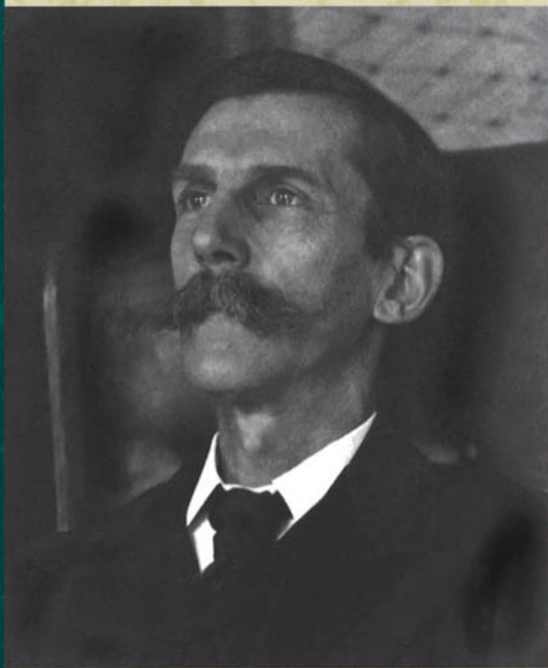


Justice Oliver Wendell Holmes

LAW AND THE INNER SELF



G. Edward White

Justice Oliver Wendell Holmes



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Justice Oliver Wendell Holmes

Law and the Inner Self



G. EDWARD WHITE

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For Susan Davis White

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Preface



I FIRST wrote about Holmes in 1971, and he has continued to fascinate me over the years. As my scholarship turned to other subjects he remained in the back of my mind, and I expected to do a book on him at some point. But each time I considered my next book, one on Holmes did not seem to be the appropriate choice.

My reluctance was partly due to the subject. Holmes had a very long and accomplished life: there was a good deal to wade through. I had heard stories about previous biographers: one was disconcerted by the prospect of plowing through twenty years of Holmes' decisions on the Supreme Judicial Court of Massachusetts; another alienated by an intensive exposure to Holmes' sometimes cold and distant personality. There were a great many pieces of scholarship and judicial opinions to be considered, and there were his voluminous papers, no longer restricted.

Perversely, the very fact that a book on Holmes seemed more of a formidable undertaking the closer one approached provided a reason for me to undertake one. One could not predict how long such a book might take, or how many more productive years one would be granted—few people live as long as Holmes. The relatively recent availability of the Holmes Papers and the continuing interest in Holmes among scholars and others ensured that other Holmes biographies would appear. When I started the project, no full-scale one-volume life of Holmes had appeared since 1943; since then two such treatments have been published and more may be on the way. I did not want to have begun a project on Holmes knowing that someone else had just completed a particularly distinguished portrait of him. If such portraits were taking shape, I felt, I was better off doing my work ignorant of them.

I also felt that despite the activity that was undoubtedly taking place with respect to studies of Holmes' life, I could bring to the project some interests and experience that others might not share. I had written a fair amount on Holmes and had written another life of a judge, as well as a volume of biographical and analytical essays on judges. I did not expect to find Holmes' scholarship or judicial opinions unintelligible or daunting, although I was well aware of the challenge of saying something fresh and interesting about a body of work that has been extensively studied. I felt that being a lawyer would help me in some places in the project, being a historian would help in other places, and being a (long transplanted) New Englander would help in still others.

Above all I felt I had a perspective on Holmes' life and career that I had not

previously seen played out in Holmesian literature. I had an intuition that the two spheres into which Holmes commonly divided his life, his “work” and a sphere “outside” his work, were, despite that attempted division, all of a piece. I believed that there was no essential difference between Holmes the Civil War soldier and Holmes the visitor to English society and Holmes the aspiring scholar and Holmes the “ladies man” and Holmes the Massachusetts judge and Holmes the Supreme Court justice and Holmes the “great jurist.” I believed that understanding Holmes’ “life” was crucial to understanding his “work,” and vice versa. I believed that Holmes’ life centered around the relationship between law, his chosen profession, and his inner self. This study has proceeded from those initial assumptions.

The book has taken a long time to complete and has progressed in several stages and drafts. As a consequence I have had a perhaps greater than usual opportunity to enlist the help of others at a time when they may have felt they could save me from one or another embarrassments. Whatever their motivation, those others have certainly improved the end product with their contributions. David H. Burton, Mary Anne Case, Mark Copithorne, Robert W. Gordon, Michael Hoffheimer, Patrick Kelley, Michael Klarman, Alfred S. Konefsky, William La Piana, Helen McInnis, John Monagan, Richard Posner, John Henry Schlegel, and Kimberly Willoughby have read the entire manuscript, in one draft or another. Gerald Gunther, Sanford Levinson, H. L. Pohlman, David Rabban, and Blaise Scinto have read portions of the manuscript. Each has given me the benefit of detailed commentary. Kim Willoughby, William Rolleston-Daines, and Geoffrey Berman also helped with the editorial process of preparing the manuscript for publication.

I would also like to thank Judith Mellins of the Special Collections Department of the Harvard Law School Library for facilitating my access to manuscript collections in the Harvard holdings, checking the form of my citations to those collections, and generally being an invaluable guide to Harvard Law School’s voluminous materials on Holmes. Thanks also to Steven R. Smith of the Harvard Law School Art Collection for his help in securing, and his permission to reproduce, the photographs in this book.

Finally, I would like to acknowledge the unique contributions of Hiller B. Zobel, who combines an intimate and detailed knowledge of Holmes with the tireless pursuit of clarity, economy, and sparkle in sentence structure. In the course of providing me with helpful conceptual and substantive comments on each chapter—nearly each line—of the manuscript, Justice Zobel carried on an implicit dialogue with me on the craft of literary expression. I have foregone from adopting some of his stylistic suggestions, but I have adopted many, and have enjoyed and profited from all. As Holmes said, “a word is the skin of a living thought,” and one needs to be reminded not to stretch the skin out of shape.

Quotations from material in the Oliver Wendell Holmes Papers, the Zechariah Chafee, Jr., Papers, the Arthur Eugene Sutherland Papers, and the James Bradley Thayer Papers, all at the Harvard Law School Library, are reprinted with the permission of David de Lorenzo, Curator of Manuscripts and Archives. Quotations from material in the Mark De Wolfe Howe Papers are reprinted with the permission of Mr. de Lorenzo and Mrs. Mary Manning Adams. Quotations from material in the Learned Hand Papers are reprinted with the permission of Mr. de Lorenzo, Jonathan

Hand Churchill, Esq., and Professor Gerald Gunther. My thanks to Mary Manning Adams for supplementing my research on Holmes and Lady Castletown, and to George and Robert Boyle for making the Castletown Papers in their family's possession available to me. A special thanks to fellow Holmes biographer John Monagan for his generosity and support. I also want to acknowledge the generosity of the donors of the Sullivan and Cromwell Research Professorship at the University of Virginia School of Law. Holding that professorship for the years of 1990 and 1991 facilitated the progress of this book.

Readers of the preface to my last book, *The Marshall Court and Cultural Change*, might be interested in an update on the status of animals in the author's household. In the last report two Siamese cats were accused of trashing valuable pages of draft manuscripts and two small dogs singled out for less than impeccable control of their bodily functions. Time produces change, and the number of cats in the household has increased, while the dog population, although remaining constant in numbers, is represented by different individuals. Computers are more resistant to paper trashing than yellow legal pads, but ingenious cats can commit sabotage by walking on the wrong function keys, especially when the computer user is marginally literate. Large dogs are more "reliable" than small ones, but a large Dalmatian puppy on the loose is a truly destructive phenomenon. The result is that Annabelle, Grizabella, Hillary, Madeleine, and McCafferty played as small a part as possible in the evolution of this book, and Vronsky and Wendell were ruthlessly barred from exposure to any manuscript drafts. Wendell's nomenclature, however, was a direct consequence of the book. Oliver Wendell Holmes, Jr., never had any offspring, and the White household felt sympathy for him in that respect. Thus Oliver Wendell Holmes III is now in existence. I leave it to more anthropomorphic denizens of the planet than I to assert that the Holmes line has deteriorated.

Time also produces losses, and it is sad for me to think that for the first time George L. White was not able to follow a book of mine through to its completion. With that in mind, it is nice to be able formally to recognize in the dedication page Susan Davis White's great importance in my life, and to underscore the significance of love and continuity in the face of change.

Charlottesville
January 1993

G.E.W.

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Contents



INTRODUCTION	3
CHAPTER ONE: <i>Heritage</i>	7
CHAPTER TWO: <i>The Civil War</i>	49
CHAPTER THREE: <i>Friendships, Companions, and Attachments, 1864–1882</i>	87
CHAPTER FOUR: <i>Coming to Maturity: Early Legal Scholarship</i>	112
CHAPTER FIVE: <i>The Common Law</i>	148
CHAPTER SIX: <i>“An All Round View of the Law,” 1882–1902</i>	196
CHAPTER SEVEN <i>Travel and Romance</i>	225
CHAPTER EIGHT <i>The Supreme Judicial Court of Massachusetts</i>	253
CHAPTER NINE: <i>The Supreme Court, 1903–1916</i>	298
CHAPTER TEN: <i>Recognition</i>	354
CHAPTER ELEVEN: <i>The Supreme Court, 1917–1931: The “Progressive” Judge</i>	378
CHAPTER TWELVE: <i>The Supreme Court, 1917–1931: Free Speech</i>	412
CHAPTER THIRTEEN: <i>Aging</i>	455

CHAPTER FOURTEEN: *A Concluding Assessment* 476

APPENDIX: *Holmes' Secretaries* 489

NOTES 491

BIBLIOGRAPHICAL ESSAY 589

INDEX 609

Justice Oliver Wendell Holmes

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Introduction



THIS BOOK is by no means the first portrait of the life and career of Justice Oliver Wendell Holmes and it will assuredly not be the last. The abiding interest of Americans in Holmes has been a phenomenon in itself. Several reasons suggest themselves as explanations for why Holmes, uniquely among American judges, has been a figure that generation after generation of scholars and laypersons has found intriguing. There is first the simple fact of his distinctively long and accomplished life, spanning a space of time (1841-1935) that made it possible for his grandmother to have remembered the Revolutionary War and for him to have been intimately acquainted with individuals, such as Alger Hiss, who are still alive at this writing. Not only was Holmes' life long, it was conspicuously successful, at least by the ordinary indices of professional success in America. He wrote arguably the most original work of legal scholarship by an American, *The Common Law*; he served with distinction as a judge on the Supreme Judicial Court of Massachusetts and the Supreme Court of the United States for nearly fifty years; in his scholarship and his opinions he wrote phrases that have become staples of legal literature.

Holmes was also an enticing personality. He was exceptionally attractive, especially as he aged and his countenance, with its piercing eyes, shock of white hair, and prominent moustache, seemed to reflect the roles of soldier and jurist that had been so important in his life. He was by all accounts a memorable companion and conversationalist, and his letters, in contradistinction to those of most of his judicial colleagues, rival those of the most celebrated correspondents in their stylistic facility and substantive interest. He was the son of a famous father, Oliver Wendell Holmes, Sr., the physician, poet, and man of letters; a thrice-wounded survivor of the Civil War; a representative of "Brahmin" Boston, with Longfellow, Lowell, and Emerson as his household acquaintances and the intersecting worlds of Harvard and upper-class Boston society as his familiar territory. He was one of the few Americans of his generation to have an intimate acquaintance with English society at the height of the British Empire. He was the darling of young intellectuals in the 1920s and 1930s; he spoke to the nation on radio on his ninetieth birthday.

Finally, Holmes has been an exceptionally resonant and accessible intellect. The details of his scholarship are rarely examined or even remembered, but the arresting generalizations of which he was so fond—"the life of the law has not been logic, but experience"; "to look at the law you must look at it as a bad man"—continue to be quoted. The analytical underpinnings of his decisions may remain obscure, but the epigrams remain: "three generations of imbeciles are enough"; "a word is the skin of a living thought"; "great cases like hard cases make bad law." His epigrammatic style, his penchant for generalization, and his tendency to prefer vivid

overstatement have meant that his jurisprudence contains snippets of philosophy that have a wide and diverse appeal: he can be quoted as embracing positivism, consequentialism, a commitment to civil liberties, judicial "activism," or judicial "self-restraint." Many an enthusiast for Holmes began his or her interest by reading one of his memorable aphorisms, without, perhaps, realizing that an aphorism pointing in the opposite direction lay within the Holmes oeuvre.

The last comment points, paradoxically, to another source of Holmes' attractiveness. The capacity of his thought to contain diverse and self-opposing points of view, the elusiveness of his ideas, the hints in his personal life that his temperament was layered and complicated, have tempted students of his life to try to penetrate to the intellectual or personal core of their subject. But the ubiquity of Holmes' language and his capacity to take on multiple symbolic roles—as the "great liberal" for one generation of commentators, the "scientist" for another, the "relativist" who was soft on totalitarianism for yet another—appear to ensure that his "core" is unlikely to come to rest, as successive waves of observers reconfigure his image in accordance with their own presuppositions.

Given the long trail of Holmes literature, and the prospect of a comparably long road ahead, this work has had rather particularistic goals. I have adopted the biographical format because it seemed the most appropriate vehicle for implementing my central purpose, to explore the relationship between Holmes' personal and intellectual life. For reasons having to do with the state of source materials on Holmes and my own training, the time seemed ripe for such an exploration. Holmes' private papers have now been made generally available to scholars, so the materials exist for filling in the details of his life past the point—1881—where Mark DeWolfe Howe left off in his authorized biography. Others, whose primary interest has been in the personal details of Holmes' life, have taken advantage of the availability of his papers, and as a result we know a good deal more about the latter years of his life than we did at the time of Howe's death.

Commentators have continued to analyze Holmes' work as a scholar and a judge, in increasing detail and sophistication. Reprinted collections of his earliest writing and his early legal scholarship are now available, as well as detailed treatments of most phases of his intellectual life and career.¹ Few of these commentators, however, have been interested in the parallels between Holmes' private and public lives, the spheres of "work" and "play" into which he divided his life. I concluded that the materials existed to explore these parallels, and that, being trained in history and in law, as well as having some experience in writing biography, I might not be deterred from venturing into both spheres at the same time.

My effort, then, has been to describe Holmes' personal and intellectual life so as to emphasize the presence of certain central personal characteristics, to identify and to explicate certain distinctive ideas that he held, and to examine the relationship between personality and thought. Some readers will doubtless be more interested in one sphere than the other, so the narrative of this work attempts to alternate, where possible, chapters on Holmes' personal life with chapters on his legal contributions. My interest throughout, however, is in the interaction of the personal and professional spheres.

The variety of Holmes' interests, the complexity of his thought, and the singu-

lar—one is tempted to say intrinsic—ambivalence of his temperament has meant that the narrative structure of my analysis emphasizes several personal themes in tension. Examples are the themes of what Holmes called “passion,” and what he called “action”; the themes of powerlessness and recognition; those of isolation and intimacy; and those of competitiveness and detachment. In addition, I consider other themes that have been more commonly associated with Holmes’ thought, such as resignation, skepticism, what he called “jobbism,” and the idea, not easily reduced to a label, that life was inherently interesting, enjoyable, and there to be seized. My emphasis, throughout, is on what I take to be the central organizing principle of Holmes’ life history—his attempt to integrate, but at the same time keep separate and distinct, the professional and private spheres of his life. This is a study, as its subtitle suggests, of the relationship between Holmes’ professional endeavors and Holmes’ inner self.

