

"The Greatest Jew in the World since Jesus Christ": The Jewish Legacy of Louis D. Brandeis

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"Elijah," "Isaiah," "Daniel," "Moses," "Prophet," "Messiah," "the Greatest Jew in the World Since Jesus Christ"—these are only some of the many religious epithets attached to the name of Louis Dembitz Brandeis.¹ Brandeis had the distinction of being revered in his own lifetime, and admirers—Jews and Christians alike—searched for words adequate to describe him. Finding secular language insufficient, they turned instinctively to sacred language, particularly metaphors drawn from the Bible.

Brandeis himself encouraged this trend in late 1910 when he told a young interviewer from the Boston *Jewish Advocate* that "the Jewish prophet may struggle for truth and righteousness today just as the ancient prophets did" and admitted that his own "prototype" among the prophets was Daniel. "And how much like the great Daniel, prophet of old, who struggled against historic wrong and injustice is this mighty modern Jewish prophet," the interviewer waxed enthusiastically; the *Advocate* was, at the time, promoting Brandeis as a social reformer.² The ensuing three decades saw Brandeis widely hailed for his standing among the prophets. On the occasion of his seventy-fifth birthday, his friend Louis E. Kerstein, of Filene's Department Store, publicly praised him as "a modern prophet," adding that "I am not the first, nor shall I be the last, to suggest that." Five years later President Franklin D. Roosevelt confirmed this judgement. He told Rabbi Stephen S. Wise that Brandeis was a "grand man . . . we of the inner circle call him Isaiah."³

1. Joseph Friedlander, "The New Elijah," *Jewish Advocate*, July 2, 1915; Philippa Strum, *Louis D. Brandeis: Justice for the People* (New York: 1984), pp. 256, 339, 384; Judd L. Teller, "America's Two Zionist Traditions," *Commentary* 20 (October 1955), p. 350; Jacob De Haas, *Louis D. Brandeis* (New York: 1929), p. 47 (quoting Senator Hoke Smith of Virginia); for similar comments see Irving Dillard, ed., *Mr. Justice Brandeis, Great American: Press Opinion and Public Appraisal* (St. Louis: 1941).

2. Allon Gal, *Brandeis of Boston* (Cambridge, Mass.: 1980), pp. 130-135.

3. Louis E. Kerstein, "A Modern Prophet," in *The Brandeis Avukah Annual of*

The use of biblical imagery and religious language in connection with social reformers is, of course, familiar to students of American history. Religious vocabulary is particularly appropriate in the context of Progressivism, for many Progressive leaders grew up in strict Protestant homes, trained as ministers, or at the very least had been steered in the direction of ministerial and missionary careers, which they later rejected. Robert Crunden dubs these Progressive leaders "ministers of reform" and calls upon the vocabulary of religion in portraying them: he speaks of "conversion," "sin," "Armageddon," "spiritual odysseys."⁴

Brandeis, however, forms an exception to all of these generalizations, not just because he was a Jew—there were other Jewish Progressives—but because religion played a relatively insignificant role in his upbringing. His grandfather and great-grandfather in Prague had been leaders in an antinomian Jewish cult movement known as Frankism, followers of the Jewish pseudomessiah Jacob Frank. His mother, Frederika Dembitz Brandeis, rejected the cult (whose power had long since waned, in any case), yet traces of its antinomian influence colored her beliefs and practices. "Strongly averse to religious enthusiasm . . . her purpose," according to Ben Halpern, "was to train her children in 'the spirit not the form of religion,' and they were not exposed to 'any definite religious belief' at home." Brandeis, Halpern continues, "grew up to share his mother's distaste for formal religion; and . . . fulfilled her hopes for a character formed by a 'pure spirit and the highest ideals.'"⁵

Brandeis did experience traditional Judaism at the home of his mother's brother, Lewis Dembitz, whom he revered and whose last name he adopted as his middle name. Yet he never himself took up any traditional Jewish practices, and he remained, by his own admission, extraordinarily ignorant about Judaism's rites and precepts. For one who was so widely denominated a Jewish prophet, his de-

1932: *A Collection of Essays on Contemporary Zionist Thought Dedicated to Justice Louis D. Brandeis*, Joseph S. Shubow, editor (Boston: 1932), p. 16; Alpheus Thomas Mason, *Brandeis: A Free Man's Life* (New York: 1946), p. 597.

4. Louis Weeks, "God's Judgement, Christ's Command: Use of the Bible in Nineteenth-Century American Political Life," in *The Bible in American Law, Politics and Political Rhetoric*, James Turner Johnson, editor (Philadelphia: 1985), pp. 61-77; Robert M. Crunden, *Ministers of Reform* (Urbana: 1984), esp. p. 16. Brandeis does not fit Crunden's model, as he himself admits on p. 277.

5. Ben Halpern, *A Clash of Heroes: Brandeis, Weizmann, and American Zionism* (New York: 1987), pp. 62-69; *Reminiscences of Frederika Dembitz Brandeis*, transl. by Alice G. Brandeis (privately printed: 1943).

viations from traditional Jewish norms were, in fact, astounding. For the first half-century of his life he maintained business associations with Jews but did not live near other Jews, did not belong to a synagogue, gave only perfunctory gifts to Jewish charities, and socialized largely with non-Jews. His brother and his daughter intermarried, but it troubled him not; in fact, he considered his Christian son-in-law a "rare find." The Brandeises celebrated Christmas but no Jewish holidays, and certainly not the Sabbath. Even late in life, after he had become a Zionist leader, he delighted ("there is great rejoicing") over the hams that brother Alfred shipped him periodically from Louisville.⁶

Before Brandeis came to Zionism, some questioned whether he was Jewish at all.⁷ His brother-in-law, Felix Adler, who had performed his marriage to Alice Goldmark in a civil ceremony, had earlier renounced Judaism to found the Ethical Culture movement, which emphasized ethics over particularistic creeds and ceremonies. The two men respected one another, and Adler considered his brother-in-law a spiritual kinsman; he even invited him to become the leader of the Society for Ethical Culture's Boston branch, an invitation that was declined. In 1907, when Brandeis was considered for membership in the newly created American Jewish Committee, his link to Adler was one of the grounds upon which he was rejected. "He has not identified himself with Jewish Affairs," the AJC's secretary explained, "and is rather inclined to side with the Ethical Culturalists."⁸ Meanwhile, others whispered that Brandeis belonged to the Unitarian Church,

then a haven for assimilated Jews seeking entry into establishment circles. While there is no evidence to support this allegation, Alice Goldmark Brandeis did join the Unitarian Church, at least according to Lewis Paper, while her husband "remained uninterested in formal religious exercises."⁹

