PROCEEDINGS IN MEMORY OF MR. JUSTICE BRANDEIS.

Members of the Bar of the Supreme Court of the United States met in the Supreme Court Building on Monday, December 21, 1942, at 10 o'clock a. m.[1]

The meeting was called to order by Mr. Solicitor General Fahy.

MR. FAHY said:

This meeting of the Bar of the Supreme Court is now convened, with the guests of the Bar, to think for a while together of the life and work of Louis D. Brandeis, and to take action appropriate for communication by the Bar to his Court.

Louis D. Brandeis became an Associate Justice of the Supreme Court June 5, 1916. He retired from active participation in the work of the Court February 13, 1939. Upon his death little more than a year ago, loved and honored by countless people, sorrow was softened by a warm and universal sense of gratitude that he had lived, greatly, simply, courageously.

His courage possessed the quality that led him to do right because it was right, and bore unusual fruit due to the tremendous labors he assumed, and the ability he exercised, to persuade the reason and convince the hearts of his fellowmen. His character, combined with an untiring, studious and intelligent devotion to the problems of his time, caused him to be one of the greatest jurists of all time.

[1] The members of the Committee on Arrangements for this meeting were: Mr. Solicitor General Fahy, *Chairman;* Messrs. Dean G. Acheson, James M. Landis, Edward F. McClennen, and George Rublee.

Many of his friends, not here today, have been called this last year to other tasks and places that need them during the war. They, like ourselves, because of him are better able to understand and win through for Democracy, an ideal that held his faith and that he did so much to make a practical reality.

In honoring him this morning, the inspiration that always came from him during life will come anew to us.

On motion of MR. SOLICITOR GENERAL FAHY, JUDGE CALVERT MAGRUDER was elected Chairman and MR. CHARLES ELMORE CROPLEY, Secretary.

On taking the Chair, JUDGE MAGRUDER said:

Amid the din and distractions of war, we do not forget to honor our great men of peace. Thus, we are met today to pay merited tribute to Louis D. Brandeis and to his work as citizen, lawyer and judge. Your Committee on Resolutions [2] has prepared a report, which will now be presented by Mr. Lloyd Garrison.

MR. LLOYD GARRISON, acting on behalf of this Committee, presented resolutions which, after the following addresses by Judge Learned Hand, Mr. Paul A. Freund and Senator George W. Norris, were adopted and later presented to the Court, *post*, pp. XXIX—XXXVI.

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[2] The members of this Committee were: Honorable Calvert Magruder, *Chairman;* Messrs. H. Thomas Austern, Charles C. Burlingham, W. Graham Claytor, Jr., Benjamin V. Cohen, Warren S. Ege, Herbert B. Ehrmann, Morris Ernst, Alvin E. Evans, George E. Farrand, Adrian S. Fisher, Bernard Flexner, Henry J. Friendly, Lloyd Garrison, Henry M. Hart, Arthur D. Hill, Mark Howe, Charles E. Hughes, Jr., Willard Hurst, Louis L. Jaffe, David Lilienthal, Jack Neale Lott, Jr., Archibald MacLeish, Joseph Warren Madden, Samuel H. Maslon, William E. McCurdy, Robert N. Miller, George Maurice Morris, Nathaniel L. Nathanson, John Lord O'Brian, Robert G. Page, David Riesman, Jr., William G. Rice, Jr., Harry S. Shulman, Henry L. Stimson, Hatton W. Sumners, William A. Sutherland, Frederick Van Nuys, Robert F. Wagner, and Charles Warren.

The CHAIRMAN responded:

Mr. Justice Brandeis was a man of many sides. We are now to hear addresses from various viewpoints: from a distinguished federal judge; from a former law clerk of the Justice, a law professor now serving in the Office of the Solicitor General; and from an honored elder statesman, who has labored in the halls of Congress to make a political reality of the principles for which Louis D. Brandeis stood.