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CHAPTER ONE

Heritage



ON JULY 2, 1861, Oliver Wendell Holmes, Jr., twenty years old and a senior at Harvard College, composed an autobiographical sketch for his college album. Holmes, at the time, was attempting to secure a commission in a Massachusetts volunteer regiment in order to fight in the Civil War, which had begun that April when Confederate forces fired on Fort Sumter in South Carolina. Since the fall of Fort Sumter Holmes had spent very little time with college affairs, enlisting as a private in the Fourth Battalion of Massachusetts Volunteer Infantry in late April and drilling for the remainder of the spring at Fort Independence in Boston Harbor. In June, on hearing the disappointing news that the Fourth Battalion was being treated as a militia guard, and would not be leaving Massachusetts to fight, he had returned to Cambridge and taken and passed his final examinations. He would officially graduate from Harvard in two weeks.¹ Eventually, sometime in late July,² he would receive a commission in the Twentieth Regiment of Massachusetts Volunteers, and in September would be dispatched to Washington, D.C., to see action.

Thus when he wrote the autobiographical sketch Holmes was preoccupied with his future as a Civil War volunteer. Although he intended to leave the Fourth Battalion, he had not yet secured his commission in the Twentieth Regiment. He indicated that the sketch had been written "in haste" and that he was "too busy" to make a very detailed statement of his life to that point. What he produced read as follows:

I, Oliver Wendell Holmes Jr., was born March 8, 1841, in Boston. My father was born in Cambridge, graduated at Harvard, studied medicine in Paris and returning to Boston practiced as a physician there a number of years. Giving this up, however, he has since supported himself by acting as a professor of the Medical School of Harvard College, by lecturing, and by writing a number of books.³ In 1840 he married Amelia Lee Jackson, daughter of Judge Jackson of Boston, where he has since resided. All my three names designate families from which I am descended. A long pedigree of Olivers and Wendells may be found in the book called "Memorials of the Dead in Boston.—King's Chapel Burying Ground," pp. 144 and 234-5-6-7-8. Of my grandfather Abiel Holmes, an account may be found in the biographical dictionaries. (He was the author of the *Annals of America*, etc.) as also of my other grandfather Charles Jackson. (See, for instance, *Appleton's New American Cyclopedia* where the account of Judge Jackson was written by my

father.) I think it better thus to give a few satisfactory references than to write an account which is half so. Some of my ancestors have fought in the Revolution; among the great grandmothers of the family were Dorothy Quincy and Anne Bradstreet ("the tenth Muse"); and so on; but these things can be picked up from other sources I have indicated. My grandfather A. Holmes was graduated from Yale in 1783 and in 1792 was "gradu honorario donatur," at Harvard. Various Wendells and Olivers will be found in the triennial, as also various Jacksons; including my grandfather. Our family has been in the habit of receiving a college education, and I came of course in my turn, as my grandfathers, fathers, and uncles had been before me. I've always lived in Boston and went first to a woman's school there, then to Rev. T. R. Sullivan's, then to E. S. Dixwell's (Private Latin School) and thence to College. I never had any business but that of a student before coming to College; which I did with the majority of our class in July, entering without conditions. I was while in College, a member and editor of the Institute (had somewhat to do with our two private clubs), of the Hasty Pudding, the Porcellian, the [Phi Beta Kappa] and the "Christian Union;" not that I considered my life justified belonging to the latter, but because I wished to bear testimony in favor of a Religious society founded on liberal principles in distinction to the more "orthodox" and sectarian platform of the "Xtian Brethren." I was editor in the Senior year of the Harvard Magazine (the chief piece I wrote in it being on "Albert Durer.") I was author of an article on Plato which took the prize as the best article by an undergraduate (for the first year of its existence) in the "University Quarterly." The only College prize I have tried for was the Greek which was divided between one of the Juniors and me. When the war broke out I joined the "4th Battalion of Infantry" and went down to Fort Independence expecting when drilled to go south (as a private). While at the Fort and after we were ordered up I had to patch up a Class Poem as quickly and well as I could under the circumstances, since I had been elected to that office before going (2nd term Senior). We stayed about a month at the Fort and then I came to Boston and on Classday (a week and a half ago) I delivered my poem side by side with my friend Hallowell who was orator and who had also been at the Fort. The tendencies of the family and of myself have a strong natural bent to literature, etc., at present I am trying for a commission in one of the Massachusetts Regiments, however, and hope to go south before very long. If I survive the war I expect to study law as my profession or at least for a starting point.

(in haste)

O. W. Holmes, Jr.

July 2nd, 1861

(N.B. I may say I don't believe in gushing much in these College Biog's and think a dry statement much fitter. Also I am too busy to say more if I would.)⁴

It is not without significance that, after listing the date of his birth in the sketch, Holmes chose to discuss his father in the next sentences. Dr. Oliver Wendell Holmes, Sr., was clearly the most important figure in his son's early life, both as a role model and a point of recoil, both as an inspiring and an irritating force. The relationship between Holmes Jr. and Holmes Sr. was sufficiently complex, and central, to merit a brief overview. Holmes' relationship with his father reveals that, whatever the tensions between the two, Holmes Jr. took from his father a "plan"⁵ for his own life: a "plan" that explicitly sought to integrate his public work with his private life. In the organization of his own life, Holmes Sr. implicitly presented his son with an effective blueprint for becoming famous and for preserving that fame while simultaneously securing a sheltered and self-absorbed existence.

By coincidence, during the very years that Holmes Jr. was discovering, through his extracurricular college essays, that he had a "strong natural bent to literature," Holmes Sr. was becoming a nationally recognized man of letters for his *Autocrat* essays, which first appeared in the *Atlantic Monthly*, a magazine he had helped found and named, in 1857. When Holmes Jr. began college in 1857 his father was known to a relatively limited number of people as a professor at Harvard Medical School and a lecturer on the Lyceum Circuit. With the appearance of the *Autocrat* essays he became a household word.

It is difficult to reconstruct the great appeal of the *Autocrat* essays in an age in which "table talk" has become a lost art. In the mythical rooming house in which the essays are set the "Autocrat" narrator holds forth on a variety of topics, indulges in witticisms, and plays himself off against a series of stock figures who populate the rooming house's breakfast table. The topics of conversation include religion, the art of conversation, vulgarisms in speech, pseudo-science in medicine, and literary societies. Perhaps the best explanations for the *Autocrat's* remarkable success are those that link its appearance to the self-consciousness and provincialism of the American literary market at the time. The narrator of *The Autocrat* talked in an educated manner, making classical and literary allusions, but at the same time spoke on provincial subjects, ranging from rowing on the Charles River to walking on the "long path" across the Boston Common. It was as if American readers took pride in the fact that one of their fellow citizens could describe homely, familiar topics with learning and wit.⁶

The author of the *Autocrat* essays was a complex figure. As a youth, growing up in the household of a Calvinist minister, he rejected that calling and became attracted to poetry and literature. Then, when discouraged from regarding writing as a full-time profession, Holmes Sr. experimented with law, which he quickly abandoned, and finally settled on medicine. His junior year in college he had written a close friend that "I am totally undecided what to study; it will be law or physick, for I cannot say that I think the trade of authorship quite adapted to this meridian."⁷ A year later he wrote that he had started Harvard Law School, which was "flourishing," and was engaged with "Blackstone and boots, law and lathe, Rawle and rasps, all intermingled in exquisite confusion."⁸ But by January 1830 he was writing that "I am sick at heart of this place and almost everything connected with it. I know

not what the temple of the law may be to those who have entered it, but to me it seems very cold and cheerless at the threshold.”⁹ And a year later he disclosed that

I have been a medical student for more than six months, and am sitting with Wistar’s Anatomy beneath my quiescent arm, with a stethoscope on my desk, and the blood-stained implements of my ungracious profession around me. . . . I know I might have made an indifferent lawyer—I think I may make a tolerable physician. I did not like the one, and I do like the other.¹⁰

After two years of medical school Holmes Sr. resolved to continue his studies in France, departing in the summer of 1833 and attaching himself to the pathologist Charles Louis. After a month of following Louis on his rounds he wrote to his parents that “I have more fully learned at least three principles since I have been in Paris: not to take authority when I have no facts; not to guess when I can know; not to think a man must take physic because he is sick.”¹¹ He returned to America in 1835, passed his final examinations at Harvard in February of the next year, and became a member of the Massachusetts Medical Society in May, 1836.¹²

Despite his preference for medicine over law, Holmes was not fully wedded to the life of a medical practitioner. He continued to write poetry in the early years of his practice, and in 1849, after becoming appointed to a professorship at Harvard Medical School, gave up practice altogether. That same year his career as a public lecturer, which he had begun as early as 1838, began to flourish, and by 1851 he earned a yearly income of \$1200 for three set lectures, on “The History of Medicine,” “Love of Nature,” and “Lectures and Lecturing.”¹³ This formalized a pattern of multiple activities that Dr. Holmes was to engage in for most of the rest of his life. “Until he was seventy-five,” one of his biographers has noted, “Holmes . . . taught medicine, wrote for the *Atlantic Monthly*, and entertained his fellow-citizens at dinner-tables and public functions.”¹⁴

The versatility of Dr. Holmes, his son came to believe, had its costs. In a 1914 letter Holmes Jr. wrote his old friend Clara Stevens that

I think my father’s strong point was a fertile and suggestive intellect. I do not care as much as he would have liked me to for his novels and poetry—but I think he had the most penetrating mind of all that lot. After his early medical work, which really was big (the puerperal fever business) I think he contented himself too much with sporadic aperçus—the time for which, as I used to say when I wanted to be disagreeable, had gone by. If he had had the patience to concentrate all his energy in a single subject, which perhaps is saying if he had been a different man, he would have been less popular, but he might have produced a great work.¹⁵

The “puerperal fever business” was a reference to Dr. Holmes’ 1843 essay, “The Contagiousness of Puerperal Fever,” in which he identified, for the first time, that the sources of a bacterial infection regularly contracted by mothers of infants were doctors and midwives who delivered babies without proper sterilization.¹⁶ The essay, first received almost without comment, eventually became regarded as authoritative after being reprinted in 1855.¹⁷ One could list other “big,” and diverse, accomplishments of Dr. Holmes: the poems “Old Ironsides,” “The Deacon’s Masterpiece,”

and "The Chambered Nautilus," the last included in one of his *Autocrat* essays; his coining of the terms anesthesia, "Brahmin" (for an upper-class New England intellectual), and the "Hub of the Universe" (for the Boston State House, later generally adopted by Boston itself); the *Autocrat* essays themselves, collected in several volumes. Dr. Holmes was a respected and popular figure in a relatively narrow, but highly influential, late nineteenth-century subculture. But his son's assessment about the "greatness" of his legacy was accurate. The values of "Brahmin" Boston, which emphasized versatility and gentlemanly amateurishness at the expense of single-minded professionalism, steered Dr. Holmes in a direction that resulted in his contributions enduring far less well than those of his son.¹⁸

The sister of the novelist Henry James, a friend and contemporary of Holmes Jr., kept a journal in which she reported a conversation between Dr. Holmes and James' father in which Dr. Holmes asked the elder James whether he did not find that his sons despised him.¹⁹ From this evidence and other remarks of contemporaries, such as the comment by William James, after having dinner in the Holmes household, that "no love is lost between W. *pere* and W. *filis*,"²⁰ some commentators have concluded that Dr. Holmes' presence was a source of continual irritation for his son, and that the latter's choice to enter the legal profession, and to devote himself singlemindedly to it, was a conscious rejection of his father's example.²¹

In reality the relationship between Holmes Sr. and Jr. was far more complicated.²² There is ample evidence that Holmes Sr. was self-absorbed and held a high opinion of himself. His authorized biographer said that he "certainly was an egotist," and that "egotism and vanity found in Dr. Holmes' nature a soil sufficiently congenial to nourish them."²³ Dr. Holmes also seems to have had a tendency, as Holmes Jr. put it later in his life, "to drool . . . over the physical shortcomings of . . . his son and [make] other sardonic criticisms," which "made it difficult for his son to be conceited."²⁴ In addition to being self-absorbed and inclined to be critical of others, Dr. Holmes apparently enjoyed intellectual competition. There is evidence that conversation at meals in the Holmes household was not unlike conversation at the *Autocrat's* breakfast table, with participants scrambling for attention: Holmes Jr. wrote in 1928 that his younger brother Edward "used to say that at table I ended every sentence with a 'but' to keep hold of the table."²⁵ His eldest son duplicated many of his father's characteristics, which doubtless produced a certain amount of strain.

There is other evidence, however, that the same characteristics in Dr. Holmes had some positive effects on Holmes Jr., and that the relationship between father and eldest son was not always strained. In the same letter that Holmes complained of his father's tendency to criticize him he added that Dr. Holmes had "certainly taught me a great deal and did me a great deal of good."²⁶ Then there is the letter Holmes wrote to his old friend Nina (Mrs. John Chipman) Gray in 1905 that he was "kicked into the law by my father,"²⁷ and the conversation Holmes had with Felix Frankfurter in 1932 in which he repeated that comment, and then elaborated by saying that after he returned to Boston from serving in the Civil War "my head was full of thoughts about philosophy and in a vague way I thought about the medical school. But my Governor would not hear of that, and put on the screws to have me go to the Law School—I mean he exercised the coercion of the authority of his judgment."²⁸ Surely Holmes would not have been inclined to follow his father's

urging (and one should bear in mind that the elder Holmes had hated law school and had enjoyed medical school) if the two had been estranged.

Just as Dr. Holmes' authoritarian tendencies were not invariably resented, his sardonic criticism was not always meant or taken seriously. A letter Dr. Holmes wrote to Holmes in 1875 provides an example. After receiving a "singular note" from his son, Dr. Holmes responded by suggesting that a treatment of goose-grease rubbed over the hollows of the skull ("the nearest approach to and best substitute for the natural secretion"), asses's milk ("this food will require little or no labor of assimilation"), and the avoidance of pudding ("it goes to the head, and [you have] more than was good for [you] already") would "bring order out of the mental chaos" illustrated by Holmes Jr.'s note.²⁹ It is hard to imagine that a father who was alienated from his son would have been inclined to tease him in such a fashion. On the other hand, the letter was not calculated to convey unqualified love: it could have been taken by the son as an effort by his father to indulge his literary wit at the son's expense.³⁰

Additional insight into the nature of Holmes' relationship with his father can be found in a letter he wrote to a friend in 1908. Dr. Holmes had died in 1894, and subsequently Holmes Jr. organized "a large retrospective of my father in the form of his original writings." He wrote his friend Leslie Scott that in preparing his father's papers "I have an agreeable sense of having sold my governor, as he never realized that I would take any trouble to do him honor, I not spending my time in adoring him when he was alive." His father, Holmes told Scott, had even suggested that he should make "a little worm of a nephew his literary executor," but Holmes Jr. had "told him Not Much, and intimated that perhaps after all I might not be trusted to belittle his reputation."³¹ The letter suggests that during his father's lifetime Holmes was disinclined to communicate affection or admiration openly to the Doctor, but also suggests that he did take pride in his father's achievements and felt a proprietary interest in them.

