

Contents

Timeline: Holmes’s Life and Free Speech Jurisprudence, 1841–1935 page ix

Prologue: The Father of the Modern First Amendment xiii

Part I: On Life and War 1

 Letter to Amelia Lee Jackson Holmes, October 23, 1861 15

 How Our Brothers Fought, July 20, 1864 18

 Memorial Day Address, May 30, 1884 19

 The Soldier’s Faith, May 30, 1895 28

 Address at a Banquet for Admiral Dewey, October 14, 1899 40

 Remarks to the Second Army Corps Association, March 13, 1903 41

Part II: General Conceptions: The Early Writings 45

 The Gas-Stokers’ Strike (1873) 53

 The Common Law (1881) 60

 Correspondence 75

 Privilege, Malice, and Intent (1894) 81

 Correspondence 89

Part III: The State Court Years: Fettered Freedom 95

Cowley v. Pulsifer (1884) 102

 Correspondence 105

Burt v. Advertiser Newspaper Co. (1891) 107

McAuliffe v. Mayor of City of New Bedford (1892) 112

Hanson v. Globe Newspaper Co. (1893) 117

 Correspondence 121

Commonwealth v. Davis (1895) 124

Vegelahn v. Gunther (1896) 127

 Correspondence 131

 The Path of the Law (1897) 138

Commonwealth v. Peaslee (1901) 156

vii

viii	Contents
Part IV: Supreme Court Opinions: The Early Years	161
<i>Patterson v. Colorado</i> (1907)	170
<i>Peck v. Tribune Co.</i> (1909)	177
Correspondence	179
<i>Gandia v. Pettingill</i> (1912)	181
<i>Fox v. Washington</i> (1915)	185
Jay Fox, “The Nude and the Prudes” (1911)	190
<i>Toledo Newspaper Co. v. United States</i> (1918)	192
Correspondence	195
Natural Law (1918)	199
Correspondence	203
Part V: Supreme Court Opinions: “When a nation is at war”	205
<i>Baltzer v. United States</i> (1918)	215
<i>Schenck v. United States</i> (1919)	219
Correspondence	224
Circular, Long Live the Constitution of the United States (1917)	237
<i>Frohwerk v. United States</i> (1919)	241
<i>Debs v. United States</i> (1919)	246
Correspondence	250
Part VI: Supreme Court Opinions: Experimenting with Freedom . . .	262
<i>Abrams v. United States</i> (1919)	271
Correspondence	277
Correspondence	289
<i>American Column & Lumber Co. v. United States</i> (1921)	308
<i>United States ex rel. Milwaukee Social Democratic Publishing</i> <i>Co. v. Bursleson</i> (1921)	312
<i>Leach v. Carlile</i> (1922)	317
Correspondence	318
<i>Gitlow v. New York</i> (1925)	321
Correspondence	324
<i>United States v. Schwimmer</i> (1929)	334
Correspondence	336
Adieu, March 8, 1931	342
Epilogue: The Long Shadow	349
<i>Appendix 1: Holmes on Free Speech and Related Matters: Selected</i> <i>Quotations</i>	385
<i>Appendix 2: Holmes’s Supreme Court Voting Record in Free Speech</i> <i>Cases</i>	398
<i>About the Editor</i>	401
<i>Index</i>	403