Address of the Honorable Learned Hand, Circuit Judge

A man's life, like a piece of tapestry, is made up of many strands which interwoven make a pattern; to separate a single one and look at it alone, not only destroys the whole, but gives the strand itself a false value. So it must be with what I say today; this is no occasion to appraise the life and work of the man whose memory we have met to honor. It would be impossible at this time to do justice to the content of so manifold a nature and so full a life; its memorial stands written at large, chiefly in the records of his court; perhaps best preserved in the minds of living men and women. Before passing to my theme, I can therefore do no more than allude to much that I can ill afford to leave out: for instance, to his almost mystic reverence for that court, whose tradition seemed to him not only to consecrate its own members, but to impress its sacred mission upon all who shared in any measure in its work, even menially. To his mind nothing must weaken its influence or tarnish its lustre; no matter how hot had been the dispute, how wide the final difference, how plain the speech, nothing ever appeared to ruffle or disturb his serenity, or to suggest that he harbored anything but regard and respect for the views of his colleagues, however far removed from his own. Nor can I more than mention the clear, ungarnished style which so well betrayed the will that lay behind; the undiverted purpose to clarify and convince. How it eschewed all that might distract attention from the thought to its expression. The telling

phrase, the vivid metaphor, the far-fetched word that teases the reader and flatters him with the vanity of recognition—these must not obtrude upon that which alone mattered: that conviction should be carried home. So put it that your hearers shall not be aware of the medium; so put it that they shall not feel you, yet shall be possessed of what you say. If style be the measure of the man, here was evidence of that insistence upon fact and reason which was at once his weapon and his shield. Others too must speak of the fiery nature which showed itself when stirred, but which for the most part lay buried beneath an iron control; of that ascesis, which seemed so to increase that towards the end one wondered at times whether, like some Eastern sage, the body's grosser part had not been quite burnt away and mere spirit remained; of those quick flashes of indignation at injustice, pretence, or oppression. These and much more which would make the figure stand out more boldly against its background, I shall not try to portray:—I must leave them to others who can speak more intimately and with more right.

At the risk of which I spoke a moment ago, I mean to choose a single thread from all the rest, which I venture to believe leads to the heart and kernel of his thinking, and—at least at this present—to the best of his teaching. I mean what I shall describe as his hatred of the mechanization of life. This he carried far indeed; as to it he lived at odds with much of the movement of his time. In many modern contrivances which to most of us seem innocent acquisitions of mankind—the motor car for instance—he saw a significance hostile to life's deeper, truer values. If he compromised as to a very few, the exceptions only served to emphasize the consistency of his conviction that by far the greater part of what passes for improvement, and is greedily converted into necessity, is tawdry, vain and destructive of spiritual values. In addition, he also thought that the supposed efficiency with which these wants were supplied was illusory, even technologically. He had studied large industrial aggregations as few have

and was satisfied that long before consolidation reached its modern size, it began to go to pieces at the top. There was a much earlier limit to human ability; minds did not exist able to direct such manifold and intricate structures. But that was only an incident; the important matter was the inevitable effect of size upon the individual, even though it neither limited nor impaired efficiency. Allied with this was his attitude towards concentration of political power which appeared so often in what he said from the bench. Indeed, his determination to preserve the autonomy of the states—though it went along with an unflinching assertion of federal power in matters which he reckoned truly national—amounted almost to an obsession. Haphazard as they might be in origin, and even devoid of much present significance, the states were the only breakwater against the ever pounding surf which threatened to submerge the individual and destroy the only kind of society in which personality could survive.

As is the case with all our convictions, the foundation for all this lay in his vision of the Good Life. It is, I know, a little incongruous to quote from another's vision of the Good Life who was in most respects at the opposite pole of belief and feeling; but nevertheless there comes to my mind a scrap from the inscription above the gate of the Abbey of Thelême.

"Here enter you, pure, honest, faithful, true,

. . . . .

"Come, settle here a charitable faith,
"Which neighborly affection nourisheth."

He believed that there could be no true community save that built upon the personal acquaintance of each with each; by that alone could character and ability be rightly gauged; without that "neighborly affection" which would result no "faith" could be nourished, "charitable" or other. Only so could the latent richness which lurks in all of us come to flower. As the social group grows too large for mutual contact and appraisal, life quickly begins to lose

its flavor and its significance. Among multitudes relations must become standardized; to standardize is to generalize, and to generalize is to ignore all those authentic features which mark, and which indeed alone create, an individual. Not only is there no compensation for our losses, but most of our positive ills have directly resulted from great size. With it has indeed come the magic of modern communication and quick transport; but out of these has come the sinister apparatus of mass suggestion and mass production. Such devices, always tending more and more to reduce us to a common model, subject us—our hard-won immunity now gone—to epidemics of hallowed catchword and formula. The herd is regaining its ancient and evil primacy; civilization is being reversed, for it has consisted of exactly the opposite process of individualization—witness the history of law and morals. These many inventions are a step backward; they lull men into the belief that because they are severally less subject to violence, they are more safe; because they are more steadily fed and clothed, they are more secure from want; because their bodies are cleaner, their hearts are purer. It is an illusion; our security has actually diminished as our demands have become more exacting; our comforts we purchase at the cost of a softer fibre, a feebler will and an infantile suggestibility.