The absence of open praise for father by son, and for son by father, testifies to the mutual competitiveness in the relationship. But that competitiveness bred affection as well as tension. In some of the essays Dr. Holmes collected in 1872, under the title *The Poet at the Breakfast Table*, a character "the Young Astronomer" figures prominently. The character is described as "lonely, dwelling far apart from the thoughts and cares of the planet on which he lives . . . looking at life as a solemn show where he is only a spectator."³² More than one commentator has seen in the character a representation of Holmes Jr. (known as Wendell) at the time, preoccupied with his own scholarly efforts and professional ambitions, loath to take time out to acknowledge his father, let alone "adore" him. There is doubtless some truth in this impression. But in the same year that the *Poet* was published there was a massive fire in downtown Boston. Holmes Jr. recalled late in his life that he and his father went to witness the fire, which threatened the offices of the brokerage firm Lee, Higginson and Co.³³ Holmes Jr. had left many of his completed notes for the new edition of James Kent's *Commentaries on American Law* that he was preparing with Lee, Higginson for safekeeping, and Dr. Holmes had left some important papers there as well. As both observed the fire, Holmes Jr. remembered, he "was worried about the loss of his father's property, and his father was worried about his [son's]

Kent notes.” The fire was eventually extinguished, sparing Lee, Higginson’s offices, and Holmes Jr. noted that he had been “‘pleased the way each thought of the other.’”³⁴

To his son, the senior Holmes’ life may well have seemed worthy of emulation. After briefly becoming a youthful celebrity with the publication of the poem, “Old Ironsides,”³⁵ Holmes Sr. entered a profession, engaged in original, and ultimately renowned, professional scholarship, and accepted a professorship at Harvard University.³⁶ The primary source of his public fame, however, was his literary accomplishments. With his fame secured, Holmes Sr. continued his association with Harvard, but devoted more and more time to his novels, essays, and literary enterprises. His private life was structured with his public role as a famous literary personage in mind. His household was organized around himself, with his wife, Amelia Jackson, and his children, who consisted of, in addition to Wendell, a daughter, Amelia, born in 1843, and a second son, Edward, born in 1846, assuming supportive roles.³⁷ After Amelia Jackson Holmes’ death in 1888, her role was adopted by her daughter Amelia, and subsequently by Holmes Jr.’s wife, Fanny Dixwell.³⁸ From Holmes Sr.’s first moment of unquestioned fame in 1857, when the *Autocrat* essays appeared, to his death in 1894, he lived and worked in a household with a woman relative devoted wholly to him. Moreover, the members of the household, as well as his professional pursuits, provided material for his literary offerings.³⁹

Thus from at least his sixteenth year on, Holmes Jr. was exposed to a famous father with a quite discernible way of conducting his personal and professional life. And Holmes Jr., after becoming a different sort of youthful celebrity as a thrice-wounded Civil War survivor, would likewise enter a profession, undertake original, and ultimately renowned, professional scholarship, and accept a professorship at Harvard University. Moreover, Holmes Jr.’s public “fame,” in the sense of the far wider engagement of the public with his life and career than with most other eminent members of the legal profession, cannot be linked to any of those accomplishments, but instead to what might be called “literature”: the memorable language of his judicial opinions and extrajudicial writings. Finally, Holmes Jr.’s private life was also organized around himself and his work. After his marriage to Fanny Dixwell in 1872, his professional pursuits were also the focus of her life. The domestic arrangements of his life were made by others, and his leisure time was spent on activities that he chose.

Yet if the form of Holmes Jr.’s life mirrored that of his father’s, its content reflected a more complex legacy. In a history of the two men’s relationship, themes of opposition can be emphasized as fully as those of similarity. Holmes Sr. was of short stature and unprepossessing appearance; his son was tall and striking. Holmes Sr., we have seen, did not like legal study and abandoned it; Holmes Jr. wrote William James that he had come to like the law above all other pursuits.⁴⁰ Holmes Sr. was at first a skeptic⁴¹ and later a strong enthusiast⁴² of the abolitionist cause in the Civil War; Holmes Jr. was at first a strong enthusiast and then a skeptic of the Union War effort. In the flowering of his professional success, Holmes Sr. was the very model of the versatile, educated Bostonian, equally comfortable in medicine, literature, lyceum lecturing, and current events; Holmes Jr. directed his professional energies toward narrowing and refining his field of study, abandoning writing on literature and philosophy along the way. Contemporaries of Holmes Sr. remarked

on his vivaciousness, loquacity, and sociability;⁴³ contemporaries of Holmes Jr., especially during his late twenties and thirties, remarked on his self-preoccupation and singlemindedness.

In sum, it appears necessary, in assessing the significance of Holmes' relationship to his father, to emphasize both the overriding similarities in their professional goals and personal aspirations and the marked differences in their temperaments. Indeed one might surmise, at this early stage in an exploration of Holmes' life and work, that the departures from his father's example that Holmes Jr. made in his own career were conscious, or unconscious, adaptations of the framework within which his father had structured a famous life to accommodate his own search for fame. One might surmise that Holmes Jr.'s "life plan" was a product of the discernible similarity between his father's and his life goals and the discernible difference in their personalities.



In his autobiographical sketch Holmes next turned to his mother, Amelia Jackson Holmes. His entire reference to her consisted of two comments. He noted that his father had married Amelia Lee Jackson in 1840, and that Amelia Lee Jackson was "the daughter of Judge Jackson of Boston." The slightness of the reference, with its identification of Amelia as one man's wife and another man's daughter, speaks volumes about the status of women in Boston society at the opening of the Civil War. It is also consistent with, and perhaps forms a partial explanation for, the slight amount of information that has survived about Holmes' mother.

Among that information is contemporary commentary on Amelia precipitated by her marriage to Dr. Holmes in June 1840. One acquaintance found her "singularly energetic and effective," but "too devoted as a wife," although feeling at the same time that her marriage to Dr. Holmes had "vastly improved her intellect, so that she makes a much better appearance in society than I ever expected."⁴⁴ Another found that her obvious happiness in her marriage had not made her unmindful of her social obligations: on one occasion she had expressed concern about her husband's tendency to "talk . . . about the different quackeries of his profession."⁴⁵ A third assessment, rendered by a contemporary whom Holmes' authorized biographer interviewed much later in her life, described Amelia as "dull and stupid," though "very affectionate."⁴⁶ The initial portion of this last characterization requires further investigation, but Amelia's affection is abundantly clear from the limited correspondence of hers that has survived. In a letter to her eldest son in July 1866, when Holmes was traveling in Europe, for example, she wrote that "I assure you that I give more thoughts to [my children] than to anything else in the world. . . . I suppose I bother you sometimes—but I love you very much."⁴⁷ Holmes, for his part, seemed to have had no difficulty expressing affection for his mother: during the Civil War he wrote her letters ending "God bless you my darling I love you"⁴⁸ and "Goodnight my loveliest and sweetest."⁴⁹

We also know that Amelia felt strongly about Wendell's participation in the Civil War. She wrote a friend, almost two years later, that "I only hope and pray that the war may go on till every slave is free, and that my child will always be ready to defend and struggle for humanity." She added that "it is very hard to have our sons

... go off, but we would not keep them at home if we could,” and that while she “hate[d] bloodshed,” she “hate[d] slavery more.”⁵⁰ In the early years of the war Amelia was persuaded to engage in the one public service activity of her life, the presidency of the Boston branch of the U.S. Sanitary Commission, an institution established to raise money and provide supplies for soldiers in the Union army.⁵¹ Nearly thirty years after that service had concluded, she was remembered as having “impressed us all . . . as being strong, steady, clear and firm” in her approach to the office.⁵²

The retrospective assessment of Amelia Holmes’ role as President of the Boston branch of the U.S. Sanitary Commission went on to say that

[T]he strange thing about her was that she really had the executive ability and the clear mind, as well as the gentle and amiable spirit. . . . When first asked in regard to the proper action in any matter she would be apt to say, “Oh Miss _____ [naming one of us] knows much better than I.” But afterward in her quiet way the advice we wanted would come out, and it would rarely fail to be the advice adopted. . . .

She was wont to make many clear-headed and just observations on men and women, betraying the intimate knowledge of human nature. . . . [But] [i]n giving opinions to the public she was exceedingly diffident and tremulous. . . . The humility and sweetness of her nature were its chief charms and its chief distinction.⁵³

The impression generated by this reminiscence, and the previously quoted comments, is that of a woman whose “clear-headed” tendencies were suppressed, at least in public, in an affect of extreme diffidence and amiability. “Affectionate,” “humble,” “sweet,” “gentle,” “tremulous” in public are the adjectives primarily applied to her by commentators, with “energetic,” “effective,” “just” being added to complicate matters. Explanations for Amelia Holmes’ personal diffidence and humility can be found in the culture of her time. As one commentator has put it, “[h]ers was a typical complaint of the pre-Victorian woman” from an upper-class background, for whom opportunities for “achievement outside the home were rare.”⁵⁴ She herself, at the age of twenty, observed, to a male cousin, that “I think a girl’s life at my age isn’t the most pleasant by any means; she is in the most unsettled state: a young man can occupy himself with his business, and look forward to his life and prospects, but all we have to do is pass our time agreeably to ourselves. Not that we do not have enough to occupy ourselves in carrying on our education, but I think everyone likes to feel the *necessity* of doing something, and I confess that I have sometimes wished I could be poor to have the pleasure of exerting myself.”⁵⁵

When opportunities arose for achievement within the carefully bounded sphere of domesticity, as interpreted by her contemporaries, Amelia by all accounts readily and passionately grasped them. From the early observation of a female contemporary that she was “too devoted as a wife” to the conclusion by John Morse, the authorized biographer of Holmes Sr., that she was “an ideal wife,” Amelia Holmes’ peers were unanimous in their assessment that her energies, after her marriage at the age of

twenty-two, were directed almost exclusively toward the comfort of her husband and children. As Morse put it,

The kindest, gentlest, and tenderest of women, she had the chance given her, when her eldest son was three times wounded in the Civil War, to show of what mettle she was; and she did show it, as all who knew her would have foretold of her. For Dr. Holmes she was an ideal wife,—a comrade the most delightful, a helpmate the most useful, whose abilities seemed to have been arranged by happy foresight for the express purpose of supplying his wants. She smoothed his way for him, removed annoyances from his path, did for him with her easy executive capacity a thousand things, which otherwise he would have missed or have done with difficulty for himself; she hedged him carefully about and protected him from distractions and bores and interruptions,—in a word she took care of him. . . .

If in thus ordering all things alike within and without the daily routine with such careful reference to the occupations and the comfort of her husband, she often gave herself in sacrifice,—as no doubt she did—she always did so with such amiable tact that the fact might easily escape notice, and the fruit of her devotion was enjoyed with no disquieting sense of what it had cost her. She eschewed the idea of having wit or literacy and critical capacity; yet in fact she had rare humor and a sensitive good taste.⁵⁶

This assessment, written from the perspective of one who knew the Holmes household well (Amelia Jackson was Morse's aunt), and who found Amelia's subordination of her life in her husband and her family "ideal," presents some additional evidence of Amelia's character and temperament. Again one notes the initial impression of Amelia's "amiability": "the kindest, gentlest, and tenderest of women." Again one sees examples of this trait in her playing self-subordinating roles, such as "smooth[ing] her husband's "way," "supplying his wants," "giv[ing] herself in sacrifice" with "amiable tact" and "no disquieting sense of what [the behavior] had cost her." And again one observes the "mettle," the "easy executive capacity," the ability to "order" the affairs of her husband and her household, the "humor," "good taste," and "critical capacity" she possessed even while disclaiming those attributes.

Despite Amelia's aura of sweetness, generosity, and amiability, it is not surprising to find Holmes commenting, late in his life, that he had "got a sceptical temperament . . . from my mother"⁵⁷ and that he had also inherited from her a "perverse" tendency to feel melancholy and unfulfilled in the midst of apparent success.⁵⁸ It is also not surprising to find his singling her out to be the first to know that he was leaving military service.⁵⁹ At the same time, it is abundantly clear that the managerial tendencies lying beneath the layer of self-deprecation that Amelia erected around herself did not serve to qualify Amelia's love for her eldest son. Here is an excerpt from an 1866 letter she wrote to him while he was traveling in England and on the Continent.

We have just received your second letter from Europe, and you can hardly realize our happiness at seeing your handwriting again, and reading all that

you have been seeing and doing—I do not find fault with you—I know that you are very busy, only remember among all the great people, and great sights, that you have a little mother at home, who is living as quietly as it is possible for anyone to live, that it is always a delight to her to hear from her beloved child—You will let me give one word of caution—I am sure that you are trying to do too much . . . don't feel as you did at home that you must accomplish just so much each 24 hours. . .

You touched my heart by saying that you had not had any coffee as good as ours—You remember my fear that nothing will be good enough for you when you get home—. . . I think of you every day & many times in the day. Write when you can—without trouble—remember that the stupidity of my letters is not owing to any want of affection for you my dearly beloved child.⁶⁰

While Amelia could not resist including a “word of caution” about her son’s “trying to do too much” as he “did at home,” the bulk of the excerpt reinforces the constraints of personality she communicated to intimates as well as to others: her sense of herself as a “little” person who presented a poor contrast to the “great people” of the world, who lived “as quietly as possible,” whose letters were characterized by “stupidity,” and for whom the persistence and force of her love for her husband and family were givens.



From the reference to his mother in his autobiographical sketch Holmes passed to several sentences about his ancestors.⁶¹ Prominent among them were the symbolic figures Judge Charles Jackson and the Reverend Abiel Holmes, his grandfathers. The former represented the mercantile side of Holmes’ ancestry, for whom, in the view of one of Holmes’ biographers, “religion and scholarship were, at most, peripheral,” and worldly affairs, especially business and politics, were central. The other embodied the “somber ministry and austere scholarship” of an intellectual Calvinist tradition in which religion was a learned profession as well as a calling.⁶² Other ancestors had been persons of weight: the “long pedigree of Olivers and Wendells” buried in King’s Chapel Burying Ground; the poets Dorothy Quincy and Anne Bradstreet; family members who had fought in the Revolutionary War. But Charles Jackson and Abiel Holmes were the two polestars of Holmes’ heritage.

Charles Jackson served as a justice on the Supreme Judicial Court of Massachusetts from 1814 to 1825. Before that he had been a prominent member of Boston’s mercantile community. He was affluent enough to present his daughter and son-in-law with a house on Montgomery Place in downtown Boston in commemoration of their marriage in 1840,⁶³ and dedicated enough to the law to produce a treatise on the pleadings in real property cases after his early retirement from the Supreme Judicial Court in 1825 for reasons of health.⁶⁴ He was not, however, identified with the orthodox Calvinist traditions of Massachusetts. Not only was he a Unitarian, he had been a member of the Court majority that had reached the heretical conclusion, from the perspective of Calvinist orthodoxy, that the property of a church belonged to the parishioners, even though a majority of them no longer professed the trinitarian doctrines of the church’s founders.⁶⁵

The case in which Judge Jackson cast his vote for the church parishioners had a direct bearing on a controversy, nine years later, in which the minister of the First Congregational Church in Cambridge, having found that any embrace of Unitarianism was heretical, was forced from his pulpit after declining to exchange sermons with Unitarian ministers in the area. The minister in question was Abiel Holmes. While there is no evidence that Reverend Holmes and Judge Jackson were even acquainted at the time of the earlier decision, which occurred twenty years before Dr. Holmes married Judge Jackson's daughter, the controversy can be seen as a manifestation of the clash in early nineteenth-century Boston culture between orthodox and reformist attitudes toward religion. Unitarians, including Judge Jackson, his daughter Amelia, and his son-in-law Oliver Wendell Holmes, Sr., believed in a version of religion that embraced the practical dimensions of human affairs; Abiel Holmes' Calvinism was at once less tolerant and more other-worldly. That Abiel Holmes declined to allow Unitarian ministers to exchange sermons with him testified to his severe and scholastic character. He represented the clergyman as intellectual, just as Judge Jackson represented the jurist as man of affairs.

