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Mark S. Tulis, Esq.
Oxman, Tulis, Kirkpatrick, Whyatt & Geiger, LLP
120 Bloomingdale Road
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Re: Brandeis Westchester Law Society

Dear Mark:

The attached article regarding Justice Brandeis could be circulated among the members.

Regards.

Sincerely,



Robert G. Kurzman

RGK/ba
Enclosure

Brandeis Becomes First Jewish Supreme Court Justice

JANUARY 28, 1916

The American jurist Louis Brandeis was the first Jew appointed to the United States Supreme Court. He served on the high court for twenty-three years and was one of the few justices to support the social legislation President Franklin Delano Roosevelt had initiated, which came to be called the New Deal. Brandeis's emergence as a leader of American Zionism encouraged many American Jews to embrace the establishment of a Jewish homeland in Palestine without feeling that they had diminished their loyalty to the United States.

Louis Brandeis was born on November 13, 1856, in Louisville, Kentucky; he was the youngest of the four children born to Adolph and Frederika Brandeis, immigrants from Prague to the United States. His mother, whose family name was Dembitz, was a descendant of followers of the pseudo-messiah Jacob Frank. Louis Brandeis's parents appreciated intellectual achievement but showed little interest in Judaism.

Brandeis was especially fond of one of his uncles, Lewis Dembitz, a scholarly attorney, author, and Zionist who was known as "the Jewish scholar of the South." In honor of his favorite uncle, Louis changed his middle name from David to Dembitz.

Louis grew up in Louisville and graduated from high school at age fifteen. About that time, the family business was dissolved because of financial setbacks, and the Brandeises made an extended visit to Europe in 1872. Between 1873 and 1875, Louis attended the Annen Realschule in Dresden. He disliked German academic discipline, noting, "In Kentucky you could whistle."

Encouraged by his Uncle Lewis to return to the

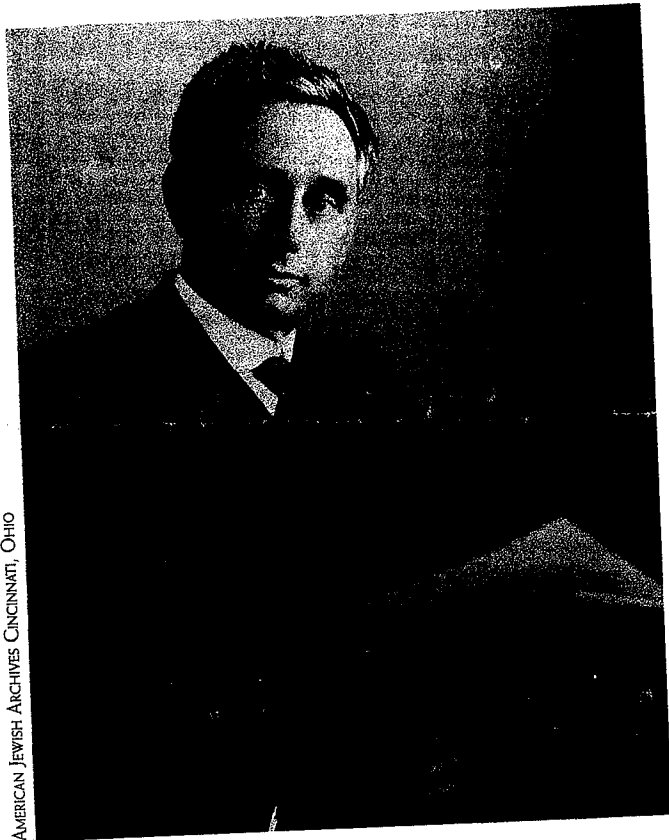
United States, Louis entered Harvard Law School. To pay the tuition, he borrowed money from his older brother and also tutored other students. Louis Brandeis graduated first in his class before his twenty-first birthday.

He practiced law in Boston, defending the rights of consumers and labor unions, interests that until then had not enjoyed much advocacy. He was called the "people's attorney" because he defended those with little representation—namely, the poor. He was described as ascetic, compassionate, and commanding. To some, he seemed reminiscent of Abraham Lincoln. By the mid-1890s, Louis Brandeis had acquired a reputation as one of America's best lawyers.

In 1908, Brandeis submitted a brief to the United States Supreme Court in which he defended an Oregon statute that regulated working hours for women. That document, containing over one hundred pages of supporting facts, became known as the "Brandeis Brief." It helped pave the way for the introduction of sociological data in the defense of public policy before the judiciary system.