I am well aware of the reply to all this; it is on every tongue. "Do not talk to us," you say, "of the tiny city utopias of Plato or Aristotle; or of Jefferson with his dream of a society of hardy, self-sufficient freeholders, living in proud, honorable isolation, however circumscribed. Those days are gone forever, and they are well lost. The vast command over Nature which the last century gave to mankind and which is but a fragmentary earnest of the future, mankind will not forego. The conquest of disease, the elimination of drudgery, the freedom from famine, the enjoyment of comfort, yes even that most doubtful gift, the not too distant possession of a leisure we have not yet learned to use—on these, having once tasted them,

mankind will continue to insist. And, at least so far as we have gone, they appear to be conditioned upon the coöperation and organization of great numbers. Perhaps we may be able to keep and to increase our gains without working on so vast a scale; we do not know; show us and we may try; but for the present we prefer to keep along the road which has led us so far, and we will not lend an auspicious ear to jeremiads that we should retrace the steps which have brought us in sight of so glorious a consummation."

It is hard to see any answer to all this; the day has clearly gone forever of societies small enough for their members to have personal acquaintance with each other, and to find their station through the appraisal of those who have any first-hand knowledge of them. Publicity is an evil substitute, and the art of publicity is a black art; but it has come to stay, every year adds to its potency and to the finality of its judgments. The hand that rules the press, the radio, the screen and the far-spread magazine, rules the country; whether we like it or not, we must learn to accept it. And yet it is the power of reiterated suggestion and consecrated platitude that at this moment has brought our entire civilization to imminent peril of destruction. The individual is as helpless against it as the child is helpless against the formulas with which he is indoctrinated. Not only is it possible by these means to shape his tastes, his feelings, his desires and his hopes; but it is possible to convert him into a fanatical zealot, ready to torture and destroy and to suffer mutilation and death for an obscene faith, baseless in fact and morally monstrous. This, the vastest conflict with which mankind has ever been faced, whose outcome still remains undecided, in the end turns upon whether the individual can survive; upon whether the ultimate value shall be this wistful, cloudy, errant, You or I, or that Great Beast, Leviathan, that phantom conjured up as an ignis fatuus in our darkness and a scapegoat for our futility.

We Americans have at last chosen sides; we believe that if it may be idle to seek the Soul of Man outside Society,

it is certainly idle to seek Society outside the Soul of Man. We believe this to be the transcendent stake; we will not turn back; in the heavens we have seen the sign in which we shall conquer or die. But our faith will need again and again to be refreshed; and from the life we commemorate today we may gain refreshment. A great people does not go to its leaders for incantations or liturgies by which to propitiate fate or to cajole victory; it goes to them to peer into the recesses of its own soul, to lay bare its deepest desires; it goes to them as it goes to its poets and its seers. And for that reason it means little in what form this man's message may have been; only the substance of it counts. If I have read it aright, this was that substance. "You may build your Towers of Babel to the clouds; you may contrive ingeniously to circumvent Nature by devices beyond even the understanding of all but a handful; you may provide endless distractions to escape the tedium of your barren lives; you may rummage the whole planet for your ease and comfort. It shall avail you nothing; the more you struggle, the more deeply you will be enmeshed. Not until you have the courage to meet yourselves face to face; to take true account of what you find; to respect the sum of that account for itself and not for what it may bring you; deeply to believe that each of you is a holy vessel unique and irreplaceable; only then will you have taken the first steps along the path of Wisdom. Be content with nothing less; let not the heathen beguile you to their temples, or the Sirens with their songs. Lay up your treasure in the Heaven of your hearts, where moth and rust do not corrupt and thieves cannot break in and steal."

Address of

Mr. Paul A. Freund *

How shall one encompass in a few faltering words the life we have come to commemorate—a life so beautiful, so various, so fruitful? The achievements of Mr. Justice

*Mr. Freund assisted Justice Brandeis as law clerk from September 1932 until September 1933.