Abiel Holmes, who was born in Woodstock, Connecticut, in 1763, had trained for the ministry, graduating from Yale when, under President Ezra Stiles, its orientation was theological. After traveling to Georgia and settling in a parish for seven years, he had come to Cambridge, Massachusetts, in 1791 and assumed the ministry of the First Congregational Church. In addition to his parish duties, he maintained an interest in writing, publishing a biography of Stiles, whose daughter Mary he married in 1790, a history of Cambridge, and a book of poems.⁶⁶

In 1800 Abiel Holmes began a project that was to be his most important intellectual contribution, a history of American civilization in the form of a record of events he thought significant, ultimately called *The Annals of America*.⁶⁷ For each calendar year Abiel would include a list of "noteworthy" events, covering a variety of subjects and ranging from matters of national to purely local importance. As a historical document, *The Annals* serves as a compendium of information about early nineteenth-century America; as a memoir, it provides implicit testimony about the frame of reference from which Abiel Holmes observed the world around him. Some of Abiel's examples of events worth recording continue to be emphasized in contemporary history texts; others appear to have been of special interest to him and his immediate contemporaries. In 1806, for example, Abiel recorded that "[t]he President sent captains Lewis and Clarke to explore the river Missouri, and the best communication from that river to the Pacific Ocean."⁶⁸ He also noted that "[t]he Lehigh coal, obtained at the Mauch-Chunk mountain in Pennsylvania, which had for some time been only used by the blacksmiths and people in the immediate vicinity, was brought into [more general] notice," and that one entrepreneur "had an ark constructed . . . which brought down . . . 200 or 300 bushels to Philadelphia."⁶⁹ In 1819 he noted that "[t]he case of Dartmouth College was decided in the Supreme Court of the United States," a decision he considered "of great importance to the literary and charitable institutions of our country."⁷⁰ In the same year he recorded that "[t]he first steamship sailed for Europe in May."⁷¹

Abiel Holmes found no conflict between his historical and theological interests,

as evidenced by a quotation from George Washington he included in the second edition of his *Annals*. He quoted Washington, with approval, as saying that “[e]very step, by which . . . the people of the United States . . . have advanced to the character of an independent nation, seems to have been distinguished by some token of providential agency.”⁷² When his son Oliver Wendell Holmes later came to memorialize Abiel’s contributions, however, he suggested that Abiel’s “highest literary pleasure” in writing the volumes was “[t]o verify a doubtful legend” or “to disprove a questionable tradition,” in short, “to get at the absolute fact” of history. That comment suggested that one of the legacies Abiel Holmes passed on to his eldest son, and through him to his grandson, had been that of intellectual curiosity. While Holmes Sr. once told Wendell that he was conscious of getting “the iron of Calvinism” out of his temperament only with difficulty,⁷³ he had not raised his son in any orthodox fashion. Still, there were echoes of Abiel Holmes in his grandson’s early life: Dr. Holmes’ refusal to engage in certain activities until sundown on Sunday;⁷⁴ Holmes Jr.’s memory, which he later described of “those Sunday morning church bells—and hymn tunes—and the sound of citizens’ feet on the pavement—not heard on other days.”⁷⁵ “The Boston of my youth,” Holmes said in a speech in 1902, “was the still half-Puritan Boston.”⁷⁶

Ancestral weight for Holmes, then, came not only in the form of the prior accomplishments of Olivers, Wendells, Jacksons, and Holmeses, but also in the form of strongly established religious and scholastic traditions. Abiel Holmes’ instructions to Holmes Sr., written during the latter’s first year at boarding school, should be placed alongside the Doctor’s instructions to his son on the latter’s first trip to Europe forty-one years later. In the earlier letter, written in 1825, Reverend Holmes had told his son to “[b]e diligent in your studies; punctual in your attendance at the Academy⁷⁷; and strictly observant of its rules. Avoid bad company, and choose the virtuous only as your companions.”⁷⁸ In 1866 Dr. Holmes told his son to “see as much of Europe as you can, regard being had to health, safety from detention by quarantines, etc. Try to get strong in Switzerland after the company going of London and the sight seeing of Paris. To do this it is important not to *overdo* walking and climbing as some Englishmen do.”⁷⁹

It is not clear how Dr. Holmes responded to his father’s suggestions, but there is some suggestion of how he expected his son to respond to his. In a sentence in the 1866 letter Holmes Sr. reminded his son that “there is one comfort—if I should advise about . . . anything except general plans, my counsel would be sure to come a week too late.” Among the male members of the Holmes family advice was freely rendered but not, apparently, invariably expected to be followed. Indeed Holmes Jr. recorded in his diary for July 11, 1866, probably soon after he received his father’s letter with its warning about excessive walking and climbing, that he and his English companion Leslie Stephen, on a hike through the Alps, “didn’t leave the snow till 5 1/2 p.m.—14 hours—and to Eggischorn at 8, burned, stiff, exhausted.”⁸⁰ Included in the cumulative weight of Holmesian ancestral traditions, then, was that of continual paternal advice that a son noted, if he did not necessarily follow. In 1908, after arranging some of his father’s papers, Holmes wrote a friend that “I . . . chuckled to come on a letter or two from *his* father to him at school inculcating virtue in the same dull terms that he passed it on to me.”⁸¹

Another dimension of Holmes' heritage can be found in the sentences in his autobiographical sketch immediately following his discussion of his ancestors. The first sentence read "Our family has been in the habit of receiving a college education and I came of course in my turn." This was followed by "I've always lived in Boston, and went first to a woman's school" in that city, "then to Rev. T. R. Sullivan's, then to E. S. Dixwell's (Private Latin School) and then to College."

Fifteen years and a good deal of life was contained in those two sentences. Taking them in reverse order, the second identified Holmes as having "always lived in Boston." By "Boston" he meant a particular version of that city, Brahmin Boston in the 1840s and 1850s. Brahmin subculture had a distinctive atmosphere. It was one simultaneously liberated by intellectual ferment and curiosity and constrained by orthodox religion and traditionalist patterns of education, one simultaneously imbued with a sense of growing regional and national self-confidence yet deeply provincial and insular. The Boston in which Holmes and his contemporaries grew up was still overwhelmingly a small town, with a closely linked network of mercantile and professional families at the apex of its social hierarchy; still dominated by its Puritan religious heritage; still committed to a "classical" education, in which techniques of rote learning predominated for males and no formal schooling was the rule for females; still grouped around the downtown wharves that led up to Park Street, Beacon Street, and the Common. But at the same time it was poised to become the "Hub of the Universe."

Two autobiographical descriptions of the Boston in which Holmes grew up have been provided by rough contemporaries of his. The first is that of Henry Cabot Lodge, born nine years later than Holmes, who was subsequently to promote Holmes' candidacy for a nomination to the Supreme Court of the United States. Lodge wrote that

All that quarter of the town [where his family and the Holmeses lived] was pervaded by the same atmosphere. Hard by was Summer Street, lined with superb horse-chestnut trees, beneath whose heavy shade the sober well-built houses took on in spring and summer an air of cool remoteness. Farther to the east, where Summer and Bedford Streets came together, stood the New South Church, with a broad green in front and trees clustering about it. . . The fact was that the year 1850 stood on the edge of a new time, but the old time was visible from it, still indeed prevailed about it. . . The men and women of the elder time with the old feelings and habits were, of course, very numerous, and for the most part were quite unconscious that their world was slipping away from them. Hence the atmosphere of our old stone house, indeed of Boston itself, was still an eighteenth-century atmosphere. . . The tidewaters of the Back Bay still rose and fell to the west of the peninsula, and that large region now filled in and covered with handsome houses had no existence. The best houses of that day were in Summer Street and its neighborhood, then just beginning to yield to the advance of trade, or elsewhere clustered on the slopes of Beacon Hill. . .

Boston itself was then small enough to be satisfying to a boy's desires. It

was possible to grasp one's little world and to know and to be known by everybody in one's own fragment of society.⁸²

A more famous description of the Boston in which Holmes grew up has been provided by Henry Adams, who was born three years earlier than Holmes:

Resistance to something was the law of New England nature; the boy looked out on the world with the interest of resistance; for numberless generations his predecessors had viewed the world chiefly as a thing to be reformed, filled with evil forces to be abolished, and they saw no reason to suppose that they had wholly succeeded in the abolition; the duty was unchanged. That duty implied not only resistance to evil, but hatred of it. Boys naturally look on all force as an enemy, and generally find it so, but the New Englander, whether boy or man, in his long struggle with a stingy or hostile universe, had learned also to love the pleasure of hating; his joys were few . . .

The chief charm of New England was harshness of contrasts and extremes of sensibility—a cold that froze the blood, and a heat that boiled it—so that the pleasure of hating—one's self if no better victim offered—was not its rarest amusement; but the charm was a true and natural child of the soil . . . The violence of the contrast was real and made the strongest motive for education. The double exterior of nature gave life its relative values. Winter and summer, cold and heat, town and country, force and freedom, marked two modes of life and thought, balanced the lobes of the brain. Town was winter, confinement, school, rule, discipline; strange, gloomy streets, piled with six feet of snow in the middle; frost that made the snow sing under wheels or runners; thaws when the streets became dangerous to cross; society of uncles, aunts, and cousins who expected children to behave themselves, and who were not always gratified; above all else, winter represented the desire to escape and go free. Town was restraint, law, unity. Country . . . was liberty, diversity, outlawry, the endless delight of mere sense impressions given by nature for nothing, and breathed by boys without knowing it.⁸³

Holmes, who was not fond of Henry Adams' *Education*, once said that Adams had "talk[ed] about Boston and our boyhood with almost genius."⁸⁴ The excerpt associates an environment of "extremes" with a consciousness that tended to divide the world into stark spheres of good and evil, so that "duty," "hating," "winter," and "discipline," were juxtaposed against "pleasure," "delight," "summer," and "outlawry." In this division some of the contrast that Lodge had made between an "old time" and a "new time" resurfaces: one feels that in the world of Holmes', Adams', and Lodge's youth, a generation of elders sought to respond to the mixed messages of "summer" and "winter," "new and old" by suppressing or trivializing the "newer," more liberating messages. The "education" of Holmes and Adams was defined by this generation as an indoctrination in the precepts of duty, piety, scholasticism, and discipline. At the same time, however, Holmes', Adams', and Lodge's contemporaries were receiving implicit cultural signals that, as Lodge put it, the world of "[t]he men and women of the elder time with the old feelings and habits" was "slipping away."

One can see evidence, in Holmes' early education, of the elemental themes of Brahmin Boston in the 1840s and 1850s. At the age of seven, having attended a private "dame's school," where one of his report cards contained the notation "talks too much,"⁸⁵ Oliver Wendell Holmes, Jr., was enrolled in the Reverend T. Russell Sullivan's School on Beacon Hill, and was presented with a composition notebook. Part of his schooling involved copying passages into that notebook, which were then corrected for errors in spelling, punctuation, and other features of penmanship. Each passage ended with a biblical quotation. The following was the entry for December 8, 1848:

THE GOLD COUNTRY

Gold has been lately discovered in great quantities in California, and a party of people are just going from Boston to California to seek gold. Some of it is found in clefts or rocks, some in the stream; and some washed out in bowls, some with a machine like a cradle. The precepts of the Lord are true and righteous altogether; more to be desired are they than gold, yea, than much fine gold. Ps. 19:9.

"7 corrections" were noted as having been made to this entry.⁸⁶ By October 13, 1850, the following entry was copied without any corrections being necessary:

PLYMOUTH SETTLERS

The reason the settlers went from England was because they could not have their own way as to religious worship. First they went to Holland, and thinking that their children's morals would be corrupted, some of them went to America. Here they landed at Cape Cod having before they left the ship chosen John Carver for governor. They found it so cold that they were obliged to make log huts. In these miserable abodes they passed the winter. The whole number was 101, that died 45.

The Lord will make his wilderness the Eden, and his desert like the garden of the Lord Jesus.⁸⁷

In these entries one can observe the presence of the cultural juxtapositions commented on by Lodge and Adams; one can also appreciate why the early education of Holmes and his contemporaries may have seemed to bear only the remotest relationship to the external world they were witnessing. The enthusiastic prospects of the 1848 California gold rush, whose participants, Holmes' entry noted, included "a party of people" from Boston, were first rendered in the concrete details of how one prospected for gold. Just as a seven-year-old boy's imagination began to dwell on those details, however, came a message of quite a different sort: the "precepts of the Lord were "more to be desired . . . than much fine gold." The schoolboy dutifully copied down both messages and submitted his penmanship to scrutiny.

Likewise in the second entry the details of the Plymouth settlement, intriguing for a schoolboy in their references to log huts, numbing cold, and death, were presented in a context in which the religious motives of the Plymouth settlers were emphasized. The settlers had left England because of their interest in having "their own way as to religious worship"; they had left Holland because they feared having

their children's morals corrupted. The privations of the settlers that first winter were seen in that same context: their "wilderness" was "the Eden," their "desert" Jesus' "garden." "I was brought up in Boston," Holmes wrote Harold Laski in 1918, "and though I didn't get Hell talk from my parents it was in the air."⁸⁸

Commentators have regularly noted the ambivalence of Holmes toward religion, which Edmund Wilson once characterized as the attitude of one who had "put the old New England God behind him" but was nonetheless, "in his temperament and his type of mind . . . much closer to the Puritan breed than his father."⁸⁹ By that statement Wilson meant to suggest that while Holmes, from his undergraduate years on, rejected any orthodox religious faith and denied the existence of some organizing spiritual power in the universe, he internalized some of the secular manifestations of Calvinism, such as the idea of subordinating the pleasures of the self to the obligations of class or profession or social convention. One thinks here of Holmes' omnivorous reading, and his oft-repeated comment that books, however tedious or unenlightening, should be completed once started. His dogged pursuit of books appears as an effort to conform to an ideal of an "educated gentleman," who was expected to have accumulated a fund of knowledge in his lifetime. Holmes would regularly express this sense of obligation in an imagined conversation with some examiner at the gates of Heaven who would quiz him on a list of books "that a gentleman should have read before he dies."⁹⁰

The heritage of Calvinist religion thus primarily manifested itself for Holmes in the Puritan concept of a "calling," which by Holmes' time had evolved from its initial theological context to the secularized world of educated elite professionals. Among Holmes' beliefs throughout his adult life were the need for moderation and self-control, the obligation of continued and persistent education, and a consciousness of the qualities and duties of the "elect," which for him meant not a class of predestined souls but his Brahmin contemporaries. The last set of "class" values included a distaste for "vulgarity," whether in conspicuous consumption or elsewhere, and contributed to Holmes' belief in what he called "jobbism," the idea that someone with Holmes' heritage did his best in his profession not only for self-gratification but also out of an obligation to hold up the standards of the elect.

