases.

That changed fundamentally with the Judiciary Act of 1925, which Chief Justice (and former president) William Howard Taft got passed to reduce the justices’ heavy workload. It drastically cut mandatory jurisdiction, gave the Court control over most of its docket, and redefined it as a co-equal branch of the federal government, symbolized by the majestic building that Taft got the government to construct for it, which opened in 1935.

As the legal scholar Robert Post ’69, Ph.D. ’80, has explained, “Supreme Court opinions both reflect and constitute the role of the Supreme Court itself.” In most of the days of the Taft Court, they were written for the litigants in the case and largely concerned private legal matters. The law was “fixed and certain” because 9-0 opinions were routine: 84 percent of that Court’s opinions were unanimous. Opinions were “relatively short and succinct.” Now, opinions are much longer, written for the American public and the legal academy, and largely concerned with developing American law. They are also generally splintered: last term, the justices were in total agreement in only 26 percent of the cases they decided.

Holmes wrote a record 873 signed opinions as a Supreme Court justice, plus 30 separate concurrence opinions and 72 dissents. His opinions averaged 3.3 pages, notably shorter than other justices’ in his era, reflecting his view, Post wrote, that “the point of an opinion was to solve the legal puzzle” crisply, like “an oral utterance,” not “like an essay with footnotes.” (That concision can make it hard to understand fully what he meant—a source of a lot of Holmes scholarship.)

The Judiciary Act sparked what Post called “a revolution in the practice of dissent,” reflecting the transformation of the Court’s mission to shaping law “to achieve social purposes.” The ratio of majority opinions to dissents Holmes wrote in almost three decades

on the Court was 12 to one. As Budiansky reports, he was “one of the justices most likely, in the interest of collegiality and unanimity, to go along with an opinion he had initially opposed.” Yet Holmes is properly known as the Great Dissenter. He wrote dissents that foresaw where American law would go. He was a modern justice on a bench that turned over completely after he retired, with nine new justices soon comprising a new—and modern—Court.

The most famous Holmes dissent—the one that best displays his pragmatic bent, and his commitment to restraint over ideology—came in *Lochner v. New York*, in 1905, during his third term on the Court. By 5-4, the Court struck down a New York State statute that regulated sanitary and working conditions in bakeries, limiting

work to 10 hours a day and 60 hours a week, on the grounds that the hour limits were “an illegal interference with the rights of individuals, both employers and employees, to make contracts regarding labor upon such terms as they may think best.” For decades, the conservative majority had struck down scores of state and federal laws they disagreed with, as the results of democracy run amok. They did so on grounds that the Constitution allowed no government regulation of the economy or private property except when that was essential to protect public health or safety, because of what they called liberty of contract. Holmes avowed that “a constitution is not intended to embody a particular economic theory, whether of paternalism and the organic relation of the citizen to the State or of *laissez faire*,” as in *Lochner*. High-profile subjects on which the Court came around to Holmes’s view included: upholding legislation regulating

the wages and hours of workers and banning child labor; restricting yellow-dog contracts, which required workers to quit or not to join unions, and restricting injunctions against workers; ensuring fair trials for unpopular defendants; and protecting consumers.

In 2019, Holmes’s most monumental dissent is in the spotlight, because of the centennial of *Abrams v. United States*. By 7-2 in 1919, the Supreme Court upheld the conviction of five Russian Jewish anarchists under the 1918 Sedition Act, for interfering with the U.S. effort in World War I and criticizing the form of the U.S. government. The five committed their crimes in Manhattan by distributing 5,000 copies of two leaflets, one in Yiddish, the other English. They called the president a liar for deceiving the American people about U.S. war efforts to crush the Russian Revolution, and called for a strike in factories making munitions. Three other justices took the unprecedented step of visiting Holmes at home to try in vain to talk him out of dissenting and, in their view, imperiling the safety of the nation.

