

Oliver Wendell Holmes, Jr., The Civil War, & The March into Modernity

Ronald K.L. Collins

Course Description

This weekly eight-lectures course (starting Monday June 17th) will explore the story of a brave soldier, **Oliver Wendell Holmes, Jr.**, who served in the Twentieth Massachusetts Volunteer Army (1861-1864) and who later fused his Darwinian creed into his thought as a Supreme Court Justice (1902-1932). It is a most incredible story situated in battles at Ball's Bluff, Antietam, Chancellorsville and the Battle of the Wilderness. It is the story of Holmes' survival march that began as a heroic act on the battlefield and then transformed itself into a momentous idea in our constitutional history. That idea, both liberating and alarming, was created in the caldron of war and pointed away from an old America and toward a new one. It is an idea that became central to our modern notion of freedom, especially freedom of speech.

The course will offer a short but eye-opening history of how war scarred a man and then set the compass of his destiny. What began as a youthful sentiment followed by an incident blossomed into a great cause and then into combat, heroism, suffering, death, victory, and finally into the horrific and glorious memory of it all. What remains is an X-ray of a man's mind revealing the fears and hopes that made him a great figure in the roar and strife of his nation. This is the true story, at once venerable and dark, of Oliver Wendell Holmes, Jr.

Teacher

Ronald Collins was the Harold S. Shefelman Scholar at the University of Washington School of Law. His areas of specialty are jurisprudence and constitutional law. He has authored some eleven books including *The Death of Discourse* (1996), *The Judge: 26 Machiavellian Lessons* (2017) *Robotica: Speech Rights and Artificial Intelligence* (2018), and *People v. Ferlinghetti: The Fight to Publish Allen Ginsberg's HOWL* (2019). His next book is *Reason in Ruins: America's Destiny in Perilous Times* (Oct. 2019). He is also the co-director of the History Book Festival.

Assigned Text

- Ronald Collins, ed., *The Fundamental Holmes: A Free Speech Chronicle & Reader* (Cambridge Univ. Press, 2010) (available in paperback)

Syllabus & Calendar

- Times: 10:00 – 11:30 a.m. (Mondays)
- Location: Lewes Public Library (room to be designated)

PART I “He liked the idea of risk”

June 17 Prefatory Remarks & Introduction
Prologue
Pp. xiii-xxv

PART II On Life & War

June 24 Introductory readings
Memorial Day Address (May 30, 1884)
Pp. 1-28

July 1 “The Soldiers Faith” (May 30, 1895)
“Address at a Banquet for Admiral Dewey” (Oct. 14, 1899)
“Remarks to the Second Army Corps Association” (March 13, 1903)
Pp. 28-44

PART III Development of Ideas: From War to Law

July 8 Introductory readings: Pre-US Supreme Court Years
“The Gas Stokers Strike” (July 1873)
Vegeahn v. Gunther (Supreme Judicial Ct. of Mass., 1896) (Holmes, dissenting)
Pp. 45-60, 127-138

July 15 “The Path of the Law, *Harvard Law Review* (1897)
Pp. 138-156

PART IV Supreme Court Opinions: When a Nation is at War

July 22 Introductory readings
Schenck v. United States (1919) (opinion for the Court)
Pp. 205-215, 219-237

July 29 *Abrams v. United States* (1919) (Holmes dissenting)
Pp. 270-291

PART V The March into Modernity

August 5 Radio Address (March 8, 1931)
Pp. 342-348, 349-357, 378-384