A year after he penned the entry on the Plymouth settlement Holmes left the Reverend Sullivan's school to enroll in that of Epes Sargent Dixwell, who had previously taught classics at the Boston Latin School and had opened his own school on Boylston Place in Boston. The Reverend Sullivan, who had written a verse about Holmes in which he spoke of "versatile power in all paths to excel," basing this prediction on Holmes' "inherited talent,"⁹¹ presented Dixwell with a letter of introduction:

O. W. Holmes, Jr., the bearer, whom, (like his cousin J. T. Morse,) I take delight in calling my young friend, has been for four years under my charge as a pupil. He had been uniformly docile, thoughtful, admirable and affectionate. Young as he is, his habits of application are confirmed, while his proficiency in all the English branches, and his love of study are remarkable for his age.⁹²

E. S. Dixwell was a classical scholar, whose curriculum included Latin, Greek, ancient history, mathematics, French, and German. Charles Frances Adams referred

to Dixwell's school as a "classical grindmill" with poor teaching materials,⁹³ but Henry Cabot Lodge, who had also gone from the Reverend Sullivan's to Dixwell's school, gave a more favorable account:

Mr. Dixwell. . . was highly and deservedly successful. . . [He] was a good deal of a martinet and given to severe sarcasm at the expense of stupid or disorderly boys. . . , [b]ut what I never doubted was that Mr. Dixwell was a thorough gentleman, albeit a rigorous one, and that he was also a scholar and an accomplished man. I can see him now, a slight, active figure, walking briskly into the school in the morning, always most carefully although quietly dressed, and then mounting the platform and calling the school of order in a clear, dry voice. I looked upon him with hostility owing to our official relations, but that hostility was tempered, as I have said, with respect and also with a little fear. He exercised, I am sure, a good influence on me, for he had no patience with slovenliness of mind; he also taught well, as I found when I reached the top of the school and came under him. He was an equally good critic and instructor in declamation. . . .⁹⁴

Lodge also gave a description of the curricular emphasis at Dixwell's school:

The old system was in force. We spent a great deal of time on the Latin and Greek grammars and mastered them thoroughly. We learned to read and write Latin and to read Greek with reasonable ease, going as far as Virgil, Horace, and Cicero in the one and in the other concluding with Felton's Greek Reader, which contains selections from nearly all the principal poets and prose-writers of Greece. . . . In addition to the classics we were drilled in algebra and plane geometry, and were given a smattering of French as well as courses in Greek and Roman history. That we should learn anything of modern history or of the history of our own country was thought quite needless.⁹⁵

Lodge agreed with Henry Adams' judgment that "most school experience was bad" as a form of education, and that boys "learned most" from reading Sir Walter Scott's novels and "raiding the garden at intervals for peaches and pears" in the summers.⁹⁶ Lodge's "real education," he felt, was "largely physical": learning "to swim and ride, to box and fence and handle a boat" were far more valuable than "[a]ll those dreary hours spent over the Latin and Greek grammars."⁹⁷ But while the emphasis in Dixwell's school was firmly directed away from the contemporary lives of Dixwell's students, it had the advantage of fitting admirably with criteria to secure admission to Harvard College. In an autobiographical sketch Dixwell said that the curriculum in his school was deliberately fashioned with the Harvard entrance requirements in mind.⁹⁸ Latin, Greek, ancient history, and mathematics, the very subjects Dixwell stressed, were valued at Harvard as well. If Dixwell's subsequent account is to be believed, Holmes was not entirely bored with his schooling. Dixwell wrote Holmes in 1882 that as a schoolboy Holmes had enjoyed walking with his schoolmaster and "talk[ing] of all topics."⁹⁹ The episode seems to confirm Sullivan's early perception that young Wendell Holmes had a "love of study," and there is ample evidence that at an early age Holmes had developed the habit of absorbing himself in books, a habit that was to endure for the rest of his life.¹⁰⁰



In 1857, after six years at Dixwell's school, Holmes entered Harvard College. Harvard was another part of Holmes' heritage, his matriculation being a matter "of course," as "my grandfathers, fathers and uncles . . . before me." Harvard must also have been, for a young man of Holmes' generation, a singularly trying experience. One of Holmes' contemporaries gave an eyewitness description of Harvard, in the late 1850s, as

being rather a primary school, on a grand scale, than the first University in the country. . . The system of marks is too absurd to require anything but contempt; the standard of scholarship required to obtain a degree, so low that any fool can have the distinction of graduating with full honors from the University. . . Almost all instruction has become dry and mechanical, tutors and professors rather striving to maintain a wooden old-maidish dignity than to inspire any generous sympathy.¹⁰¹

Another said of the faculty that

[T]he competent and learned instructors did not give us of their best, but having listened to our stumbling recitations and inscribed an estimate of our blunders, would then withdraw to the congenial companionship of erudite religions, contented if collegiate discipline had been reasonably secured.¹⁰²

"Harvard College," Henry Adams said, "taught little, and that little ill. . . The entire book of the four years could have been easily put into the work of any four months in after life."¹⁰³ His brother Charles Francis Adams was equally critical, regarding the teaching methods he encountered as an undergraduate as "simply beneath contempt," and the faculty as "drudg[ing] along in a dreary humdrum sort of way."¹⁰⁴

An inkling of the educational atmosphere of the Harvard College that Holmes entered in 1857 can be gleaned from the criteria by which students were ranked. Points were assigned for student achievements and reduced for disciplinary violations, so that intellectual performances and what the faculty saw as moral performances were regarded as equivalents. A student could gain 8 points for a perfect oral recitation and 24 points for a perfect written exercise; at the same time he could lose 2 points for missing daily prayers, 8 for missing a class recitation, and 32 for missing public church services. If he were "privately admonished" for a breach of decorum he lost 32 points; if he were "publicly admonished" he lost 64. At the end of a term points were added up and subtracted, and the result was the student's class rank.¹⁰⁵ Between 1857 and 1861 the meetings of the College faculty were principally devoted to the selection of punishments for various student transgressions.¹⁰⁶ One particularly striking decision, seeming to capture the consciousness animating the ranking system, was "that Bradlee and Willard, Seniors, be privately admonished for throwing reflections of sunshine about the College Yard."¹⁰⁷

Holmes himself was to run afoul of Harvard's disciplinary emphasis. As early as his freshman year, he and a companion were fined a dollar each for "writing on the posts in Tutor Jennison's room."¹⁰⁸ On three occasions he lost points for "playing," "whispering," or being regularly unprepared in class.¹⁰⁹ After his last examinations had concluded in his sophomore year he was "privately admonished" for

“creating a disturbance in the College Yard,”¹¹⁰ and during his senior year he was “publicly admonished” twice, the first for “repeated and gross indecorum in the recitation of Professor [Francis] Bowen,” the second for “breaking the windows of a member of the Freshman class.” The last two offenses prompted Harvard President Cornelius Felton to write Dr. Holmes about his son, whom Felton characterized as “an excellent young man” but noted that “of late . . . his conduct has been frequently the subject of complaint.” Felton added in the letter that breaking windows was normally punished “by dismissal from college,” but the fact that Holmes had “frankly and honestly confessed” and “made suitable apologies” to the student whose windows had been broken had allowed “the faculty to treat [the offense] as of a less serious character than usual.”¹¹¹

Fulton’s characterization of Holmes not only demonstrates the extent to which conformity to myriad disciplinary rules played a significant part in the Harvard College Faculty’s assessment of its students, it suggests that on the whole Holmes was not perceived by faculty members as unduly rebellious during his years as an undergraduate. Nonetheless there is little evidence that Holmes was any more stimulated by the academic offerings of Harvard than his contemporaries who later publicly expressed their contempt for the college as an educational institution. His courses included Latin, Greek, mathematics, grammar, “Orthoepy” (pronunciation), rhetoric, botany, chemistry, physics, history, political economy, German, and religious instruction. All of these were required except German, which Holmes elected in his junior year, and a fourth year of Greek, which he elected in his senior year. In all of them, with the exception of Holmes’ Greek class, of which he still spoke favorably in 1925,¹¹² the ranking system apparently overshadowed any substantive excitement Holmes gleaned from the offerings. Some, such as Francis Bowen’s course in political economy, he positively deplored, and responded to by exhibiting contempt for the instruction.¹¹³

By the time Holmes graduated from Harvard in 1861, he had accumulated 18,681 merit points, which resulted in his standing 52nd in a class of 96. His standing was deceptive, however, since he had stood 13th in his junior year, and had received a significant number of minus points for missing most of the last two months of his final term because of his enlistment in the Fourth Battalion of Massachusetts Volunteers in the Union Army.¹¹⁴ The very fact that he chose to leave Harvard to join the Fourth Battalion, and in so doing assumed that he would not be receiving a degree with the rest of his classmates in July 1861, conveys his sense of the comparative value of a Harvard degree. Indeed in late May 1861, when Holmes’ battalion returned from a tour of guard duty and training at Fort Independence in Boston Harbor, Holmes, who now had no pressing military responsibilities,¹¹⁵ did not resume his classes at Harvard, and only took his final examinations after the faculty voted to award him a degree, notwithstanding his long absence, in the event he passed his final examinations.¹¹⁶

Harvard College was not, however, a uniformly negative experience for Holmes. On the contrary, it was a time in which he avidly pursued three interests that would engage his attention for the remainder of his lifetime. The first of these was social companionship, a pursuit that was to take a singularly structured form in Holmes’ maturity, but whose youthful version appears to have been more informal. The sec-

ond was reading, particularly works not emphasized in his college curriculum. The third was writing essays on subjects that interested him, whether or not they bore any relationship to his course work.



An illustration of the features of Harvard that Holmes found attractive can be seen in a letter he wrote to one of the first women for whom he exhibited some romantic feelings, Lucy Hale, late in his freshman year. In that letter he said that

College is [a] perfect delight, nothing to hold you down hardly, you can settle for yourself exactly what sort of a life you'll lead. And it's delightful—one night up till one at a fellow's room, the next cozy in your own. In the day, boating, etc. And not too hard (as a general thing) lessons.

Today I've been out to row twice, this after sacrificing History to the fowls [and] afterward reading my letter over in the class clandestinely.¹¹⁷

The letter went on to particularize what Holmes found delightful about the experience. First and foremost was being able to "settle for yourself exactly what sort of life you'll lead," having few restrictions "to hold you down." That comment suggests that by "hold[ing] down" Holmes primarily meant being restricted socially. Like many others experiencing college after the combination of attending a structured preparatory school and living at home, he welcomed the relative indifference a college environment exhibited toward how students spent their days or nights.

In short, college was a "perfect delight" for Holmes because it provided opportunities for him to seek education outside the classroom. In his autobiographical sketch Holmes chose to single out some of those opportunities. First were his clubs: "the Institute, . . . the Hasty Pudding, the Porcellian," and Alpha Delta Phi. His father had belonged to the Hasty Pudding and Porcellian, which were primarily social clubs, although the former put on farcical theatrical performances, in three of which Holmes performed during his junior and the fall of his senior years.¹¹⁸ Two of the clubs seemed to have had literary interests as well: Holmes described himself in the autobiographical sketch as an "editor" of the Institute, and many years later remembered that in meetings of Alpha Delta Phi "the Club used to listen to essays by its members" before turning to "the business of the bottle."¹¹⁹ In contrast, Holmes' membership in Porcellian, to which he was elected late in his career at Harvard, was an implicit confirmation on his social standing at the college. Several of his immediate friends and family members belonged to Porcellian, including his father, his teacher and father-in-law, E. S. Dixwell, his cousin Henry Cabot Lodge, and Penrose Hallowell, his closest companion at Harvard. In addition, people with whom Holmes was to have significant friendships and associations later in his life, such as John Chipman Gray, Theodore Roosevelt, and Owen Wister, shared a membership in Porcellian with him.

Holmes also mentioned belonging to Phi Beta Kappa, which was then primarily a literary society,¹²⁰ and to the "Christian Union." The latter membership he felt inclined to explain further. He did not believe, he said in the sketch, that "my life justified belonging to the [Christian Union]"; he had joined that organization "because I wished to bear testimony in favor of a Religious society founded on

liberal principles in distinction to the more "orthodox" and sectarian platform of the 'Xtian Brethren.'" The Christian Brethren, on its formation, had declared that "no person shall be admitted as a member to this society who does not heartily assert to the fundamental truths of the Christian religion," specifying in particular "the doctrines of depravity and regeneration, the existence of one God in three persons . . . [and] the atonement and mediation of Christ." In contrast, the Christian Union defined itself as an "unsectarian and liberal" organization which was prepared to admit to membership "students of good moral character, whatever distinction or sect."¹²¹ Since prospective members of the Christian Union were asked to "claim . . . to believe in the truths of Christianity" before being considered for membership, Holmes may have wanted to signal that in his case that claim was not fully "justified." Indeed there is evidence that his joining the Christian Union was entirely a gesture of protest against the sectarianism of the Christian Brethren, since he apparently never attended meetings of the Union.¹²²

Holmes' membership in social clubs, then, served not only as an outlet for companionship, but as a way of "settling" for oneself "exactly what sort of life you'll lead," a form of self-definition. In February of Holmes' senior year one of his Porcellian clubmates, Francis Lowell Gardner, was killed on a shooting trip to Cape Cod, and Holmes, who apparently had accompanied Gardner on the trip,¹²³ wrote an obituary for the Porcellian Club records. He described Gardner as follows:

Endowed with virtues which made him the delight of his domestic circle, he also possessed those manly qualities and livelier graces which compelled respect while they won the love of his companions. . .

[I]t needed not intimacy to feel the courage and courtesy which never deserted him, even when most tried, but which always walked hand in hand; his high breeding restraining all needless display of his bravery, and that, in turn, giving to his manners dignity and weight. . .

In the social circle, and in the walks of friendship we shall feel the void which he has left unfilled, yet we shall recall his memory rather with pleasure than with pain, as one who did honor to his College, his Class, his Club, as a truly chivalrous gentleman.¹²⁴

In the language of this obituary one observes qualities Holmes valued in his social companions at Harvard and implicitly aspired for in himself. "Manly qualities" and "livelier graces," in Holmes' judgment, "compelled respect" and "won . . . love." "Courage and courtesy" were attributes to be celebrated. "High breeding" was to be valued in itself, but also because it "restrain[ed] . . . needless display," thereby giving "dignity and weight" to one's bearing and "manners." In Holmes' view one could bestow no higher praise on a Harvard contemporary than to say he was "a truly chivalrous gentleman" who "did honor" to his college, class, and club.

