

# Democracy and Social Justice



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*Uncollected Writings of Louis Brandeis*

By

**Louis D. Brandeis**

Edited by

**Peter Scott Campbell**



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## Introduction

Few Supreme Court justices have had a greater impact on modern life than Louis D. Brandeis. His court opinions, of course, have shaped the law and have helped articulate many rights Americans enjoy today. But Brandeis was a prolific author before he ascended onto the Court and much of what he wrote then continues to be relevant today. The threat of monopolies, the importance of unions, and the obligations of citizens living in a democracy are just a few of Brandeis's interests that still affect Americans.

Many of Brandeis's pre-Court writings have been collected in *Other People's Money, Business—A Profession*, *The Curse of Bigness* and *Brandeis on Zionism*, all of which are still read today. But even those four books did not collect all of Brandeis's work. In the decades since those books were published more of Brandeis's writings have been uncovered. Some have been found in old newspapers that escaped the notice of scholars and biographers, while other unpublished works have been discovered in archives.

*Democracy and Social Justice* collects many of those works in an effort to expand Brandeis's corpus as well as to re-introduce him to a new generation of readers. The title of this book reflects two themes of much of the work collected here and in much of Brandeis's work as a whole. As the son of immigrants who fled Europe for the freedoms offered in America, Brandeis was a lifelong proponent of democracy and its promise of equal rights to all. Any person, or institution, that threatened a person's right to freedom and self-improvement was not just an affront to that person, but also to democracy itself.

And in Brandeis's view, one of the biggest threats to democracy was trusts—business combinations so large that they stifled free enterprise and kept their workers locked in a form of peonage. Their control of the markets was so complete that they could keep prices artificially high, drive competitors out of business, and could stifle any union's attempt to improve their workers' lives. Brandeis's insights into these inimical practices were so influential that they helped usher in new anti-trust legislation that guided American economic policy for decades. A governmental backlash against breaking up monopolies set in a while ago and undid much of that work, but a new generation of economists have rediscovered Brandeis's writing and are working to bring back his vision. Hopefully, this book will guide them and future economists in that work.

Much of the writing in this book deals with Brandeis's fight against trusts. He spent much of his time during the lead up to the 1912 presidential election campaigning against them. A number of those speeches are collected here, one of which is being published for the first time. He also spent many years fighting against a railroad company's attempt to control all the transportation in New England. Two of his speeches from the fight are here, including one that has never been published before.

Labor unions are another example of Brandeis's love of democracy. The ability of workers to band together to fight for improved working conditions was, for Brandeis, a perfect example of democracy in action. The articles collected here touch on the threat posed to unions by trusts and how strong unions could help improve businesses.

The rest of the articles touch on miscellany of topics, such as price-fixing, suffrage, racial discrimination, the proper role of lawyers in society, and a history of the Harvard Law School. Of special note is a memoir Brandeis dictated to his secretary that laid untouched in the archives at Brandeis University. There is also a transcription of a conversation held late in Brandeis's life that was found among Brandeis's papers held in the Louis D. Brandeis School of Law at the University of Louisville.

Many people assisted me with the compilation of this book. Kurt Metzmeier and Erin Gow provided invaluable service as proofreaders and advisors. Sarah Shoemaker and Chloe Gerson from the Robert D. Farber University Archives and Special Collections were excellent guides to the collection of Brandeis papers at Brandeis University. And Laura Rothstein and Les Abramson from the University of Louisville, and Mel



Urofsky, Brandeis researcher par excellence, have been fantastic mentors during all my years of studying Brandeis. This book would not have been possible without any of them.