The fact that someone with this highly assimilated background came to be seen as a Jewish prophet—not just an ordinary hero but an object in some circles of profoundly religious veneration—cries out for explanation. Why was Brandeis venerated and remembered while other Jewish leaders of his generation, even brilliant lawyers, highly active in American Jewish life (more so, indeed, than Brandeis), and certainly more Jewishly observant and learned than Brandeis—men, for example, like Mayer Sulzberger and Louis Marshall—faded into near obscurity? The obvious answers—the fact that Brandeis served as America's first Jewish Supreme Court Justice, stood at the helm of the American Zionist movement, and won the respect of Gentiles—while obviously contributing factors are not sufficient in themselves since people with comparable credentials are remembered as great leaders but not as sacred prophets. Instead, the sources of Brandeis's unique appeal lie deeper. They reflect not only who Brandeis was and what he did but also what he came to symbolize to Americans generally, and particularly to American Jews.

Long before Brandeis came to Zionism he displayed qualities and affected a lifestyle that distinguished him from his peers and hallowed him with a kind of religious aura. He inherited some of these qualities from his highly cultured Jewish immigrant parents; others likely stemmed from the lofty Puritan-Brahmin values that he imbibed at Harvard.¹⁰ Synthesizing the two, he formulated a series of guiding principles, a personal philosophy. Key elements of this philosophy appeared, soon after Brandeis's death, in a volume edited by Alfred Lief entitled *The Brandeis Guide to the Modern World*, a book that promised "a confused modern world . . . clarity, guidance and hope." In 1936 Brandeis had himself distilled the essence of his ethical teachings into a 28-word credo addressed to a struggling young Jewish law student in Michigan who needed encouragement. "Be scrupu-

6. Strum, *Brandeis*, pp. 9–11; Melvin I. Urofsky and David W. Levy, *Letters of Louis D. Brandeis*, 5 vols. (Albany, N.Y.: 1971–78) 2:305, 728; 4: 295, 313, 531, 543 (hereafter cited as *LDB Letters*).

7. The oft-mentioned fact that the *Jewish Encyclopedia* did not provide an entry for Brandeis proves little; Louis Marshall, Julian Mack and Judah Magnes are without entries as well. The 5665 (1904–1905) *American Jewish Year Book* (p. 69) did include Brandeis in its biographical sketches of prominent Jews but with a revealing asterisk: Brandeis had not responded to the *Year Book's* repeated requests for information.

8. Gal, *Brandeis of Boston*, pp. 70–71, 131; Alfred Lief, *Brandeis: The Personal History of an American Ideal* (New York: 1936), p. 31; Herbert Friedenwald to Mayer Sulzberger, February 28, 1907, as quoted in Jerold S. Auerbach, *Rabbis and Lawyers: The Journey from Torah to Constitution* (Bloomington, Ind.: 1990), p. 124; cf. *LDB Letters*, 1:99, 3:306, and Benny Kraut, *From Reform Judaism to Ethical Culture: The Religious Evolution of Felix Adler* (Cincinnati: 1979), esp. p. 258 n. 104. In 1911 Brandeis was again rejected for the American Jewish Committee, this time because "some of the members . . . [were] not full in accord with the public policy of Mr. Brandeis"; see Halpern, *A Clash of Heroes*, p. 99.

9. Gal, *Brandeis of Boston*, p. 131; Lewis J. Paper, *Brandeis* (Secaucus, N.J.: 1983), p. 199.

10. Alton Gal stresses the importance of Brandeis's Puritan values in "Brandeis's View on the Upbuilding of Palestine, 1914–1923," *Studies in Zionism* 6 (Autumn 1982), 211–240.

lously honest," Brandeis wrote, "live simply and worthily; work hard; have patience and persistence; and don't measure success by the number of dollars collected. Waste neither time nor money."¹¹

Brandeis did not merely espouse these virtues, he lived by them. This contributed mightily to the mystique that gradually enveloped him, for he became known as a man who set himself apart from his peers and followed his own counsel. In a society characterized by conspicuous consumption, he insisted on living simply and frugally. He bought (in the best stores) what he considered necessary, and the rest of his money he saved or gave away to charity. He abhorred ostentation and personal debt and shunned the kinds of luxuries that most men of his class indulged in; his ideal instead was to be "economical." His friend, the Catholic social reformer Monsignor John A. Ryan, went so far as to describe his tastes and manner of living as approaching "the standards of an ascetic." Philippa Strum reminds us that this was something of an exaggeration, for Brandeis indulged in horses, canoes, summer homes, servants, and private schooling for his daughters. The image he cultivated, however, did border on the ascetic: he never owned a car, his dinners were "spare in provision," and his office "was furnished with austerity. There was no rug or easy chair." This was an expression of deeply held values lived out in life and at the same time a silent polemic, an attack on the materialism of American society in general and particularly, one suspects, on the "crude, materialistic Boston Jews" of whom he was so very contemptuous.¹²

Brandeis also lived out his lofty, individualistic principles in his law practice. Concerned about the ethics and values of the American legal profession, he tried, in his own life, to adhere to a higher standard, though this necessarily, again, set him apart from his peers. He

11. Alfred Lief, ed., *The Brandeis Guide to the Modern World* (Boston: 1941); *LDB Letters*, 5:566; see Strum, *Brandeis*, pp. 5, 16–17. Revealingly, Horace Kallen's posthumous evaluation of Brandeis was entitled "The Faith of Louis D. Brandeis" (1943), reprinted in Kallen's *"Of Them Which Say They Are Jews" and Other Essays on the Jewish Struggle for Survival* (New York: 1954).