The sensibility revealed in Holmes' obituary of Gardner seems one preoccupied with associating "high breeding" with manliness, courage, suppression of "needless display," courtesy, dignity of manner, and even chivalry. Such a preoccupation was not unusual for Holmes' Harvard contemporaries. The overwhelming number of his classmates were from upper- or upper-middle-class, Protestant backgrounds, graduates of preparatory schools, residents of Massachusetts, and aspirants to the pro-

fessions.¹²⁵ In so homogeneous a social universe, membership in clubs such as Porcellian, the Institute, or Alpha Delta Phi was an effort to further distinguish oneself socially. The role of the "chivalrous gentleman," in whom the virtues of high freedom, courtesy, modesty, manliness, and appreciation of the "livelier graces" were combined, was a goal of those seeking social distinction. Even if one makes allowances for the formal tone demanded by obituaries, Holmes' tribute to Gardner reveals how fully and unselfconsciously he had adopted the "chivalrous gentleman" model as his own social desideratum.

Holmes' club memberships, and his social contacts, were thus significant features of his Harvard experience. So too was his effort to seek intimate companionship, both with men and women. In those efforts he demonstrated an early manifestation of the strikingly ambivalent attitude toward intimacy, and intimate relationships, that he was to hold for the remainder of his life.

In two of the last public statements of his life Holmes was to employ the word "intimate," which he had regularly used in private letters, to describe states of being that held great significance for him. In the nationwide radio address that formed part of a ceremony to commemorate his ninetieth birthday, Holmes said that "in this symposium my part is only to sit in silence," because "[t]o express one's feelings as the end draws near is too intimate a task."¹²⁶ And in a letter to the Justices of the Supreme Court of the United States, responding to a farewell note they had sent him on his retirement from the Court in January 1932, two months before his ninety-first birthday, he referred to "[t]he long and intimate association with men who so command my respect and admiration," noting that such an association "could not but fix my affection as well."¹²⁷

A comparison of Holmes' use of "intimate" in the two statements reveals that while he was associating the word with experiences that were abundantly meaningful to him, the word itself could incorporate quite different emotional responses to those experiences. In the first statement he used "intimate" to describe the "task" of expressing how one felt about approaching the end of one's life. Such a task invited one to summon up feelings about an experience that was sufficiently momentous and personal to defy expression. Intimacy was associated with that most private of expressive states, silence.

"Intimate" in the second statement, however, was associated with closeness to others. It did not describe an overwhelmingly personal and private task, but a "long . . . association" with the kind of men who commanded the writer's "respect and admiration," an association that "could not but fix" the writer's "affection." Instead of intimacy being treated as a state of being that deterred the expression of one's feelings to others, it was treated as a state of being that engendered feelings for others. The writer grounded his feelings of "respect," "admiration," and "affection" for his correspondents on the fact that his "association" with them was not only "long" but "intimate."

Intimacy for Holmes was thus an experience simultaneously associated with closeness to others and with a retreat from communication into the silence of one's private thoughts. It was a state of being that could generate deep emotions but at the same time serve as a justification for not disclosing those emotions to the world at large. It was a double-edged concept, one that could be invoked as a barrier between

the self and the world and one through which the self could achieve particularly meaningful relationships with others. It was one of the experiences Holmes most coveted in his life.

Two conspicuous examples of Holmes' ambivalence toward intimacy can be found in a relationship he developed with Lucy Hale during his freshman year at Harvard and in his close friendship with Norwood Penrose ("Pen") Hallowell, also a member of the Harvard class of 1861.

Holmes seems to have met Lucy Hale the summer before he matriculated at Harvard; during his freshman year she was attending a young women's boarding school in Hanover, Massachusetts.¹²⁸ In the spring of that year he wrote her two letters that provide some evidence of the nature of their relationship, and also of his general attitude toward intimacy in relationships with young women. In the first of those, a portion of which has been previously quoted, Holmes described himself as "[b]eing of a slightly jealous disposition" and noted that the regulations "about riding with young gentlemen" that existed at Lucy Hale's school afforded him "huge satisfaction," since they restricted the access to Miss Hale of an "artist (going to be) friend" and a "young gentleman who drives *fast horses*," two competitors whose presences, Holmes added, "stick in my memory." In this letter Holmes appears as a conventional courtier, communicating his ardor through confessions of jealousy and competitiveness with other aspirants.

The second letter, written a month later, is more intriguing. Holmes wrote, in part,

Now almost all my best friends are ladies and I admire and love ladies' society and like to be on intimate terms with as many as I can get. . . [I]f I write in other terms than those of a silly flirtation I know that you at least could have a good influence on me—When you honestly speak to yourself don't you feel these flatterers are not those that you would ever speak to about what you really deeply felt? . . . In the little time I have seen you I tell you frankly that you seemed to me to have a good deal of capability as yet unaroused.¹²⁹

Of particular interest in this letter is Holmes' simultaneous profession that he wishes to get beyond "silly flirtation[s]" and "flatterers" and know Lucy in a deeper fashion, and also that he likes "to be on intimate terms with as many [young women] as I can get." The sentence about intimacy reveals a certain craving for that state of being in Holmes, but it also suggests that Holmes conceived of being "on intimate terms" with young women in an abstract, detached sense, as if he could collect intimate relationships the way he collected, in his later life, the photographs of his female friends and the scarf pins they sent him. Then there is the sentence about "capability as yet unaroused," which comes after one referring to Lucy's "deep feelings." The juxtaposition of the term "capable" with a sexually evocative term such as "arouse" at first seems odd, but is clarified when the earlier sentence reveals that Holmes is talking about a capacity for deep feelings and attachments, lying dormant in the face of so much superficial flattery and flirtations. It is as if Holmes sees himself as the man who will "arouse" his female contemporaries to partake of relationships at a deeper, more intimate level, but at the same time as one who is interested in accumulating a number of intimate relationships.

The second letter thus signifies a complex attitude toward women in Holmes, an attitude in which sexual attraction is associated with a desire for intimacy, but intimacy itself is treated as something of a game. The appearance of this attitude in Holmes two months after his seventeenth birthday is particularly noteworthy, since it was an attitude toward women that he retained for most of his adult life. Holmes' "flirtations" with women were legion, and regularly remarked upon by those in his social circles, but they were not conventional flirtations, either in the sense of being superficial efforts at "flattery" or of being the sexually oriented dalliances of a rake. They can be seen as efforts at intimacy, but of a paradoxically cavalier sort. Just as Holmes, in his adult correspondence, wrote a great many different people with obvious relish, but said similar things to most of them, he "flirted" with a great many women, but treated flirtation as both a treasured opportunity for self-revelation and a parlor exercise. Much later in his life Holmes was to say, as reported by his former law clerk Francis Biddle, that

The fun of talking to women. . . was that they carried you away, so that you could express your innards with all the appropriate rapture, floating on the exquisite breath of your own egotism; reaching so far that suddenly you might look at her and say: "By the way, my dear, what is your name?"¹³⁰

The letters to Hale thus propel us from Holmes' youth into the themes of his mature life. Likewise his friendship with Pen Hallowell, as he put it, "gave the first adult impulse to my youth."¹³¹ Hallowell was not one of the numerous classmates of Holmes who came from the Boston area: his family were Quakers from Philadelphia. He first became acquainted with Holmes during their freshman year, and subsequently both became members of the Hasty Pudding Club. Hallowell regularly visited Holmes at his family's Charles Street home, and Holmes stayed with Hallowell's parents in Philadelphia during one college vacation.¹³² As Holmes noted in his autobiographical sketch, Hallowell was elected Class Orator of the Harvard Class of 1861, and Holmes Class Poet. Hallowell is the only one of his contemporaries mentioned by Holmes in the autobiographical sketch, in which Holmes noted that "I delivered my poem side by side with my friend Hallowell" at the Class Day ceremonies in May 1861.

While Hallowell and Holmes were close friends and clubmates for much of their time at Harvard, their principal tie was their joint decision to volunteer for service in the Civil War. Hallowell had been a fervid abolitionist from his earliest time in college, and it appears that his commitment to abolitionism had a substantial effect on Holmes. In a 1928 letter Holmes spoke of being "deeply moved by the Abolition cause,"¹³³ and in a 1926 one as being "a pretty convinced abolitionist."¹³⁴ On Hallowell's death Holmes described him as a "savage abolitionist, a fighting Quaker who blushed at his own militancy, intolerant of criticism or opposition." He also testified to the impact Hallowell made on him:

[He was] the most generously gallant spirit and I don't know but the greatest soul I ever knew. . . . We were classmates, officers in the same regiment, lay on the field wounded side by side.¹³⁵

The repetition of the phrase "side by side," forty-three years after Holmes had used it in connection with Hallowell in his autobiographical sketch, suggests the feelings of closeness he associated with Hallowell. In the same letter he referred to Hallowell as his "oldest friend," when his cousin and schoolboy companion, John B. Morse, whom Holmes had known since the age of seven, was still alive and in periodic correspondence with Holmes. By "oldest" Holmes meant "most intimate."

The sort of intimacy Holmes experienced in his relationship with Pen Hallowell was of a different variety from that he described in his letter to Lucy Hale. It more resembled the conception of intimacy illustrated in Holmes' retirement letter to the Justices of the Supreme Court: a set of feelings engendered by regular contact with a member of the same sex for which one had "admiration," "respect," and, as a consequence of those reactions and the length and closeness of the contact, "affection." Holmes' characterization of Hallowell on the latter's death gives an indication of the qualities in Hallowell that made Holmes inclined to seek and to value closeness with him.

Holmes' first descriptions of Hallowell in his tribute associated him with his Quaker faith and his militant abolitionism. It is not unlikely that Holmes' own commitment to abolitionism was influenced by Hallowell's example. It is also possible that his perception of Hallowell as "the most generously gallant spirit [and] . . . the greatest soul I ever knew" stemmed in significant part from his being exposed to Hallowell's distinctive brand of Quaker abolitionism. Hallowell was prepared to fight in a war, an act that ran directly counter to his faith, because of his overriding belief in the justice of the abolitionist cause. Having made that decision, he would brook no "criticism or opposition" on the subject of abolitionism. Holmes took this behavior to be evidence of a "gallant spirit."

Intimacy with Hallowell was thus linked to the admiration Holmes felt for Hallowell's participation in antislavery activities, a participation that led both Hallowell and Holmes to abandon their association with Harvard in order to enlist in a volunteer regiment of the Union Army. The growing involvement of both Holmes and Hallowell with the antislavery movement can be observed in their participation as bodyguards for Wendell Phillips, Ralph Waldo Emerson, and other speakers who sought to address a meeting of the Massachusetts Anti-Slavery Society on January 24, 1861.¹³⁶ Prior to the meeting Holmes had received a letter from Richard P. Hallowell, Penrose's elder brother, a Boston merchant who had been influential in organizing protection for antislavery speakers during the winter months of 1860 and 1861.¹³⁷ Antislavery speakers commonly had their meetings and addresses interrupted by heckling crowds in the late months of 1860, and the Boston police had shown no evidence of being inclined to protect the speakers from crowd violence. Hallowell's letter instructed Holmes to "call at our store [to] obtain the William [a "billy club"] our young man promised you," adding that "[I] trust you will not use a weapon except as a last resort."¹³⁸ No violence ensued at the meeting, but hecklers in the crowd repeatedly sought to drown out the speakers' comments with noise of their own, and eventually the mayor of Boston closed Tremont Temple, the public building where the Antislavery Society's rally was taking place.¹³⁹ By April 1861, Hallowell and Holmes had left Harvard and enlisted in the Fourth Battalion of Massachusetts volunteers.

The remaining portions of Holmes' autobiographical sketch, with one significant exception, dealt with his involvement in the Civil War. He indicated that "[w]hen the war broke out" he had joined the Fourth Battalion, trained at Fort Independence for a month, expecting to go south "as a private," and was, in light of the Fourth Battalion's being dissolved, "trying for a commission in one of the Massachusetts Regiments. . . and 'hop[ing] to go south before very long." He even qualified the statement of his future plans ("I expect to study law as my profession or at least for a starting point") with the words "[i]f I survive the war."

The exception to Holmes' preoccupation with his current military plans in the latter portion of his sketch was his brief mention of some of his intellectual activities at Harvard. After discussing his club memberships, he wrote:

I was editor in the Senior year of the Harvard Magazine (the chief piece I wrote in it being on "Albert Durer"). I was author of an article on Plato which took the prize as the best article by an undergraduate (for the first year of its existence) in the "University Quarterly." . . . The tendencies of the family and of myself have a strong natural bent to literature.

"Literature," which for Holmes encompassed both reading and writing, was the principal intellectual pursuit of his college years, and it was primarily an extracurricular pursuit. While he was motivated by his enjoyment of his Greek class to submit a Greek composition that was jointly awarded the prize for excellence in Greek prose his senior year,¹⁴⁰ his "literary" interests during college were not centered in the classroom. Nonetheless they provide evidence of the first set of important intellectual influences in Holmes, as well as his early intellectual tendencies, and are thus worthy of extended attention.

Early in his childhood Holmes identified himself as someone who took considerable pleasure in reading, and by his last year at Epes' Sargent Dixwell's school, from which he graduated at the age of sixteen, his reading tastes had come to encompass academic subjects.¹⁴¹ The earliest of those subjects seems to have been the history of art. Holmes had collected prints as a boy, beginning with some his father had bought while studying medicine in Paris in the 1830s,¹⁴² and around the time of his sixteenth birthday was given John Ruskin's *Modern Painters* by his parents.¹⁴³ This gift seems to have precipitated a spirit of enthusiasm for Ruskin in particular,¹⁴⁴ and for art history in general,¹⁴⁵ which extended through his college years.

In 1916 Holmes told his young friend Lewis Einstein that his exposure to the art of other cultures and eras "gave me the first breath of a different atmosphere from that of the Boston of my youth."¹⁴⁶ Five years earlier he had written one of his close Washington acquaintances, Charlotte Moncheur, that a re-reading of the novels of Walter Scott had exposed him again to "the old order in which the sword and gentleman were beliefs," which Scott portrayed "in costume, with people who could not have heard of evolution, belated but in its last and therefore articulate moment."¹⁴⁷ In both comments one gets a glimpse of the youthful Holmes' motivation in collecting art or reading adventures and romance: the attraction for him of "a different atmosphere" from that in which he was growing up; of "an old order" filled with people "who could not have heard of evolution."

John Ruskin was one of "the men," Holmes wrote in 1919 to Morris Cohen, "who set me on fire" during his college years.¹⁴⁸ Ruskin's perspective on art history was congenial with Holmes' intuitive attraction to art that generated a "different atmosphere." Ruskin's principal motivation, as an art critic, was to emphasize the degree to which his contemporaries could have an enhanced appreciation of art from the past by emphasizing its historical roots and by observing more closely details of technique so as to better judge the extent to which art was a faithful representation of nature.¹⁴⁹

As stated, Ruskin's perspective may appear to be confused or naive. If artistic renderings from the past were to be better understood by locating them in a historical context, one would expect that that context might also serve to shape the artist's perspective, affecting artistic representations of experience. It may be hard to understand how Ruskin could thus hope to evaluate art based on a criterion of how faithfully an artistic effort rendered nature, when perceptions of nature themselves would be affected by the historical context in which the artist worked.