Instead, he laid the groundwork for free speech as we know it. His dissent, Menand wrote, “helped to make tolerance an official virtue in modern America.” Justice Louis D. Brandeis, LL.B. 1877, joined Holmes in the dissent and, soon, in refashioning this area of law, with Brandeis emphasizing that America’s democracy depends on speech’s freedom. As the journalist Anthony Lewis ’48, Nieman

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Fellow '57, wrote, "Judges, serving for long terms and bound by their commissions to look beyond momentary partisan conflicts, are in the best position to give voice to the deeper values." Holmes did that, he went on, "in words that forever changed American perceptions of freedom."

The story about how, at 78, after 37 years on the bench, Holmes changed his mind about the meaning of free speech and the need for the Court to strengthen its protection deserves its own book. Thomas Healy, a legal scholar, published it in 2013, a wonderful history called *The Great Dissent*. He wrote that "with the country gripped by fear of the communist threat, Holmes was proposing something radical: an expansive interpretation of the First Amendment that would protect all but the most immediately dangerous speech." Holmes had long supported the view that the government could punish speech that had no more than "a bad tendency"—the words might harm the public welfare at some point in the future, by inciting a crime or even just embarrassing a court.

But, now, he wrote that the government could *not* punish speech unless it produced or intended to produce "a clear and imminent danger that it will bring about forthwith certain substantive evils that the United States constitutionally may seek to prevent." That did not include what Holmes, about one of the offending polemics, called "the surreptitious publishing of a silly leaflet by an unknown man"—both leaflets, he wrote, were "poor and puny anonymities."

To Holmes, the defendants in the case "had as much right to publish as the Government has to publish the Constitution of the United States." The touchstone of that radical view was the insight of John Stuart Mill that a suppressed opinion may contain an idea that society needs, even a false one, to confirm a truth. Holmes

wrote: "[W]hen men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundation of their own conduct that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which

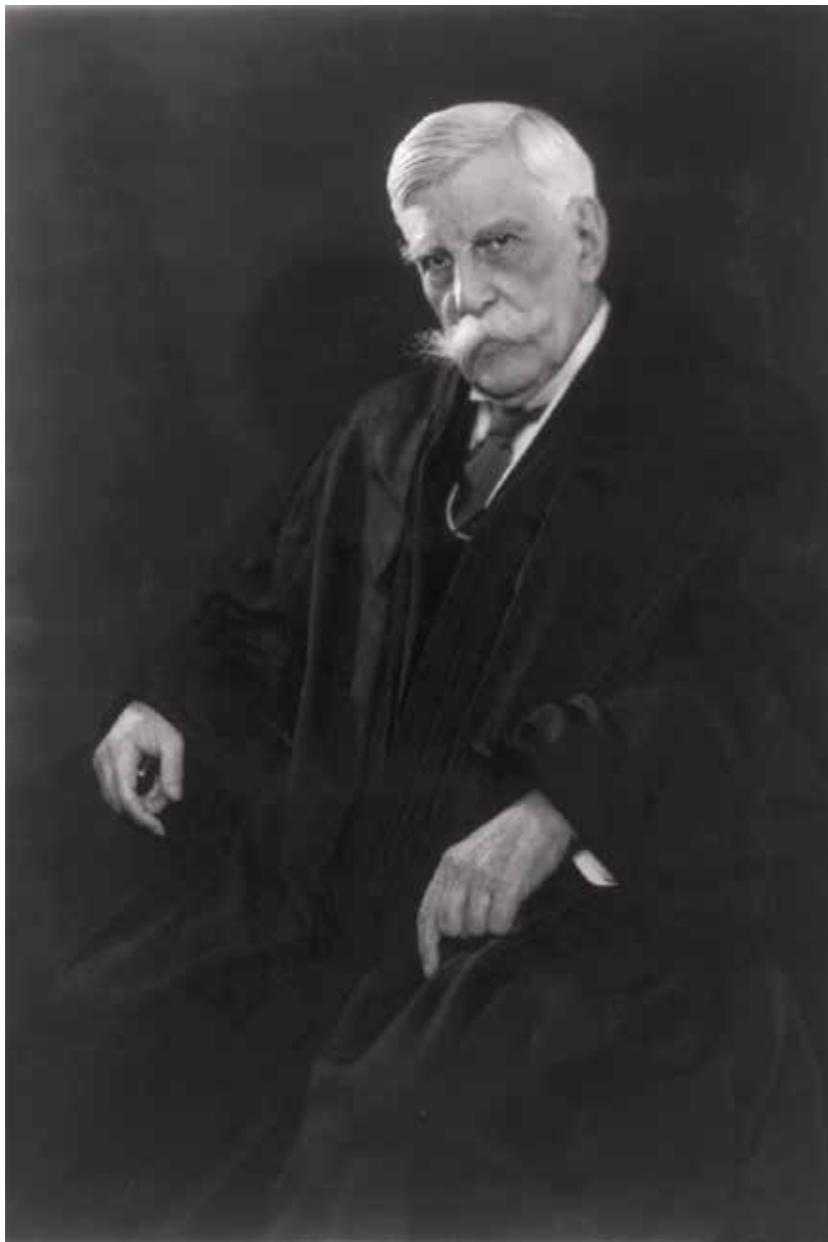
their wishes safely can be carried out. That, at any rate, is the theory of our Constitution. It is an experiment, as all life is an experiment. Every year, if not every day, we have to wager our salvation upon some prophecy based on imperfect knowledge. While that experiment is part of our system, I think that we should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death, unless they so imminently threaten immediate interference with the lawful and pressing purposes of the law that an immediate check is required to save the country."