12. Strum, *Brandeis*, pp. 47–48, 62; Mason, *Brandeis*, pp. 74, and 79; Paper, *Brandeis*, p. 44; John A. Ryan, *Social Doctrine in Action*, quoted in Dilliard, *Mr. Justice Brandeis*, p. 99; Paul Freund, "Justice Brandeis: A Law Clerk's Remembrance," *American Jewish History* 68 (September 1978), 7–18; *LDB Letters*, 4:401; David W. Levy, "Brandeis and the Progressive Movement," in Nelson L. Dawson, ed., *Brandeis and America* (Lexington, K.Y.: 1989), pp. 103–104. Brandeis himself employed the term "asceticism" in an interview with Alfred Lief; see Alfred Lief, ed., *The Brandeis Guide to the Modern World* (Boston: 1941), p. 210, no. 430.

refused fees, for example, for public service undertakings and later actually reimbursed his firm for time spent on these activities so that others might not suffer on his account. He was also known to judge clients before accepting their cases, and if he found their claims illegitimate, he declined to represent them. The great causes that he did represent—the fight to preserve the Boston subway system, the campaign for savings bank life insurance, the war against the New Haven Railroad, the battle to preserve Oregon's 10-hour limit on work for women, and the case against government wrongdoing in the Pinchot-Ballinger Affair—all came to resemble moral crusades, righteous battles between the forces of light (which he represented in the name of the people) and the forces of darkness (which he sought to overcome). This mode of defining issues was Brandeis's "special genius," according to his onetime law clerk Paul Freund. He was able "to perceive moral issues in what others saw as vast impersonal, inevitable trends, and to devise institutional arrangements designed to salvage moral values in a modern technological age."¹³ Brandeis's remarkable reputation, not just as the "people's attorney" but as a moral, "prophetic" force within American society stemmed, to a considerable degree, from this "genius."

Those who knew Brandeis during these years (and afterward) sometimes likened him to Abraham Lincoln—a comparison that Brandeis himself is said to have taken "a secret pride in."¹⁴ The comparison is most instructive, for Lincoln functioned as something of a patron saint to Progressives: they worshipped him as a hero, a holy man, and a paragon of virtue, and they strove to emulate his "sacred" personal characteristics.¹⁵ Brandeis and Lincoln shared some superficial physical resemblances ("the wiry strength, the tall, angular, slightly stooped frame, sharp features, [and] deeply set eyes of

13. Strum, *Brandeis*, pp. 40 and 61; Mason, *Brandeis*, p. 103; Freund, "Justice Brandeis," p. 7. Robert A. Burt, *Two Jewish Justices: Outcasts in the Promised Land* (Berkeley: 1988), p. 10, observes that "there is a problematic aspect to this role conception, an extraordinary self-confidence in one's own rectitude and disinterestedness."

14. Arthur L. Goodhart, *Five Jewish Lawyers of the Common Law* (1949; Freeport, N.Y.: 1971), p. 37. For the comparison, see Mason, *Brandeis*, pp. 115, 206, 582, 638; Strum, *Brandeis*, pp. 52, 358, 361; and especially *The Washington Post*, October 12, 1941, reprinted in Dilliard, *Mr. Justice Brandeis*, pp. 104–105. James Waterman Wise, in the *Brandeis Avukah Annual of 1932*, p. 167, found the comparison wanting in at least one element: "Brandeis' forte has never been patience. . . . The gentle kindness of a Lincoln toward human frailties he does not share or know."

15. Crunden, *Ministers of Reform*, esp. pp. 4–6, 276–277.

blue gray"¹⁶) and both traced their familial roots back to Kentucky. More significant, however, is the deeper spiritual affinity that the comparison suggests. Contemporaries held both men up as moral exemplars, larger-than-life leaders who had achieved a level of saintliness in this world that lesser mortals might strive to imitate but could never realistically hope to attain.¹⁷ This image of Brandeis had not yet fully formed when he came to Zionism, but key elements of it had already taken shape. That, in part, is what made his emergence as the leader of American Zionism so portentous.

The story of Louis Brandeis's mid-life "conversion" to Zionism has been described, quite appropriately, as "an enduring mystery."¹⁸ True conversions are usually somewhat inscrutable, and in Brandeis's case all that can be said with absolute certainty is that the shift resulted from a complex series of remote and proximate causes, some of them conscious, some of them undoubtedly unconscious. Brandeis's uncle and mentor, Lewis Dembitz, was an early supporter of Zionism; his wife, Alice Goldmark Brandeis, at least according to some family sources, likewise influenced him in a Zionist direction.¹⁹ Burgeoning anti-Semitism in Boston and Brandeis's own encounters with prejudice may also have affected his worldview, but to what extent is uncertain. Brandeis himself claimed in 1914 that his concern with Zionism stemmed from his role "in the adjustment of the great strike among the garment workers of New York in 1910." This mediation, which resulted in the signing of a famous "protocol of peace," brought him into contact with the East European Jewish masses, Jews of a type he had never encountered before. He was deeply impressed with their values ("within them there was a true democratic feeling and a deep appreciation of the elements of social justice"), and gradually they

began to replace his former ideal, the Brahmins of Boston, with whom he had become disenchanted.

Already in a 1910 interview with the *Jewish Advocate*, Brandeis declared his warm sympathy for the Zionist cause, although he admitted that he had yet to study the subject in depth.²⁰ This he accomplished over the next few years, under the tutelage of such leading Zionists as Aaron Aaronsohn, Horace Kallen, Shmarya Levin, Bernard Rosenblatt, Nahum Sokolow, Stephen S. Wise, and above all Jacob De Haas. The last, whose August 13, 1912 meeting with Brandeis is so often seen as pivotal in transforming his Zionist predilections into a full-scale ideological commitment, became Brandeis's personal guide to Zionism and helped to propel him, on August 30, 1914, to the chairmanship of the Provisional Executive Committee for General Zionist Affairs.²¹

When he did, finally, give his heart and soul to Zionism, Brandeis's leadership helped to bring about an historic turning point in the movement's fortunes. Where before it had been restricted to a narrow circle of believers, now it emerged as an effective political force.²² Brandeis brought order into the Zionist camp, and, in good Progressive fashion, he promoted the virtues of organizational efficiency, symbolized by the time clock that he had installed in the Zionist offices.²³ He also helped the Zionist movement raise unprecedented amounts of money, including substantial sums from his own pockets: \$171,538 between 1914 and 1921, and a lifetime total (including half of his residual estate) of more than 1.6 million dollars.²⁴

20. Louis D. Brandeis, "Why I Am a Zionist" (1914), in Barbara Ann Harris, "Zionist Speeches of Louis Dembitz Brandeis: A Critical Edition" (Ph.D. diss., UCLA, 1967), pp. 125-126, cf. pp. 161-163; James Waterman Wise, "Louis D. Brandeis," *Brandeis Avukah Annual of 1932*, pp. 164-165; Gal, *Brandeis of Boston*, pp. 124-127.