Suffice it to say, however, that this apparent contradiction was not given serious attention by Ruskin, Holmes, or their contemporaries. They were among the early generations of nineteenth-century writers and critics to have developed a historicist sensibility, that is, a perspective that defined the course of societal change as continuous and inevitable, so that the "past" was necessarily different from the "present." Only a few generations earlier the relationship between past, present, and future had been characterized in universalistic terms, either as part of predetermined cycles of birth, decay, death, and rebirth, or as the continuous demonstration of universal truths, such as the primacy of religious values and principles.¹⁵⁰ Ruskin and Holmes, intuitively at this stage of his life, had abandoned this "pre-historicist" epistemology for one that emphasized contrasts between the past and the future and saw the course of a civilization as progressive, not cyclical or predetermined by the will of God. At the same time, however, neither Ruskin nor Holmes, in his youth, had taken the further step of equating the progressive and historicist character of human development with a relativistic interpretation of belief and experience. On the contrary, they were both attracted to the possibility that understanding the differences between past and present, and the contextual explanations for those differences, could help observers discern which beliefs and experiences were universally "true." They saw no conflict, in short, between observations of art, or other products of a civilization, that simultaneously grounded those products in history and sought to extract from the process of comparing past with present a set of universal techniques, lessons, or principles.

In sum, Holmes' interest in art and art history seems to have been precipitated less by aesthetic impulses than by a desire to "breath[e] . . . different atmosphere[s]," to explore worlds outside Brahmin Boston. In that exploration he seems to have been proceeding with the same intuitive sense, expressed in the earlier observations of Henry Cabot Lodge and Henry Adams, that while his generation was habitually being exposed to messages from their elders—messages such as those communicated in Professor Bowen's classroom—those messages did not seem to make adequate sense of the world in which he was living. One of his responses to

this feeling of intellectual dissonance with his elders was to escape to other realms and pursuits, such as collecting old prints and vicariously exploring the worlds from which those prints originated. Another was to search for alternative descriptions and explanations of his own experience.

In this search Holmes drew considerable inspiration from Ralph Waldo Emerson. While there has been some recent recognition of the influence of Emerson on Holmes, the closeness of Emerson's relationship to Holmes' household as Holmes was growing up has been exaggerated. Emerson and Holmes' father, while acquaintances, members of the Saturday Club, and active participants in the interlocking circles of Brahmin Boston, were not close friends, nor were their interests or temperaments similar. After Holmes Sr. completed a biography of Emerson for the American Men of Letters Series in 1884, a mutual friend wrote that he could not "conceive of two men more diametrically opposed in their natural traits."¹⁵¹ There is no evidence to support the claim by two commentators that the younger Holmes referred to Emerson as "Uncle Waldo" as a child, and no support for the supposition that Emerson was a frequent visitor to the Holmes household.¹⁵² Indeed Dr. Holmes had attacked one of Emerson's poems in an 1844 poem of his own, implying that Emerson and other Transcendentalists who posed questions such as "whence am I" and "wherefore did I come" were "deluded infants."¹⁵³

Holmes Jr.'s connection with Emerson was, for the most part, intellectual. On Holmes' seventeenth birthday, which took place in the spring of freshman year at Harvard, his parents gave him five volumes of Emerson's works, and his old friend John Morse gave him another.¹⁵⁴ The impact of Emerson on Holmes in the next few months was obvious. In December 1858, Holmes published an anonymous essay in *The Harvard Magazine* that was a virtual echo of one of Emerson's essays, even bearing the same title.¹⁵⁵

Emerson's essay had appeared in *The Atlantic Monthly* in January 1858 under the title "Books." The essay, also published anonymously,¹⁵⁶ advanced some generalizations about reading and its relationship to the advancement of knowledge. Emerson first noted that while there were a great many "extant printed books," the number of books actually worth an individual reader's attention were "few." He then gave "three practical rules" for reading, which consisted of "[n]ever read[ing] any book that is not a year old," "never read[ing] any but famed books," and "never read[ing] any but what you like." He believed that "famed" books were particularly important for two reasons: because they portrayed the experience about which they wrote in a fashion that made it accessible to others who had not shared it, and because their very "fame" suggested some qualities of universal appeal that would make them interesting to successive generations.¹⁵⁷

The last argument was characteristic of Emerson's attitude toward history, which was that it was primarily useful as a way of confirming truths in which representatives of the present already believed, and that it was quite appropriately treated in that fashion. Thus Emerson saw no conflict between learning and reading only what one "liked," because he believed that the learning process was one in which the self shaped experience. He gave the example of the historian Herodotus, whose narrative contained "inestimable anecdotes," which had for some time "brought it

with the learned into a sort of disesteem." But "in these days," Emerson claimed, "it is found that what is most memorable of history is a few anecdotes," since those had some universal appeal and the rest could and would be discarded by successive generations. Thus Herodotus' historical works were "regaining credit."¹⁵⁸

Reading for Emerson, then, was a process by which the reader selected, out of the innumerable available published works, a few "classics" that simultaneously conveyed a sense of their own time and had particular appeal to the present. In the study of these classics one could find the "seeds" of "recent civilization." In the writings of Plato, for example, Emerson found "modern Europe in its causes and seed."¹⁵⁹

Most of Holmes' essay on "Books," which alluded to Emerson, was simply a restatement of Emerson's arguments. In some portions of the essay, however, Holmes sought, both explicitly and implicitly, to apply Emersonian precepts to his immediate college experience. This dimension of his essay enhances its interest as a suggestive document.

Holmes began his essay by describing the perspective from which he was taking up the subject of books. It was that of one who believed that "[t]he highest conversation is the statement of conclusions, or of such facts as enable us to arrive at conclusions, on the great questions of right and wrong, and on the relation of man to God." The author of "Books" was in search of "higher food for thought" and "better things" to talk about. He was interested in getting beyond "the college gossip of the day"; he was among those "who have somewhat higher aspirations than the mass of their companions." When such persons found "none . . . in the ranks of boyish insipidity . . . who met or satisfy their desires," they "must as an alternative take to books."¹⁶⁰

One of Holmes' biographers described the persona Holmes had assumed in his "Books" essay as "that of an elderly gentleman of rather priggish enlightenment,"¹⁶¹ and the characterization seems apt, at least based on the opening sentences of the essay. But the essay also conveys a sense of the particular intellectual urgency Holmes attributed to his generation, a generation that, for him, was in "a peculiarly solemn position."

[W]e must at once in some shape understand the questions of the day . . .
[A]lthough there always is a fight and crisis, yet are we not in a peculiarly solemn position? . . . A hundred years ago we burnt men's bodies for not agreeing with our religious tenets; we still burn their souls. And now some begin to say, why is this so? Is it true that such ideas as this came from God? Do men own other men by God's law? And when these questions are asked around us—when we, almost the first of young men who have been brought up in an atmosphere of investigation, instead of having every doubt answered— . . . when we begin to enter the fight, can we help feeling it is a tragedy? Can we help going to our rooms and crying that we might now think? And we whistle or beat on our piano, and some—God help 'em!—smoke or drink to drive it all away, and others find their resting-place in some creed which defines all their possibilities, and says, this far shall ye think, and no farther. No, no; it will not do to say, I am not of a melancholic temperament, and

mean to have my good time. It will not do for Ruskin to say, Read no books of an agitating tendency . . . We *must*, will we or no, have every train of thought brought before us while we are young, and may as well at once prepare for it.¹⁶²

It is hard to read this passage without getting an immediate sense of the impact made on Holmes by the two major ideological forces of his experience at Harvard, orthodox religion and attitudes about slavery. The “peculiarly solemn position” in which Holmes finds himself and his contemporaries is immediately associated in the passage with “religious tenets” and the question of whether “men own other men by God’s law.” “Souls” are still “burnt” for “not agreeing with” religious orthodoxy; the ownership of humans by other humans is still affirmed as an idea that comes from God. And Holmes’ generation, in his view, is “the first of young men who have been brought up in an atmosphere of investigation,” rather than “having every doubt answered” by “some creed” which “says, this far shall ye think, and no further.” The urgency conveyed in the passage is that of someone who has been encouraged to “investigate” large questions, rather than taking refuge in dogma, and has some big—and troubling—questions to ask.

Outside that passage, however, there was little distinctive or original in Holmes’ “Books” essay. Indeed its structure so closely resembled Emerson’s that one is not surprised that his father wrote an unnamed friend, about a year after “Books” appeared, that he was “not anxious” to have his son “appear in print, as he is forming opinions too fast to have much time to dress them up rhetorically.”¹⁶³ Holmes echoed Emerson on the “almost innumerable” amount of books, and on the fact, as he put it, “that every grand book carries with it and implies ten thousand lesser ones.”¹⁶⁴ He restated Emerson’s maxim “that it best to read what we like.”¹⁶⁵ And he gave a description of the qualities of a “great book” that applied Emersonian criteria. “[G]reat books,” he said, “have, as it were, originated the very literature of that state and period from which they spring; . . . have drawn to their own mighty bulk the needs and strength of the time, and while everything around them has fallen to pieces, stand only in increased power and majesty.”¹⁶⁶

Holmes also followed Emerson in his view of history, to the point of using Herodotus as an example. “*History*,” he argued, “should be the finest, the all-comprehending study.” But “we do not find it so” because “facts and dates are mistakenly supposed to constitute its chief part.” Instead, he suggested, “anecdotes . . . will often display the whole manners and customs of a period, when we should have laid down the statistics as ignorant as we took them up.” He found the approach of “Herodotus . . . most pleasant” because “in a history of the great nations of the earth, he tells us such facts as that the mares that gained three races are buried by the side of their master in the road that runs through the hollows.” It was these “details about each day” that best captured the spirit of an age; that insight could be illustrated by the proliferation of such details in “the daily newspapers.” “[W]e must study the present,” Holmes asserted, to “know the past.”¹⁶⁷

At the close of his “Books” essay Holmes made it plain where his approach to the subject originated. He mentioned Emerson, characterizing him as one who “probably takes about as large a view of men and events as any one we could point

out now living in America.”¹⁶⁸ And he ended the “Books” essay with a metaphor appropriated from Emerson. Books were “little seeds . . . seeming insignificant enough before the merest weed of real life,” but they had the capacity to “be soaking in our minds, and when we least expect it [to] spring up, not weeds, but supporters that will be an aid in the sorest struggles of our life.”¹⁶⁹ The essay represented, in its whole, a mix of passion and pomposity, some genuine critical insight and some largely derivative posturing. Its chief significance was to demonstrate that by his sophomore year in college Holmes had internalized Emersonian interpretive criteria and was seeking to apply them to his immediate experience.

The “Books” essay is nonetheless useful in understanding Holmes’ subsequent career as a scholar, for it exhibits, in a rudimentary form, some of the elements of his mature scholarly perspective. “Books” reveals, first of all, Holmes’ sense that he and his contemporaries were placed in a “peculiarly solemn” cultural predicament, brought about by the collapse of orthodox religious dogma as an intellectual basis for making sense of experience, coupled with the appearance of some burning current issues—such as whether people could legitimately own other people—that seemed to require immediate explanation and understanding. However one might recoil from the pedantic or priggish tone Holmes adopted in defending reading and thinking, one grasps the urgency and seriousness with which he invested those tasks. The essay thereby underscores his participation in a generation with a distinctive perception of discontinuity with its immediate past, dramatized, in Holmes’ view, by the simultaneous collapse of orthodox religion as a force for security and guidance, and the growing divisiveness of slavery in American culture.

In addition, the “Books” essay reveals that Holmes’ perspective on the relationship between present and past was a historicist one. He followed Emerson in being conscious, on the one hand, of the distance between the past and the present, a distance most conspicuously revealed in “anecdotes” rather than in dates and statistics; and, on the other, of the “progressive” quality of change over time, so that the “greatness” of past books became successively distilled down through the ages, and ancients communicated to moderns at a universal, elemental level. Holmes, at this point in his career, also followed Emerson in seeing no contradiction between a belief that one, as a modern, was able to grasp “the whole manners and customs” of a period and a belief that history was a progressive process. The message of Emerson had been that the modern reader was capable of discerning “the great inspired books of all the great literatures” and extracting “the delicacy of the noblest and calmest books.” That reader was capable, in short, of transcending time and contemporary experience. Great books were inspired and inspiring not because they were labeled as such by orthodox religion but because they revealed the capacities of the self as author and as reader. In adopting Emerson’s assumption that the capacity to achieve or to recognize “greatness” in literature was innate in authors and readers, Holmes was implicitly adopting the perspective of what Emerson’s followers called transcendentalism. Holmes may have been attracted to that perspective because it offered him an opportunity to “take a large view of men and events” without associating that view with the doctrines of established religion.

It may be surprising for those who have come to associate Holmes with the philosophical perspectives of skepticism, empiricism, or even resignation, to come to grips with the fact that in his initial effort at critical writing he was assuming the

role of an Emersonian camp follower. Nonetheless it is understandable why Emerson, along with Ruskin, were the two commentators who set Holmes on fire in his youth. They were both, in their own fashion, seeking to enlist the past in a search for universals that could be reaffirmed as ideals for the present. They sought simultaneously to appreciate history and to be liberated from it.

In the remainder of Holmes' undergraduate essays, written on a variety of subjects, one can see continued reflections of the historicist and transcendentalist perspectives exhibited in "Books." In "Notes on Albert Durer," for example, an essay on the fifteenth- and sixteenth-century engraver Albrecht Durer written during the summer after his junior year, Holmes sought to formulate a "principle applicable in ranking the books and in settling the position of all artists."

[J]ust as the lowest form of good art is the mere portraiture of the single, unconnected fact, with no further view beyond . . . so art is great in proportion as it rises above this, and the presumption is always in favor of that picture being greatest in which the lowest truth of the individual is made subservient . . . to the profound truth of the idea. Knowledge of the stains of the earth, and of the decay that accompanies all earthly life, doubtless the painter needs, but higher than this is the sight which beholds the type disguised beneath the wasting form, and higher than anything connected with the individual is the conception of the harmonious whole of a great work, and this again is great, just as its idea partakes of what is eternal. And this striving to look on types and eternal ideas, is that highest gift of the artist, which is called the ideal tendency.¹⁷⁰

Durer, for Holmes, was "a man who assumed in himself and represents in his works the great tendencies of his age and country." His "position as an artist" was set among "[t]he men of the fifteenth and sixteenth centuries." But Durer's impact was in his "combination of noble powers, coming at a thoughtful time."¹⁷¹ His religious faith formed the impetus for his painting, but it was not the essence of that painting. The essence lay in Durer's ability to grasp "the type disguised beneath the wasting form," the "conception of the harmonious whole" that made his work "eternal" and thus "ideal." One could not understand Durer without appreciating the historical context of his "age and country," but one ultimately appreciated Durer for the extent to which he successfully transcended that context. The "principle" of art appreciation formulated in the passage quoted from "Notes on Albert Durer" can fairly be described as a "systematic elaboration of Emerson's ideas."¹⁷²

Much of the rest of the Durer essay, which opened with a lengthy discussion of woodcut techniques and went on to emphasize the relationship of Durer's work to the religious faith of his time, was derivative of Ruskin's comments on Durer in *The Elements of Drawing*, a book which, as noted, was part of Holmes' collection of Ruskin's works.¹⁷³ As in the "Books" essay, Holmes had been motivated to write on a subject by the attention given to it by one of his intellectual mentors. He continued that pattern in another essay he wrote over the summer of 1860, "Plato,"¹⁷⁴ the other college essay mentioned in his autobiographical sketch. In his choice of subject Holmes was again tracking Emerson. In Dr. Holmes' biography

of Emerson he listed the authorities Emerson had quoted or cited in his writings, and found that Plato had been referred to 81 times and Socrates 42 times. If references to Socrates are taken to be gleaned from Emerson's reading of Plato, the combined references represent the highest amount of citations to any of the authorities Emerson invoked in his work, surpassing Shakespeare, mentioned 112 times, and Napoleon, mentioned 84 times. "Emerson," Dr. Holmes concluded, "was an idealist in the Platonic sense of the word."¹⁷⁵ He noted that Emerson had also written appreciatively of Plato in his 1850 collection of essays, *Representative Men*, maintaining that "[o]ut of Plato came all things that are still written and debated among men of thought."¹⁷⁶

Holmes later indicated that he had first read Plato "expecting to find the secrets of life revealed,"¹⁷⁷ and at the age of ninety he was still reading Plato's *Laws*, "Greek and translation opposite."¹⁷⁸ But while he concluded, in his "Plato" essay, that Plato was "a really great and humane spirit" who, along with Socrates, "fill me . . . [with] reverence and love," and in their dialogues represent "one of the grandest sights the world can boast,"¹⁷⁹ he did not find Plato a satisfactory philosophical model. His implicit criteria for evaluating Plato's contributions revealed that he was beginning to distance himself from Emerson.