Brandeis were so many, his knowledge so profound, his resourcefulness so formidable, that it would be easy to mistake these for the measure of the man. These were, indeed, the marks of a dedicated life; but it was the dedication that gave it greatness. To realize the promise of America through law—that men might share to the limit of their capacity in the American adventure—was the end to which he devoted all his talents and his energies. In him the lawyer's genius was dedicated to the prophet's vision, and the fusion produced a magnificent weapon for righteousness. In his hand the sword was fringed with fire.

Thus dedicated, his life had the simplicity of greatness. All his labors were given coherence and direction and moral intensity by being made to serve two fundamental beliefs: That responsibility is the developer of men, and that excessive power is the great corruptor. "Care is taken," he liked to quote from the German, "that the trees do not scrape the skies." He believed with Lord Acton that all power corrupts and that great power corrupts greatly. He believed with the Stoic philosophers that no man is so like unto himself as each is like to all. For him the democratic faith was not, however, simply dogma. Partly it was parental inheritance from the Pilgrims of '48; but above all it was confirmed by the rich experience of life. Convinced as he was that ordinary men have great capacity for moral and intellectual growth through the sharing of responsibility, and that the limits of capacity in even the best of men are soon reached, the democratic faith was for him grounded in urgent necessity no less than in moral duty.

This faith transformed his tireless mastery of detail into the pursuit of an ideal. At the Bar, he brought his great gifts of analysis, of painstaking study, and of constructive statesmanship to the service of his belief in the common man. In the field of labor relations, he devised a plan of industrial peace which called for continuous

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collaboration between employer and labor, a continuous sharing in the responsibilities of management. In the field of finance, he insisted on the limitations of mortal understanding in endeavoring from the vantage point of the exchanges to direct giant industrial enterprises. Perhaps his proudest achievement while at the Bar was the establishment of the system of savings bank industrial life insurance in Massachusetts. This system, as he envisaged it, would not simply give added security and so additional freedom to the workers; more than that, it would be a demonstration of what could be accomplished in an undertaking of modest size by ordinary men working without the prestige of position that has come to those who manage large aggregations of other people's money.

All his views were grounded in the same distrust of bigness, the same sense of urgency that the energies of all men should be released and utilized. He was profoundly attached to the principle of Federalism. He lost no opportunity to advise young lawyers that the United States was not Wall Street or even Washington; that if one went there on a tour of duty one should not overstay his time; that talents and training should be taken back to the home community.

On the bench his sense of the fallibility of judgment did not leave him. It remained as a guiding canon in the decision of constitutional cases. He would not be seduced by the attractions of opportunism. His own integrity, and his faith in the integrity of traditions, were too strong. When the Court was prepared, as in the first Tennessee Valley Authority case, to announce constitutional doctrine which had his full approval, he none the less raised his voice in protest at what he regarded as an unwarranted anticipation of the constitutional question. No inconsiderable part of his labors on the Court went into the exacting art of staying the judicial hand lest it decide more than was required by the case at bar. In the one or two instances in which it may be suggested that he departed from his canon of judicial parsimony—instances where he took occasion to cast constitutional doubt on declaratory

judgments and on a general federal common law—it is worth observing that the departures were in the interest of confining the powers of the federal courts. No one was more sensitive than he to the limitations on the function of the Court; and yet no one succeeded more notably than he in combining the role of judge and teacher. One remembers the preparation of the first opinion of a Term, which had finally passed what seemed to be the ultimate revision, and the Justice's disquieting observation: "The opinion is now convincing, but what can we do"—he was always excessively generous in the use of the plural—"but what can we do to make it more instructive?"

His conception of the office to which he had been called is revealed by glimpses into what only seem to be the small incidents of his character, for in the perfect harmony of his life nothing that became a part of it could be trivial. He could never quite reconcile himself to the grandeur of the Court's new edifice, lest the power of the Court might in some measure come to rest on the majesty of office rather than on the inward strength of the appeal to reason. So dominant was his devotion to reason, that his opinions attempted even to satisfy unsuccessful counsel. No relevant argument was to pass unnoticed, and if a petition for rehearing was filed, the Justice felt a sense of failure,—though I never quite understood why the intransigence of the advocate should be a fault attributed to the judge. No one who ever heard the Justice deliver a major opinion from the bench could fail to understand the symbolism, and more than symbolism, of the occasion: the patient earnestness with which he explained to the small assemblage the facts of the case and the reasons for the decision, as if in acknowledgment that the Court is a lawgiver only as its decrees find rational acceptance, as if in the hope that none might go away unpersuaded.