21. The most recent and best accounts are found in Halpern, *A Clash of Heroes*, pp. 94-102; Strum, *Brandeis*, pp. 224-247; and Gal, *Brandeis of Boston*; see also Mason, *Brandeis*, pp. 443-451.

22. Louis Lipsky, *Memoirs in Profile* (Philadelphia: 1975), p. 202. Lipsky concedes this point, though his depiction of Brandeis (who belittled him) is far from sympathetic. See also Evyatar Friesel, "Brandeis' Role in American Zionism Historically Reconsidered," *American Jewish History* 69 (September 1979), pp. 34-59, which offers a valuable corrective to earlier studies.

23. Strum, *Brandeis*, p. 255.

24. Mason, *Brandeis*, p. 692; the sums include gifts to "Jewish charities and Zionism." Between 1890 and 1939, according to Mason's figures, Brandeis donated \$614,849.22 to Zionist and Jewish causes; he also left it one-half of the residue of his estate, a sum of about one million dollars.

16. Mason, *Brandeis*, p. 582.

17. On this tension between imitability and otherness as a critical factor in sainthood, see Richard Kieckhefer and George D. Bond, *Sainthood: Its Manifestations in World Religions* (Berkeley: 1988), pp. viii, 243.

18. Peter Grose, *Israel in the Mind of America* (New York: 1983), pp. 46-48. Note here too the use of religious language to describe the change in Brandeis's life. In a recent article, Allon Gal argues that Brandeis's conversion to Zionism took place in two stages: "Judaization," during which he acquired Jewish identity and pride, and "Zionization," which continued and intensified his "Judaization." Even if true, it remains unclear why Brandeis expressed his Judaism through Zionism, rather than through some more conventional cause (like the Jewish social justice movement). See Allon Gal, "Brandeis, Judaism, and Zionism," in Dawson, *Brandeis and America*, pp. 66-68.

19. Strum, *Brandeis*, pp. 230-231; *LDB Letters*, 1:91n.

Brandeis's importance, however, extends far beyond these administrative and charitable contributions. His success in promoting the Zionist movement in America owed more to his persona and mystique, his charm, prestige, fluency, sincerity and passion, the thrill of being part of a movement that he headed. Jacob De Haas captured the spirit of this personality cult (a cult that he did much to encourage) in a sycophantic passage in which he describes Brandeis as "a Jew who is keen to feel and think with his people and who the world over, has come to be known as Israel's greatest spiritual guide and most practical adviser in this generation . . . whose private office in Washington is a temple to which men and women make pilgrimages from all the ends of the earth."²⁵ When Brandeis travelled on behalf of Zionism, his presence alone was usually sufficient to attract an audience. His prestige was such that when he appeared at the annual Zionist conventions members of the audience spontaneously rose to their feet. They looked up to Brandeis as their prophet and pledged to him their abiding devotion and faithfulness.²⁶

Brandeis's formal leadership of the Zionist movement in America extended through seven memorable years, 1914–1921, an era that encompassed World War I and its aftermath and that spawned enormous changes in Jewish life generally and in the Zionist movement particularly.²⁷ During this tumultuous period Brandeis barnstormed the country speaking out on Zionism's behalf; won for Zionism a host of significant new supporters; oversaw a dramatic if temporary rise in Zionist movement memberships and fundraising; played a behind-the-scenes role in formulating and winning American acceptance of the Balfour Declaration (1917–18); helped to author what became the official program of the American Zionist movement, the so-called Pittsburgh Program (1918); undertook his first (and only) tour of Palestine (1919); and was elected Honorary President of the World Zionist Organization (1920), having declined to serve as its regular president.

25. De Haas, *Brandeis*, pp. 49–50. See also Emanuel Neumann, *In the Arena: An Autobiographical Memoir* (New York: 1976), p. 46: "[De Haas] seemed to be largely responsible for developing a 'personality cult' and cultivating not merely respect and devotion for Brandeis, but also great awe of the leader." Neumann himself, however, described Brandeis as "set on a higher level than virtually all the men I had known" (p. 33).

26. Compare Strum, *Brandeis*, p. 253; Friesel, "Brandeis's Role," p. 47.

27. See Jehuda Reinharz, "Zionism in the USA on the Eve of the Balfour Declaration," *Studies in Zionism* 9 (1988), pp. 131–145.

Early in his term, in July 1916, he formally stepped down from all of his positions in Zionist and Jewish organizations to avoid embarrassing the Supreme Court, of which he had just become a member. He continued, however, to serve in an honorary capacity and henceforward exercised overall authority from behind the scenes.²⁸ This arrangement continued until 1921. In that year a long-simmering policy dispute between Brandeis and Chaim Weizmann, the great European Zionist leader, broke into the open. On the surface the dispute focused around the European proposal to create a central financial agency for Palestine development, the Keren Hayesod, on a basis that Brandeis believed to be financially irresponsible. At a deeper level, however, the dispute highlighted far-reaching ideological and cultural differences between American- and European-born Zionists and reflected both personal mistrust and sharp disagreements over Zionism's mission, priorities and administration. It also brought to the surface long-simmering complaints against Brandeis's covert form of leadership and lack of full-time devotion to the Zionist cause. When delegates to the Zionist Organization of America Convention, meeting in Cleveland in June 1921, sided with Weizmann on the Keren Hayesod issue, Brandeis and 37 of his chief loyalists resigned. "Our place is as humble workers in the ranks," he declared in a subsequent letter. Wrapping himself in the mantle of prophetic righteousness, he spoke of his hope "to hasten by our struggle the coming of the day when the standards which we seek to establish and maintain will be recognized as indispensable to the attainment of our great end."²⁹