Brandeis was considered one of the leading progressive reformers in the country. In 1912, when Woodrow Wilson was elected President, he turned to Brandeis for advice on political and social reform. Brandeis's 1914 book, *Other People's Money*, exerted a strong influence on Wilson, and his ideal of a highly competitive economy served as the basis for Wilson's New Freedom, which aimed at establishing more economic opportunities in the United States by restricting monopolies and reducing protective tariffs.

In his early life, Brandeis felt little interest in Juda-



AMERICAN JEWISH ARCHIVES CINCINNATI, OHIO

A portrait of Louis Brandeis.

ism, but he was favorably impressed by his religion's emphasis on justice and ethical values. In 1911, Brandeis encountered the Jewish working class for the first time when he arbitrated a garment workers' strike in New York. The workers' intelligence and their ability to see issues from the point of view of the other side impressed him.

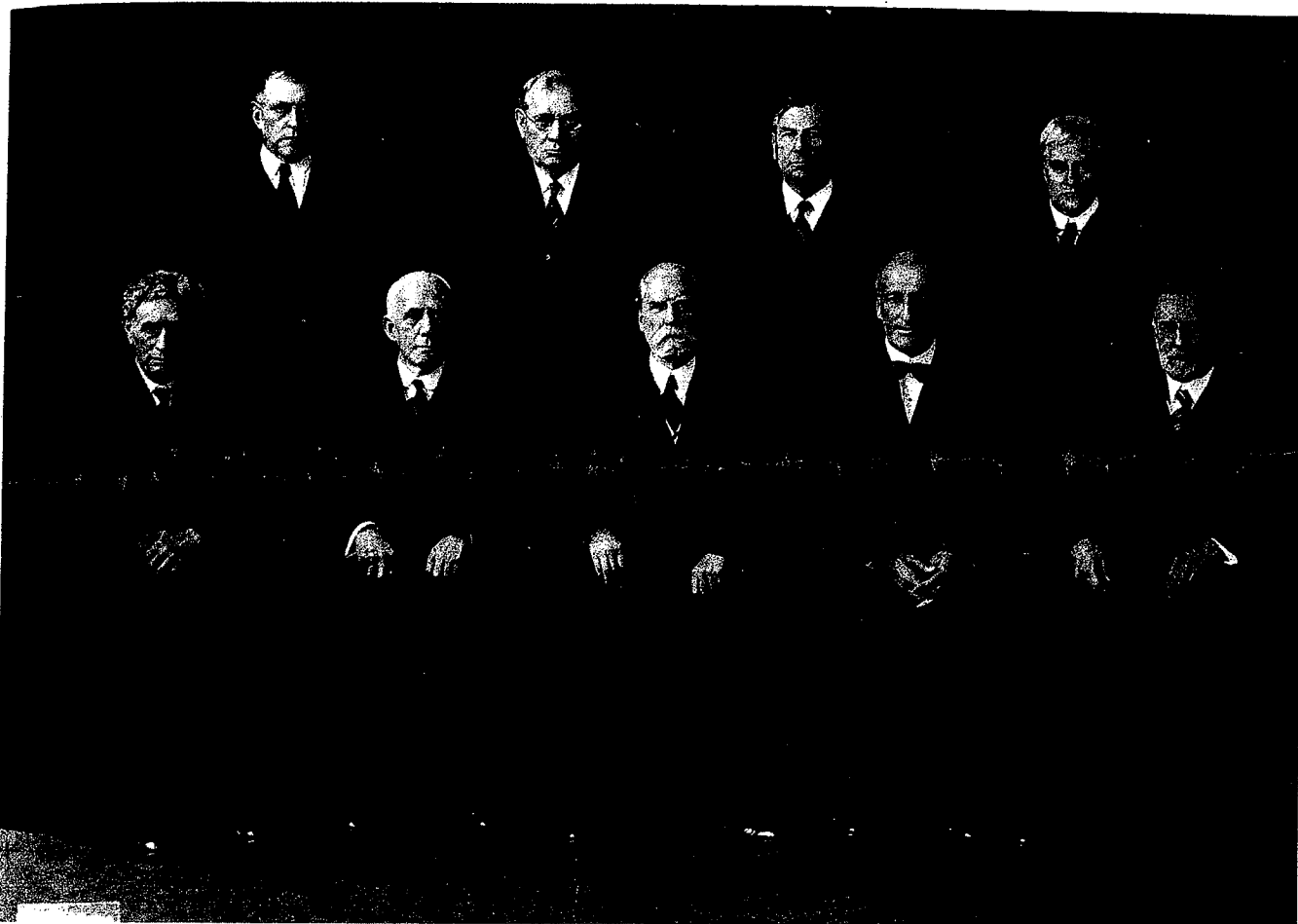
That same year, 1911, Brandeis's fateful meeting with Jacob De Haas, editor of the Boston-based newspaper the *Jewish Advocate*, heightened his Jewish consciousness. De Haas, secretary to Theodor Herzl in London, aroused Brandeis's interest in Jewish history, and especially the burgeoning Zionist movement. Brandeis devoured every word of the reading material De Haas provided him. Brandeis explained: "My sympathy with the Zionist movement rests primarily upon the noble idealism which underlines it and the conviction that a great people, stirred by enthusiasm for such an ideal, must bear an important part in the betterment of the world." Just before World War I, Brandeis became chairman of the Provisional Committee for General Zionist