Those who had an opportunity to observe his judicial labors would wish to speak, I am sure, of his method of work. Every case that fell to him for opinion gave fresh occasion for the application of his principle that knowledge must precede understanding, and understanding

should precede judging. Unremitting toil was taken as a matter of course, some of it performed in those dim hours of which his secretaries—the frailty of youthful nature being what it is—could speak, I suspect, only circumstantially. It is no secret that his opinions went through dozens, even scores, of painstaking revisions. If they have a quality that is monumental and massive, it is only because they were granite-hewn and sculptured with infinite care. Those who shared in some small way in this undertaking were given an unforgettable experience of wholesouled devotion to a great calling.

"All can grow the flower now,
For all have got the seed."

Those who knew him would say these things, but they would speak finally and above all of his moral intensity, his spiritual greatness. His was the quality that by a word could lift the heart, by a nod enkindle the spirit. His moral judgments were stern, and they probed deep. To him unemployment was "the most sinful waste." The persecution of helpless people brought him not only the common sense of grief, but even more strongly a sense of shame at the slowness with which the nations of the earth made protest. He was not a sentimentalist. He could not be swayed from a course he believed morally right by being told that it would involve unfortunate hardships. He realized that victories cannot be won without a struggle and that a price must be paid for every advance.

In a life fraught with more than one man's share of sharp encounters, his faith in the understanding and morality of the multitude gave him serenity. He never yielded to despair, and to gloom only when he found too many men complacent. Moral obtuseness and faintness of heart were the enemies to be dreaded. So it was that when he was asked, in the dark days of 1933, whether he believed the worst was over, he could answer almost cheerfully that the worst had happened before 1929. He had

his own formula for success: brains, rectitude, singleness of purpose, and time. To flagging spirits he would hold these up as a banner that could never be struck.

It is fitting that we pause at this moment in the world's history to contemplate his life and draw strength from his spirit. For was it not of such a spirit that the poet of another war has spoken: "The pride of the United States leaves the wealth and finesse of the cities and all returns of commerce and agriculture and all the magnitude of geography or shows of exterior victory to enjoy the breed of fullsized men or one fullsized man unconquerable and simple."

Address of
Senator Norris

The life of Justice Louis D. Brandeis will always be a shining star in the broad firmament of American jurisprudence. He left his mark upon the history of our country. The work he did, and the life he lived, will be an inspiration to those who have never seen his face nor heard his voice. His love for his fellowmen distinctly marks him as one whose heart and great soul went out to alleviate the suffering of the unfortunate, to defend the rights of the downtrodden and the oppressed, and to bring happiness and joy to firesides that had been barred from the benefit of human rights. His dissenting opinions have become the law of the land.

Because he defended the weak and the unfortunate and because he gave his great energies and abilities in the behalf of those who had suffered injustice at the hands of powerful influences, he was marked for destruction by men who cared more for the almighty dollar than they did for human justice. He was assailed as but few men in his day were assailed—he was condemned—he was ridiculed—he was charged with irregularities and misconduct little short of crime. So powerful was this opposition that, at the beginning of his career as a jurist, many honest and conscientious men were convinced that Justice Brandeis was dishonest, unprofessional, and unworthy to

sit as a justice upon the highest court of the land. His nomination by President Wilson to become a Justice of the Supreme Court was a signal for special interests, politically and financially powerful, to do everything within their power to injure this man in an effort to convince the country that he was unfit for this position of honor, and to break down one of the noblest souls that ever lived. It was commonly said of him that he did more as a lawyer to help the poor to secure their rights than any other living man. He did more professional work for nothing than he did for pay; and yet, notwithstanding this, and notwithstanding hands that were clean, lips that were pure, and a soul that was righteous, he was condemned by some of the most powerful influences—political and financial—which ever existed in our country.

When his nomination for Justice of the Supreme Court came up for confirmation in the Senate, one of the bitterest fights that was ever waged in that body took place. In those days, action of the Senate on confirmation was held in executive session; but some of the leading statesmen of the day, some of the ablest men in that great parliamentary body, made a bitter, unreasonable, and unconscionable attack upon this man. Some of these men were moved into action because of Justice Brandeis' religion; but I have always thought the great bulk of this opposition, that which was the most powerful and made the greatest effort to defeat his confirmation, came from a combination of financial interests which wanted to punish an able man who had often thwarted them in their evil ways, and who feared, if he were given this great place of honor, he might still frustrate their efforts to acquire, by questionable means, greater financial power.