Brandeis, of course, never did take his place as a "humble worker in the ranks." Instead, he and his stalwarts promoted the economic development of Palestine, supporting projects large and small designed to strengthen the industrial and agricultural base of the country. He became particularly close to young and in some cases radical Labor Zionists associated with Ha-Shomer Ha-Tzair in Palestine. Whatever he thought of the Marxism that some of them espoused,

28. Strum, *Brandeis*, pp. 248–279; see Brandeis's letters from this period, *LDB Letters*, vols. 3 and 4.

29. Strum, *Brandeis*, pp. 279–288, is the best brief account; cf. Esther Panitz, "Louis Dembitz Brandeis and the Cleveland Conference," *American Jewish Historical Quarterly* 65 (December 1975), pp. 140–162. The list of those who resigned with Brandeis is in De Haas, *Brandeis*, p. 145, and Brandeis's letter is in *LDB Letters*, 4:567. See Neuman, *In the Arena*, pp. 55–66, for the views of a Weizmann supporter in this controversy and, more generally, Melvin I. Urofsky, *American Zionism from Herzl to the Holocaust* (Garden City, N.Y.: 1976), pp. 231–279.

he was strongly drawn to their idealism. He also continued to follow developments within the American Zionist movement, and in the wake of the 1929 Hebron riots, the untimely passing of the great American Jewish leader Louis Marshall, and the almost total collapse of the ZOA under the maladministration of Louis Lipsky, he reemerged as a significant, behind-the-scenes player in Zionist affairs. While he declined the official responsibility of leadership, pleading old age, he was generally consulted about major actions and decisions.³⁰

Chaim Weizmann, watching from abroad, disliked this arrangement. "Brandeis is old," he wrote, "and remains enshrined in Washington like an ikon and waits for the worshippers to come and kneel before him. He is not in a position to do anything or to inspire anybody in such difficult times."³¹ The religious metaphor was apt, but the conclusion proved wide of the mark. In fact, Brandeis did inspire American Zionists—more so, indeed, than any other American Jewish leader. Being in Washington, he was also able to carry on important assignments for the Zionist movement, while his associates kept him constantly informed of developments elsewhere. As late as 1941, the last year of his life, more than half of the significant letters that he wrote (at least those that have been published) concerned Zionist affairs. One of these, a letter to President Franklin Delano Roosevelt, expressed alarm over "the danger threatening the Jewish community in Palestine" and pleaded for "a word . . . to the British manifesting your desire to be assured that the Jews in Palestine will be afforded the necessary means for self-protection."³²

During his three decades as an American Zionist leader, Louis Brandeis helped to transform the movement's image and identity. This may have been, in retrospect, his most important contribution to the cause: his success in (1) legitimizing, (2) Americanizing, and (3) idealizing Zionism's message. To be sure, his ideological approach to Zionism was not original. Thinkers like Israel Friedlaender and Horace Kallen had anticipated him, and he knew it.³³ Instead, it was his

formulation of American Zionism—his emphases, allusions, nuances, and above all his memorable epigrams—that sounded so fresh and creative. This, along with the magic already associated with the Brandeis name, proved tremendously influential, both orally and in print, in spreading Zionism's gospel. As a result, some of the aura that already surrounded Brandeis in American circles now came to envelop Zionism as well.

Prior to Brandeis, Zionism had faced substantial opposition from those who claimed that it was un-American. The Union of American Hebrew Congregations, for example, had declared in 1898 that "We are unalterably opposed to political Zionism. . . . America is our Zion. . . . The mission of Israel is spiritual, not political."³⁴ Its members and others feared that Zionism would raise embarrassing questions of dual loyalty and undermine the gains that American Jewry had achieved through the nineteenth century. Brandeis did much to allay these fears. The fact that a person of his stature and prestige stamped Zionism with his seal of approval gave it instant legitimacy. It also set off something of a chain reaction, bringing to Zionism a coterie of distinguished American Jews—including Julian Mack, Nathan Straus, Mary Fels, Louis Kirstein, Felix Frankfurter, Bernard Flexner, Robert Szold, and the brothers Walter and Eugene Meyer—many of whom numbered themselves among Brandeis's friends and came to Zionism at his personal urging. Non-Jews too became interested in Zionism thanks to Brandeis, most notably his friend Norman Hapgood, the editor of *Harper's Weekly*, and so for the first time the movement gained access to major non-Jewish journals of opinion. One veteran Zionist leader recalls that, thanks to Brandeis, "Zionism became 'fashionable' almost overnight."³⁵ While the dual loyalty issue did not disappear quite so quickly, it certainly lost much of its credibility—the more so once Brandeis, as a Zionist, became America's first Jewish Supreme Court justice. Brandeis himself interpreted his nomination to the Court as a vindication of his stance—he cited

30. Strum, *Brandeis*, pp. 287–290; Urofsky, *American Zionism*, pp. 312–348; Gal, "Brandeis, Judaism, and Zionism," pp. 85–95; Naomi W. Cohen, *The Year after the Riots: American Response to the Palestine Crisis of 1929–30* (Detroit, Mich.: 1988); *LDB Letters*, 5:429–430.

31. Chaim Weizmann to Felix Warburg (November 28, 1931), as cited in Urofsky, *American Zionism*, p. 352.

32. *LDB Letters* 5:651.

33. See his YMHA speech, September 5, 1915: "I have had occasion to remark

many times during this past trying year that there is a fundamental agreement between Jewish ideals and American ideals because both are founded on social justice and democracy. The discovery was not my own." Harris, *Zionist Speeches*, p. 233. For Kallen's role, see Sarah L. Schmidt, "Horace M. Kallen and the Americanization of Zionism," (Ph.D. diss., University of Maryland, 1973), pp. 113–127.

34. *Proceedings of the Union of American Hebrew Congregations* 5 (1898), 4002.