Affairs in the United States, a post that essentially made him the leader of American Zionism. He favored, as every Zionist did, the reestablishment of a Jewish homeland in Palestine, a homeland that would be based on American democratic ideals.

On January 28, 1916, President Wilson nominated Brandeis to the Supreme Court, a political bombshell that set off a controversial four-month-long Senate debate over his confirmation. Wilson knew that the Senate's conservatives would oppose the nomination as soon as they learned of it and, therefore, avoided telling any of the senators before his official announcement. "A ghastly joke," said the *New York Tribune*. The *New York Sun* called Brandeis "utterly and even ridiculously unfit." *The New York Times* was more restrained but complained that Brandeis was "essentially a . . . striver after changes and reforms." To the *Boston Morning Globe*, Brandeis was "a radical, a theorist, impractical with strong socialistic tendencies." And former President Taft called the appointment "a fearful shock. . . one of the deepest wounds that I have had as an American. . . . He is a muckracker, an emotionalist for his own purpose, a socialist." Taft, the president and former president of the American Bar Association, urged the Senate to reject Brandeis, as did fifty-five leading Bostonians, including A. Lawrence Lowell, president of Harvard University. The Democratic and liberal press came to Brandeis's defense. At Harvard Law School, nine of the eleven faculty members endorsed Wilson's choice. Though the opponents of the nomination seemed to outnumber its supporters, Wilson held firm, and the anti-Brandeis group could not block the nomination. Hence, Brandeis became the first Jew to serve on the high court.

Brandeis's closeness to President Wilson has been credited with securing American support for the Balfour Declaration, the 1917 declaration of British policy favoring the establishment of a Jewish national home in Palestine.

After World War I, Brandeis became the honorary President of the World Zionist Organization, but a rift occurred between Brandeis and American Zionists, on the one hand, and Chaim Weizmann and the Eastern European Zionists, on the other. Assailing the way Zionist funds were being handled, Brandeis sought to place the Zionist movement on a sounder, more efficient economic footing, but was rebuffed by Chaim Weizmann. So contentious was the controversy that Brandeis and his allies withdrew from the World Zionist Organization, though they continued to support Zionist ideals.



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Supreme Court portrait. Brandeis is seated bottom left.

On the Supreme Court, Brandeis was one of the few justices to support President Roosevelt's New Deal. At a time when a majority on the Court was striking down new social legislation, Brandeis voted for accepting minimum-wage laws, price-control laws, and legislation that protected trade unions against injunctions in labor disputes. Franklin Roosevelt hailed Brandeis as "Isaiah" because he was a great teacher and reflected that prophet's passion for social justice.

During the twenty-three years he served as a justice, Louis Brandeis was known as one of the most gifted legal craftsmen in the Court's history. Some believed that had Louis Brandeis not been Jewish he might well have become Chief Justice of the Supreme Court. He supported judicial restraint, the view that courts should not usurp the role of the legislative branch on the wis-

dom of public policy. He also believed that the courts had a special role to play in the field of civil liberties. He once said: "Order cannot be secured merely through fear of punishment; it is hazardous to discourage thought, hope and imagination; fear breeds repression; repression breeds hate; hate menaces stable government." He was a strong believer in dispersing power among the states rather than allowing too much power to be concentrated at the federal level.

Brandeis died on October 5, 1941, just before his eighty-fifth birthday; he did not live to see the founding of the state of Israel in 1948. But a kibbutz there, *Ein Hashofet* (Spring of the Judge) was named for him. And in Waltham, Massachusetts, near Boston, where he began his career, a university established by Jewish sponsors bears his name.