A decade later in another celebrated dissent, Holmes distilled his understanding of freedom of expression to the tenet on which the law still centers: "[I]f there is any principle of the Constitution that more imperatively calls for attachment than any other, it is the principle of free thought—

not free thought for those who agree with us, but freedom for the thought that we hate." Today, this tenet and every aspect of the freedom of speech are being contested, especially whether this prime right remains sacrosanct.

Scholars and others are arguing ardently about how best to protect American speech so it serves the function that Holmes defined, without irreparably dividing the country—especially through fiery, intolerant reaction on social media to hated thought.

Free-speech campaigns invariably extol individuals whose freedom to express hated speech is in jeopardy. But to Holmes, that



A formal portrait taken around 1930, the year before Holmes turned 90. He served on the Supreme Court until January 1932, retiring as the oldest justice in its history.

freedom is tied to the interests of society, not to an individual right: free speech is a *listener's* right as much as a *speaker's*. Democracy depends on deliberation and even, as Holmes demonstrated in the *Abrams* case, on doubting “one’s own first principles.” With that dissent, he helped launch a nation-defining movement. He tackled a decisive challenge for the twentieth century that is again decisive for the twenty-first: how to safeguard speech, for the sake of American democracy.

* * *

FROM EARLY in his legal career, Holmes emphasized that the American Republic is an experiment in self-government. His skeptical side made him doubt that the American people would regularly make wise choices about the nation’s needs. But as a soldier, he had felt a duty to risk his life for the Union and the continuation of the experiment. As a justice, mindful of the mayhem that the Civil War unleashed, he believed that the contribution he could make, as the legal historian Robert W. Gordon ’67, J.D. ’71, explained, was to help maintain the experiment’s essential framework and fairness.

That meant protecting free speech so the strongest ideas would prevail in the marketplace, without government distortion of the competition or censorship of frightening ideas. That meant letting

As a justice, mindful of the mayhem the Civil War unleashed, he believed his role was to help maintain American self-governance.



big corporations, pushback against well-grounded economic and social regulation, and favoritism for haves over have-nots. What made Holmes the Great Dissenter a century ago would no doubt make him a Great Dissenter today. ▽

Contributing editor and journalist Lincoln Caplan '72, J.D. '76, a senior research scholar at Yale Law School and the senior editor at the Knight First Amendment Institute of Columbia University, was a colleague of Stephen Budiansky at U.S. News & World Report. "The Political Solicitor General," his feature about the role of the S.G. and the politicization of the Supreme Court, appeared in this magazine's September-October 2018 issue.

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