35. Neumann, *In the Arena*, pp. 35–36; Strum, *Brandeis*, p. 250; Yonathan Shapiro, *Leadership of the American Zionist Organization 1897–1930* (Urbana, Ill.: 1971), pp. 63, 69.

it as evidence that "in the opinion of the President there is no conflict between Zionism and loyalty to America."³⁶

The key to Zionism's legitimacy, as Brandeis understood it (probably influenced by Horace Kallen), lay in its link to Americanism. This echoed a favorite theme of turn-of-the-century American Jews, who delighted in uncovering Jewish aspects of the nation's past, the so-called "Hebrew mortar" that provided the cement for the foundations of American democracy.³⁷ For most Jews, however, these links had up to then justified a sense of America as Zion. Brandeis employed them instead to win support, by Americans, for Zion. He thus described Zionism in language redolent of Thanksgiving Day orations, peppering his speeches with references to the "Jewish pilgrim fathers"³⁸ and to standard Progressive goals. He also identified Zionism with America's own highest ideals: "By battling for the Zionist cause," he told delegates to the 1915 Zionist Convention, "the American ideal of democracy, of social justice and of liberty will be given wider expression."³⁹ On one occasion he candidly admitted that Zionism represented for him a natural extension of his Americanism, which, in the spirit of the times, he traced back to the Hebrews of old. "I began gradually to realize," he explained, "that these 20th century ideals of America, of democracy, of social justice, of longing for righteousness, were ancient Jewish ideals . . . that that which I was striving for as a thing essentially American, as the ideals for our country, were the Jewish ideals of thousands of years."⁴⁰ This same equation of Judaism with Americanism—an equation, ironically, that anti-Zionists like Rabbi David Philipson of Cincinnati might heartily

36. *LDB Letters*, 4:40.

37. See, for example, Oscar S. Straus, *The Origin of Republican Form of Government in the United States of America* (New York: 1885); *The Two Hundred and Fiftieth Anniversary of the Settlement of the Jews in the United States: Addresses Delivered at Carnegie Hall, New York on Thanksgiving Day, MCMV* (New York: 1906), esp. pp. 63, 95–105, 119; Abraham I. Katsh, *The Biblical Heritage of American Democracy* (New York: 1977), and for a related analysis, Jerold S. Auerbach, *Rabbis and Lawyers: The Journey from Torah to Constitution* (Bloomington: 1990), pp. 3–25.

38. This phrase had formerly been used to describe the Jews who had come to America in 1654; Brandeis applied it to the pioneers building up Palestine. See Joseph Krauskopf, "The Jewish Pilgrim Fathers," *The Two Hundred and Fiftieth Anniversary of the Settlement of the Jews in the United States*, pp. 121–130; Harris, *Zionist Speeches*, p. 246.

39. Harris, *Zionist Speeches*, pp. 224, 246.

40. Louis D. Brandeis, untitled talk, November 22, 1914, in Harris, "Zionist Speeches," p. 163; see Halpern, *Clash of Heroes*, p. 94.

have seconded—appears, albeit somewhat more enigmatically, in Brandeis's most famous and oft-quoted Zionist pronouncement: "to be good Americans we must be better Jews, and to be better Jews, we must become Zionists."⁴¹

Critics have pointed out that this much-vaunted relationship between Americanism, Judaism, and Zionism is actually something of a non sequitur, and that the power of Brandeis's pronouncement lies largely in the fact that Brandeis himself said it. It has also been observed, correctly, that Brandeis's Zionism was much more American than Jewish, drawing less from the Bible and rabbinic sources than Progressive idealism.⁴² Given Zionism's need to attract supporters, however, these ideological weaknesses turn out to have been brilliant marketing stratagems.⁴³ By associating Zionism with the glories of Americanism, Brandeis effectively pulled the rug out from under the movement's Jewish opponents and placed them on the defensive. Suddenly, the tables were turned. Zionists, quoting Brandeis, could hold their heads high, while opponents squirmed uncomfortably, not certain quite how to respond.⁴⁴

The Zion that Brandeis so proudly championed and actually saw in his mind's eye was very much an idealized Zion, a utopia, a projection of America as he wished it to be, without the "curse of bigness" and the other evils that he thought America had fallen prey to. In his words, it was "a country in which all is possible which we had pictured to ourselves as desirable."⁴⁵ Earlier, he had himself set forth what was desirable—for America—in a memorable Independence Day address (1915) where he identified life, liberty and happiness with education, industrial liberty and financial independence, and then spoke out boldly on behalf of "equal opportunity" for all. Zion was simply an extension of this vision. "The ideals which I there set forth for

41. Brandeis first used the phrase in an address at Boston's Symphony Hall (September 27, 1914), and it was widely quoted; see Harris, *Zionist Speeches*, pp. 99–100. *LDB Letters*, 3:311 n. 1 assigns the phrase to a later speech, in Cleveland, presumably a reworking of the Boston address.

42. Auerbach, *Rabbis and Lawyers*, pp. 123–149; Shapiro, *Leadership of the American Zionist Organization*, p. 73.

43. According to Bonnie Kwitkin, Brandeis' most important contribution to Zionist theory "lay in his employment of unique 'marketing techniques.'" See her "The Americanization of Zionism: An Investigation of Louis D. Brandeis' Zionist Ideology" (senior honors thesis, History of Ideas, Brandeis University, 1991).

44. See, for example, Cyrus Adler to Louis Marshall, September 17, 1919, in Ira Robinson, ed., *Cyrus Adler: Selected Letters* (Philadelphia: 1985), p. 392.

45. "Taking the Initiative in Palestine" (1923), in Harris, *Zionist Speeches*, p. 403.