Many years after Justice Brandeis went on the Supreme Court, I had a visit with a Senator who had retired from the Senate and was on the federal Court of Appeals. He was then more familiar with Justice Brandeis' work—he had seen the workings of his mind, his heart, and his soul in defense of the downtrodden and the oppressed—he had

become convinced of the ignoble fight that had been made to prevent his confirmation, and he told me in that conversation that one of the great sorrows of his life, one of the sad things connected with his Senatorial career, was that he had voted against the confirmation of Mr. Brandeis to become an Associate Justice of the Supreme Court. That blot upon his otherwise excellent record remained upon his conscience, and daily reminded him of what he thought was the greatest mistake he had made in his public life.

One of the charges against Justice Brandeis was that in his professional career he had taken the side of an exploited public in utility cases—that he had fought great transportation companies, and that he had been particularly active in insurance controversies—always in defense of the common man. He had been active in behalf of social and labor legislation, and it was argued that one who had been thus engaged would not be a safe member of the Supreme Court. He was fought also by members of his own profession—six Presidents of the American Bar Association, and a former President of the United States asked the Judiciary Committee of the Senate to reject this nomination. His reputation and his character were assailed, and his professional career was condemned, by these men. Leaders from all over the country were induced in one way or another to condemn him and ask that confirmation be denied. Newspapers of great reputation participated in the attack upon him. The Senators from his own home state of Massachusetts were bitterly opposed to him and lent their great influence to aid in the fight against him.

One great newspaper said there was "only one redeeming feature in the nomination—that it will assist to bury Mr. Wilson at the next Presidential election." They charged that the appointment was brought about by a desire on the part of the President to obtain the Jewish vote. One great newspaper in New York City said that the appointment was "an insult to the court." Leading business and banking firms united in opposing his confirmation. Mr. Brandeis was charged with being a radi-

cal, a dreamer, and one who was impractical in his ideas and had socialistic tendencies. Above all, he was charged with not having the necessary "judicial temperament."

A short time before the vote was taken in the Senate, the Chairman of the Judiciary Committee invited the President to state the reasons which had actuated him in nominating Mr. Brandeis. The reply of the President was a remarkable document. The President said one reason for his appointment was that he knew him personally and that he knew of his great work in behalf of oppressed people. He said he was moved by Mr. Brandeis' learning and ability and by the conduct of his life in favor of righteousness, of justice, and of humanity. He stated that the charges made against Mr. Brandeis were unfounded and unworthy of consideration. He said these charges threw more light upon the character and motives of those with whom they originated than they did upon the qualifications of Mr. Brandeis. He claimed that he had personally investigated and found that they were brought about by hatred against Mr. Brandeis because he had refused to be subservient to them in the promotion of their own selfish interests. The President stated that Mr. Brandeis "is a friend of all just men and a lover of the right; and he knows more than how to talk about the right—he knows how to set it forward in the face of its enemies. I knew from direct personal knowledge of the man what I was doing when I named him for the highest and most responsible tribunal of the nation.

"Of his extraordinary ability as a lawyer, no man who is competent to judge can speak with anything but the highest admiration. You will remember that in the opinion of the late Chief Justice Fuller, he was the ablest man who ever appeared before the Supreme Court of the United States. 'He is also,' the Chief Justice added, 'absolutely fearless in the discharge of his duties.'

"Those who have resorted to him for assistance in settling great industrial disputes can testify to his fairness and love of justice. In the troublesome controversies

between the garment workers and manufacturers of New York City, for example, he gave a truly remarkable proof of his judicial temperament and had what must have been the great satisfaction of rendering decisions which both sides were willing to accept as disinterested and even-handed."

Farther on in this letter, President Wilson said:

"It was chiefly under his [Brandeis'] guidance and through his efforts that legislation was secured in Massachusetts which authorized savings banks to issue insurance policies for small sums at much reduced rates. And some gentlemen who tried very hard to obtain control by the Boston Elevated Railway Co. of the subways of the city for a period of 99 years can probably testify as to his ability as the people's advocate when public interests call for an effective champion. He rendered those services without compensation and earned, whether he got it or not, the gratitude of every citizen of the State and city he served."