America," he explained in a private letter, "should prevail likewise in the Jewish State."⁴⁶

The 1918 Pittsburgh Program of the Zionist Organization of America, a statement of Zionist principles that Horace Kallen drafted and Brandeis refined, embodies many of these ideals. More of a sacred agenda than an ideological platform, it called for "political and civil equality" in Palestine, "irrespective of race, sex, or faith"; public ownership of land, natural resources, and public utilities; the application of "the cooperative principle," where feasible, to "all agricultural, industrial, commercial and financial undertakings"; free public education embracing all grades and subjects; instruction in Hebrew, "the national language of the Jewish people;" and in at least one draft, protection from "from the evils of land speculation and from every other form of financial oppression."⁴⁷ Elsewhere, Brandeis associated the Jewish homeland with related virtues: democracy, social justice, agrarianism, and smallness. He boasted, in early speeches, that "in the Jewish colonies of Palestine there are no Jewish criminals." Later, during the Depression, he identified Palestine as the "only land in which there is no unemployment." Still later, according to Paul Freund, he exclaimed with obvious emotion, "Palestine is the one place in the world today where the people are truly happy."⁴⁸

Thus conceived, the Jewish homeland represented American liberal intellectuals' fondest and most romantic visions of a better world, a world influenced by the postwar dreams of Woodrow Wilson and made only more attractive, in Brandeis's case, by his first (and only) visit to the Holy Land in 1919. "It is a wonderful country, a wonderful city," he raved to his wife from Jerusalem. "Aaronson was right. It is a miniature California, but a California endowed with all the interest which the history of man can contribute and the deepest emotions which can stir a people. The ages-long longing, the love is all explicable now. It has also the great advantage over California of being small."⁴⁹

46. "True Americanism," in Solomon Goldman, ed., *Brandeis on Zionism: A Collection of Addresses and Statements by Louis D. Brandeis* (Washington D.C.: 1942), pp. 3-11; *LDB Letters*, 3:587; Strum, *Brandeis*, pp. 259-260.

47. See the text in *The Maccabean*, August 1918, p. 237, reprinted in Urofsky, *American Zionism*, pp. 233-240. Horace Kallen's central role in the formulation of this document is explored in Schmidt, "Horace M. Kallen," pp. 261-267, and is alluded to by Kallen himself in his *Zionism and World Politics* (Garden City, N.Y.: 1921), pp. 300-302.

48. Harris, *Zionist Speeches*, p. 113; *LDB Letters*, 5:501; Freund, "Justice Brandeis," p. 16.

49. *LDB Letters*, 4:417-18. Aaron Aaronsohn, head of the Jewish Agricultural

Horace Kallen, a significant influence on Brandeis in these years, understood that this was all utopianism, a term, significantly, that derives from two Greek words meaning "good place" and "no place."⁵⁰ The blueprint that he and Brandeis drew up for Zion responded not to the realities of the Middle East but to the decline of Jeffersonian liberalism and to the problems of an economically changing America. What the Pittsburgh Program sought to bring about in Zion was, *mutatis mutandis*, what its authors also hoped in time to bring about in America. The Zion of their imagination reflected the America of their dreams. Kallen soon lost hope; Brandeis never did.⁵¹

At his death in 1941 Louis Brandeis was among the best-known and most highly respected jurists and Jews in the United States. Christians praised him as a prophet and described his life (in the words of the *Christian Century*) as "an unanswerable argument against anti-Semitism." Jews likewise praised him as a prophet and held him up as a role model for young Jews everywhere. In death, as in life, religious language seemed necessary to describe him.⁵²

Brandeis by then had become a symbol to Americans, particularly to American Jews. That is why, six years later, Middlesex University in Waltham, Massachusetts, was renamed in Brandeis's memory. The name, Abram Sachar reports, "seemed to combine most felicitously the prophetic ideal of moral principle and the American tradition of political and economic liberalism." Israel Goldstein, who took credit for selecting the name, expressed the hope that Brandeis's "noble life might well serve as an inspiration to American youth. . . . His name, moreover, would be a constant reminder of the need to keep the institution modest in size but noteworthy in quality." In an oft-quoted warning, Albert Einstein, himself something of a prophetic figure at

Experiment Station in Palestine, is best known for his discovery of a strain of wild wheat. Brandeis had met Aaronsohn in 1912 and was enchanted with him; see Gal, "Brandeis's View on the Upbuilding of Palestine, 1914-1923," pp. 218-219.

50. Roger L. Emerson, "Utopia," *Dictionary of the History of Ideas* 4 (1973), p. 458. Brandeis and Kallen actually preferred the term "practical idealism." Another term used by Kallen's biographer is "messianic pragmatism"; see Schmidt, "Horace M. Kallen," p. 267.

51. Schmidt, "Horace M. Kallen," pp. 209-324. There is, of course, an obvious parallel here to Herzl's utopianism, especially as reflected in his utopian novel, *Altneuland* (1902). See Jacques Kornberg's valuable introduction to the English edition, *Old New Land*, translated by Lotta Levensohn (New York: 1987), pp. v-xxxii; and Carl Schorske, *Fin-de-Siecle Vienna* (New York: 1980).

52. Dilliard, *Mr. Justice Brandeis*, pp. 47, 124, 127.

that time, observed that "Brandeis is a name that cannot merely be adopted. It is one that must be achieved." The new university, its founders understood, would have a great name to live up to.⁵³

But what did the name Louis Brandeis really represent? What was it that made Brandeis such an inspiring, prophetic symbol to so many people? I have already pointed, first, to his penchant for moralism, for defining issues in terms of righteousness and wickedness. I have also noted the lofty "Puritan" values that he publicly espoused and personally exhibited. Robert Burt would add to this list Brandeis's "passionate identification with the outcast," his "unshakeable conviction" that the distinction between insider and outsider could be transcended or dissolved.⁵⁴ All three of these characterizations point in the same direction and explain why Dean Acheson, in his eulogy for Brandeis, went so far as to compare him to St. Paul. The comparison was less than felicitous, but Acheson was certainly correct in this respect: where others succumbed to "moral and intellectual anarchy and frustration," Brandeis continued to believe with a "burning faith" in righteousness and justice.⁵⁵

Beyond this, Brandeis, as a Jew, exemplified to Christians the sacred values that they had for centuries associated with the most noble of 'Israelites,' such qualities as supreme intellect, extraordinary devotion to law, deep-seated moralism, love of Zion—the traits, in short, that one expected of "a Hebrew prophet on confidential terms with God."⁵⁶ At the same time, Brandeis was entirely innocent (indeed, highly critical) of the vices that Christians associated with modern-day Jews—materialism, "Talmudic ritualism," social crudeness. In many ways, indeed, Brandeis was the Jew that Christians wished Jews to be. That explains, in part, why the *Christian Century* described him as an "unanswerable argument against antisemitism." If more Jews would but emulate Brandeis—so the implication went—anti-Semitism would speedily disappear.

What made Brandeis particularly appealing as a symbolic Jew was the fact that he was not "too Jewish." His cultural focus fell very much within the American classical tradition, and he was known to

53. Abram L. Sachar, *A Host at Last* (Boston: 1976), p. 15; Israel Goldstein, *Brandeis University: Chapter of Its Founding* (New York: 1951), p. 79.

54. Burt, *Two Jewish Justices*, esp. pp. 122, 128.

55. As quoted in Dilliard, *Mr. Justice Brandeis*, p. 126.

56. Edmund Wilson, *A Piece of My Mind: Reflections at Sixty* (New York: 1958), p. 106; Jonathan D. Sarna, "The 'Mythical Jew' and the 'Jew Next Door' in Nineteenth-Century America," in David Gerber (ed.) *Anti-Semitism in American History* (Urbana, Ill.: 1986), pp. 57–78.

be a particular devotee both of fifth-century Athens and of Puritan New England. He thus seemed to embody precisely that kind of grand cultural synthesis—Hebraism, Hellenism plus Americanism—that elite intellectuals idealized and elite American Jews aspired to but rarely attained. This achievement added to Brandeis's mystique in intellectual circles and nourished the "cult of synthesis" that exercised such a powerful hold over the twentieth-century American Jewish mind. Felix Frankfurter, who was himself devoted to this cult, considered Brandeis's achievement so significant that he made it the focus of his brief eulogy at the justice's funeral. He spoke of how Brandeis "happily fused" within himself the dominant sources of western culture, Hebraism and Hellenism, quoting passages applicable to Brandeis's life from the Greek historian Thucydides, the Hebrew prophets Malachi and Isaiah, and the English Baptist John Bunyan, author of *The Pilgrim's Progress*.⁵⁷

In Zionist circles Brandeis's name took on a quite different meaning. We have already seen how his name became a symbol of legitimacy: if Zionism was good enough for Brandeis, the argument went, it should be good enough for every American Jew.⁵⁸ Whenever the question of dual loyalties arose, Brandeis was also sure to be quoted as the ultimate authority proving that Zionism and Americanism were thoroughly compatible. Beyond this, Brandeis functioned as something of a high priest in Zionist circles: next to Theodor Herzl he was the most revered figure in the American—and for a time in the world Zionist—pantheon. This is no small irony, considering how remote he was from Jewish tradition (as was Herzl!), yet it is also fitting for Zionism functioned, in his life and in the lives of many of his Zionist followers, as a form of religion.⁵⁹ It was, to be sure, a Jewish nationalist faith—we might today call it a form of civil Ju-

57. The eulogy is reprinted in Dilliard, *Mr. Justice Brandeis*, pp. 126–127; on this theme, see Strum, *Brandeis*, pp. 237–243, which includes an important discussion of Brandeis's friendship with the Anglo-Jewish political scientist Alfred Zimmern, author of *The Greek Commonwealth*.

58. In a 1937 skit entitled "Getting a Contribution" written for Hadassah by Jennie Perlstein, an appropriately named "Mr. Richman" justifies his newly awakened Zionist convictions in precisely these terms: "If the Zionist movement is good enough for Brandeis, Mack, and Weizmann, it's good enough for me." Jennie Perlstein, "Getting a Contribution," p. 5, in Regional Office Activities and Programs file, Box 1, Jr. Hadassah Papers, American Jewish Historical Society, Waltham, Mass. I am indebted to Mr. Mark A. Raider for drawing this item to my attention.

59. Gal, "Brandeis, Judaism, and Zionism," p. 74, cites an unpublished letter to Ahad Ha'am (September 3, 1917) in which Brandeis actually uses the word "worship" in connection with his Zionist beliefs.

daim—but a faith it was, complete with transcendent goals, sacred symbols, revered texts, holy days, pilgrimages, doctrinal debate, and of course, prophets and priests.⁶⁰ God played almost no role in this faith, but Brandeis was His prophet, and the awe in which *he* was held in Zionist circles was certainly a religious awe; indeed, he was honored in much the same way that an esteemed rabbi or a Hassidic rebbe might have been honored in equivalent Orthodox circles. This too was reflected in eulogies upon Brandeis's death. Philip S. Bernstein, for example, wrote of his "pilgrimages" to Brandeis. "I never left him without the feeling that I had been in the presence of something great, uplifting and ageless."⁶¹

Brandeis in his day filled a spiritual void in the lives of those who revered him. Young Jewish idealists felt particularly drawn to his majestic aura, for they saw in him, as one put it, "a leader of gigantic spiritual proportions and genuine moral qualities . . . a prototype of the unblemished character and an exemplar of the prophetic tradition."⁶² Half a century later we may reasonably wonder whether Brandeis was quite as perfect as his followers professed him to be, and we may smile indulgently at some of the more extravagant tributes paid to his memory. But professional skepticism, in this case, mingles with feelings of regret, even yearning. For would that such an Isaiah stood among us today.

60. No full-scale religious analysis of American Zionism has appeared. In the meanwhile, see my "Converts to Zionism in the American Reform Movement," in S. Almog *et al.*, *Zionism and Religion* (Hanover, N.H.: forthcoming); Charles S. Liebman and Eliezer Don-Yehiya, *Civil Religion in Israel: Traditional Judaism and Political Culture in the Jewish State* (Berkeley: 1983); Jonathan S. Woocher, *Sacred Survival: The Civil Religion of American Jews* (Bloomington, Ind.: 1986); and for an excellent survey of the general literature on civil religion, Donald G. Jones, "Civil and Public Religion," in Charles H. Lippy and Peter W. Williams, eds., *Encyclopedia of the American Religious Experience* (New York: 1988), 3:1393-1408.

61. Philip S. Bernstein, "My Pilgrimages to Brandeis," *The Reconstructionist* 7 (December 26, 1941), pp. 9-11.

62. Joseph Shubow in *The Brandeis Avukah Annual of 1932*, p. v.