Justice Brandeis was confirmed by almost a strict party vote. He obtained only one vote from New England. All but three of the Republicans present in the Senate voted against his confirmation. It is difficult to understand how many of these able and eminent Senators were induced to vote against Mr. Brandeis' confirmation. It is almost impossible to comprehend how a member of the United States Senate could be influenced by the methods which were pursued in that fight; and yet the fact remains that this great fight was very powerful and that in some way, difficult to understand and perhaps impossible to comprehend, men of otherwise broad stature, with broad ideas and great ability, were induced to cast their votes and use their powerful influences against this confirmation. It is difficult to comprehend how such men could be moved officially by such a narrow-minded partisan view of the question.

Notwithstanding this bitterness, Justice Brandeis remained silent and, to all outward appearances, unmoved.

It is a great tribute to his judicial temperament that he could remain silent, but Justice Brandeis did remain silent—to all appearances he was unmoved and he kept on in his usual method of living, doing his duty as he saw it, without fear and with a courage that is remarkable in American history. His great abilities as a jurist began to shine. He began to write many dissenting opinions, and his reasoning, courageous and unflinching, was convincing. At no time in his public career is there any indication that he held in his heart revenge or hatred against those who had so mercilessly attacked him on his professional and private life. Gradually the reasoning of his dissenting opinions began to sink deeper and deeper into the minds of lawyers, philosophers, and students of government, and, when he left the bench 23 years later, he took with him the loving respect of nearly all men whose good opinion would be highly cherished by anyone. He retired from the bench with tumults of applause from practically all his countrymen, including many who had fought him so bitterly when he was first appointed.

At his death, when the Supreme Court met on October 6, 1941, the Chief Justice, after announcing the death of Justice Brandeis, said:

"Learned in the law, with wide experience in the practice of his profession, he brought to the service of the Court and of his country rare sagacity and wisdom, prophetic vision, and an influence which derived power from the integrity of his character and his ardent attachment to the highest interests of the Court as the implement of government under a written constitution. His death brings to a close a career of high distinction and a life of tireless devotion to the public good."

The retired Chief Justice issued a statement in which he said:

"He [Brandeis] brought his wide experience and his extraordinary acumen to the service of the public interest and, in a judicial career of the highest distinc-

tion, left his permanent impression upon our national jurisprudence."

The President of the United States, Franklin D. Roosevelt, in writing to Mrs. Brandeis, used this language:

"The whole nation will bow in reverence to the memory of one whose life in the law, both as advocate and Judge, was guided by the finest attributes of mind and heart and soul.

"In his passing American jurisprudence has lost one whose years, whose wisdom and whose broad spirit of humanism made him a tower of strength."

From all over the country, the death of Justice Brandeis brought comments from men in high official positions. One United States Senator said:

"Louis D. Brandeis spoke for the inarticulate masses in the United States. His advocacy of liberal economic policy won the esteem, gratitude, and the affection of the masses. He has written in immortal words a record of achievement."

How in the light of history these words ring out, as it were, in answer to the bitter criticism made twenty-three years before. These words, now acquiesced in by unanimous opinion, pay a just and deserved tribute to the memory of Justice Brandeis, because everyone knows they are absolutely true.

Similar comments came from the press all over the country. Everyone, rich and poor, conservative and liberal, men of all religions, seemed to realize that humanity had lost a friend. The poor knew that the great advocate of human liberty who had defended them for many years, and had administered justice to them for nearly twenty-three years, had passed into eternal slumber.

The life of Justice Brandeis has been a guiding star and an inspiration to untold numbers of his countrymen, who are happier and who are better citizens, better fathers and husbands, because Justice Brandeis lived. His words of cheer for the downtrodden, and his words of hope for

the afflicted, will continue to bring new courage to all struggling mortals. Millions of honest and upright men and women all over our land will live better lives—will be better citizens and do a greater part in the struggle to upbuild humanity and make their lives better and purer because of the inspiration which has come to them from the life and work of Justice Brandeis. His life shines as a beacon light in the world of hope. His name is the embodiment of a philosophy which uplifts and guides struggling mortals along the pathway of life towards an ideal where justice, tempered with mercy, reigns supreme.

A motion that a copy of the Resolutions be transmitted to the family of Mr. Justice Brandeis was adopted.

The meeting was adjourned.