Holmes treated Plato as a contributor to a progressive series of philosophical ideas that had become refined and "improved" with time, and emphasized Plato's limitations as much as his accomplishments. Whereas Emerson, and Holmes in his "Books" essay, had been more interested in extracting universal elements from the contributors of "great" historical figures, Holmes in "Plato," while retaining something of that emphasis, was equally interested in emphasizing the deficiencies of even the "greatest" of previous intellectual contributors, as seen from the perspective of what he called "science." With the addition of "science" as an evaluative criterion in his critical arsenal, Holmes began to complicate his relationship to the transcendentalist legacy he had borrowed from Emerson.

At one level the "Plato" essay was an exercise in what might be called "evolutionary" intellectual history: Plato's contributions were seen as a "stage" in the continual advancement of knowledge. Plato's primary deficiency as a theorist, and the chief advantage that Holmes felt that he and his contemporaries had gained in the passage of time since Plato's work had appeared, involved the role of "science" as a vehicle for understanding experience. "[W]hat should continually be taken into account in estimating [Plato's] views," Holmes asserted, was that "in these last days . . . an all-comprehending science has embraced the universe, showing unerring law prevailing in every department, generalizing and systematizing every phenomenon in physics, and every vagary of the human mind."¹⁸⁰ Plato's views, judged from a perspective resting on the insights of this "all-comprehending science," were "wrong," "loose and unscientific," "confused and doubtful," lacking "that exactness of science which [he] lived too early to attain," and "scientifically imperfect."¹⁸¹

Holmes' embrace in his "Plato" essay of a "scientific" perspective, and of the concept of "science" as an idealized intellectual standard, was to have significant ramifications for his subsequent career as a scholar, and was to create an inherent tension in his later scholarship between a professed goal of producing "scientific"

work and the residue of historicist and transcendentalist perspectives he had previously internalized.

The use of the term "science" in the early nineteenth century did not convey the same associations it does to moderns, or even the associations it did to Holmes' contemporaries. "Science," as used to characterize works as diverse as treatises on moral philosophy and commentaries on legal subjects, referred to the organization of bodies of knowledge into systems. Techniques such as classifying and subclassifying subjects in accordance with some constructed hierarchy of significance were regarded as "scientific." On the whole, "science" was not equated with empirical observation or with "inductive" reasoning techniques, by which theories were "corrected" or qualified by the "facts" of experience. Nor was "scientific" methodology associated with the provisional formulation of hypotheses that were then "tested" experientially, but rather with the systemic organization of data in accordance with principles that were assumed to be valid.¹⁸²

As such, the early nineteenth-century conception of "science" could easily coexist with religion. Religious principles, in fact, were just one of the various starting points for a "scientific" classification of bodies of knowledge. The radical feature of Darwinist evolutionary "science," as it came to be formulated in the years when Holmes was attending college,¹⁸³ was its methodology, in which generalizations about the course of human development were derived from the observation of changes in animal populations, even though the generalizations were eventually associated with religious conclusions about the origins of human existence. Had its conclusions been seen to follow from an organization of subject matter based on assumed principles, *The Origin of Species* could readily have been seen by contemporaries as a "scientific" work in the then conventional sense: another systemization and classification of a field of knowledge.

Holmes, however, took "science" as Darwin intended it to be taken: as a concept encompassing two discrete methodological aims, the conventional one of systematic classification and another one that more approximated the empiricist orientation that later generations would assume to be the central feature of "scientific" inquiry. Empiricism was, for one such as Holmes who was familiar with the historicist orientation of Ruskin and Emerson toward subjects located in a "distant" period in time, not a particularly dramatic methodological turn. By stressing the importance of anecdotes such as those narrated by Herodotus in capturing the customs and manners of a remote time, Holmes was in a sense endorsing an empiricist basis for historical generalization. In the "Plato" essay, however, he made a much more explicit association of "science" with empiricist methodology.

The following passage most clearly demonstrates the empiricist basis of Holmes' criticism of Plato for being "unscientific":

Dialectic, therefore, or logic, as concerned with . . . immutable ideas, which alone, as [Plato] holds, owing to their immutability, admit of definition, is exalted to this position, as science founded on observation, as concerned with mutable matters, must take a entirely secondary place. But logic is, in fact, merely an instrument which works with data previously obtained, whether from this very physical science or from intuition; and the unhappy fallacy in

connection with this point . . . which runs all through Plato, is that he confounds this drawing of conclusions already contained in the premise, by logic, which can only develop a preexisting statement, with the finding of new data or statements, for which we must look to consciousness or to generalizations from experience.¹⁸⁴

Holmes' point, of course, was that the very classification by Plato of "immutable ideas" as superior to and distinct from "mutable matters" presupposed that there was a basis for the classification in the first place. That basis either came from "intuition," which seemed perilously close to "drawing . . . conclusions already contained in the premise," or from "the finding of . . . data or statements," which seemed to be the equivalent of the "observation" of "mutable matters." Hence Plato was either an empiricist in spite of himself or one who was arguing that such ideas as "beauty" were "immutable" because he believed they were.

In the passage "science" was described as "founded on observation," and based on "data previously obtained." But in the paragraph immediately preceding that just quoted Holmes had said that in Plato's view "beauty . . . is the most sensible presentation of the good, which . . . embraces all the other permanent representative ideas." He then went on to say that

The good is the end of all philosophy, and as this is attained to by the study of the various ideas which represent it and which it comprehends, such study is philosophy, is science *par excellence*.¹⁸⁵

Holmes' use of the term "science" in this excerpt more closely resembles the established early nineteenth-century conception of 'science' as systematic organization of knowledge, "the study of various ideas and [what these ideas] comprehend," organized around an "end," an overriding principle. In the excerpt "philosophy" and "science" are treated as comparable terms.

Holmes would continue to employ "science" in both its systemic and its empiricist guises in his mature scholarship. He would also seek to merge it with historicism, assuming that he could simultaneously treat legal subjects from the perspective of their historical development and from the perspective of the "philosopher/scientist" who ought to reorganize them in accordance with overriding principles or policies. These efforts, pursued over a ten year period of intense exposure to the history of common law subjects, would eventually culminate in his book *The Common Law*, which first appeared in 1881. The simultaneous attention he gave in his undergraduate essays to history and to "science," then, was to be replicated, in different form, in his most famous work of mature scholarship.

In carrying his historicist and "scientific" methodological orientations forward in his later career, Holmes did not trouble himself to explore the possibility that those two orientations might be mutually inconsistent or point in contradictory directions. He did, however, confront, as early as the "Plato" essay, the potential contradictions between a transcendentalist and an empiricist view of experience. Holmes was not fully prepared to press empiricism into certain realms, such as art, where he continued to believe, as the Durer essay revealed, in the capacity of the artistic rendering to transcend experience. In the Durer essay he characterized "the mere

portraiture of the single unconnected fact" as "the lowest form of good art," and associated a "striving to look on types and eternal ideas" with the "highest gift of the artist" and "the ideal tendency" of art.¹⁸⁶ In "Plato" Holmes repeated those views. He then added a passage that echoed the Durer essay:

How deeply would [Plato] have felt the difference of the plodder, who professing nature as his model, puts before him a flower, and copies every corrosion and chance stain upon its leaves . . . and the great artist who, seizing the type of the plant, paints that upon his canvas, and leaves the rest in the subordination in which it belongs. When [an] admirable artist . . . said that in every man and woman he tried to see their face and form as it would have been if it had descended from Adam . . . he was talking pure Platonism and true art.¹⁸⁷

In at least two realms—"mathematical truth" and "true art"—Holmes was prepared to accept a nonempiricist approach to experience, an approach that closely resembled that of Emerson and his transcendentalist disciples. The implicit exception for those realms seems understandable for one who had made an investment in both Ruskin and Emerson as well as in "science." It also suggests that one should tread cautiously before concluding that Emersonian philosophy was simply an adolescent enthusiasm of Holmes'.

There is ample evidence, for example, that Holmes retained his interest in and attraction for Emerson well past his undergraduate years. He had given Emerson a copy of his "Plato" essay, precipitated by the advice Emerson had given him to "hold [Plato] at arm's length," and Emerson had allegedly responded by saying "I have read your piece. When you strike at a king, you must *kill* him."¹⁸⁸ In 1876 Holmes sent Emerson a copy of one of his legal history essays, "Primitive Notions in Modern Law," adding a note that described the piece as "a slight mark of the gratitude and respect I feel for you who more than anyone else first started the philosophical ferment in my mind."¹⁸⁹ In his ninetieth year he wrote his longtime friend Fredrick Pollock that "[t]he only firebrand of my youth that burns to me as brightly as ever is Emerson."¹⁹⁰ Holmes regularly appropriated phrases and lines from Emerson's poetry and essays in his own writing.¹⁹¹ And Emerson, in 1870, published an essay, "Courage," in which he listed three qualities "as attracting the wonder and reverence of mankind": disinterestedness, practical power, and courage.¹⁹² Those qualities were to find a place, in combination, at the very center of Holmes' mature belief structure.

Finally, one should not ignore the possibility of Emerson's belief in the power of the self to shape and even transcend experience surviving, in an inchoate fashion, in the mature Holmes. We will observe, in subsequent chapters, that alongside Holmes' growing sense of the cosmic helplessness of individuals before the vast forces of time, change, and majoritarian sentiment in the universe a kernel of romanticism, idealism, and exalted confidence in the self was retained. Because of Holmes' ability to convey vividly his sense of powerlessness or his skepticism about the capacity of individuals to make any difference in the course of events, and because of his unwillingness openly to celebrate himself, his achievements, or his potential to shape his experience, one might be tempted to view Holmes and Emerson as

temperamental and philosophical opposites. To yield to that temptation is to miss one of the fundamental strains in Holmes' intellectual and emotional consciousness: his joy in life and in the potential power of the self.

Notwithstanding the uneven quality of Holmes' undergraduate essays,¹⁹³ they provide clear evidence that he devoted a good deal of his time in college to reading in, thinking about, and expressing himself on subjects that did not have a close connection with his classroom pursuits. Indeed if one were to recapitulate the principal foci of Holmes' years at Harvard—friendships with individuals of both sexes, engagement with social clubs, membership on the staff of *The Harvard Magazine*, the production of essays on art, philosophy, reading widely in those subjects, and participation in a circle of persons who increasingly came to believe that the institution of slavery in America should be abolished—it is not surprising that in Holmes' autobiographical sketch, after recounting his club memberships and literary activities, he wrote only one line about conventional academic pursuits, the fact that he had "tried for" and shared "the Greek . . . prize" for a composition he submitted in 1861.¹⁹⁴ The rest of his sketch described his activities as a volunteer in the Union army.



The last two months of Holmes' college career seemed to telescope most of the central themes of that experience. In his senior year he enrolled in Francis Bowen's course, "Political Economy," in which Bowen articulated a point of view squarely at odds with that Holmes advanced in the "Plato" and "Albert Durer" essays. Bowen believed that Darwin's *Origin of Species* was one of a number of "licentious and infidel speculations which are pouring in upon us from Europe like a flood,"¹⁹⁵ and that in the work of Emerson and other Transcendentalists "a glowing though vague conception of virtue takes the place of religion as a guild of life."¹⁹⁶ He set out to show in his course that the "sure and permanent support" for morality lay "in a recognition of its dictates as the commands of God."¹⁹⁷ He also believed that religion and laissez-faire economic principles went hand in hand: the idea that the economy regulated itself meant "that God regulates [it] by general laws, which always, in the long run, look to good."¹⁹⁸ He even suggested that population changes in the world were "indications of a beneficent arrangement of Providence, by which it is obtained that the barbarous race which now tenant the earth should work away and finally disappear, while civilized men are . . . to multiply."¹⁹⁹

To say that Holmes, given his newfound enthusiasm for "science" and his obvious dissatisfaction with orthodox religion, reacted negatively to these tenets of Bowen would be to understate matters. When one recalls that in addition to being exposed to Bowen's views Holmes was participating in antislavery rallies and discussions in the winter and spring of 1861, and that Fort Sumter was attacked by Confederate forces on April 14, it is not surprising that a week after that attack the Harvard Faculty decided "that Hackett and Holmes, seniors," should be publicly admonished for "repeated and gross indecorum" in Bowen's class.²⁰⁰ The "Hackett" in question was Frank Warren Hackett, Holmes' fellow staff member on the *Harvard Magazine*, a periodical that had already come to the attention of the President of Harvard for what he described to Dr. Holmes in a January 1861 letter as "printed

... acts of disrespect" to faculty members. That letter also referred to "oral acts of disrespect," a phrase that, since it was addressed to Holmes' father, may have been meant to apply to Holmes himself.²⁰¹

By April 1861 Holmes may well have felt that a public admonition for outspokenness in Bowen's class amounted to a mite in his eye. He was in the process of leaving college to enlist in the Fourth Battalion, and he actually left Cambridge with the Battalion for guard duty at Fort Independence, in Boston Harbor, on April 25. We have seen that two days before his departure President Cornelius Felton again had to inform Dr. Holmes that his son had been publicly admonished for breaking windows and for continued disrespectful conduct toward Bowen.

The mysterious influence Felton described in that letter as affecting Holmes' conduct during the spring of his senior year at Harvard is not hard to discern. The progression of activities begun in the company of Penrose Hallowell in the winter of 1861 had culminated, after Fort Sumter, in a decision to fight on behalf of the antislavery principle. Later Holmes was to describe his conception of fighting against the South in the Civil War as "a crusade in the cause of the whole civilized world ... the Christian Crusade of the 19th century."²⁰² Enlistment was, as he said in that letter, an "example of chivalry." Alongside that gesture the petty rules and tiresome preachings of the Harvard faculty must have seemed hardly worth bothering about. It is clear that Holmes was inspired by the abolitionism of his friend Hallowell, with whom he enlisted; it is equally clear that he had no intention of returning to Harvard that spring. As he said in his autobiographical sketch, he expected to go south as a private after completing his training at Fort Independence.

Unfortunately Holmes and his fellow classmates found themselves in an awkward situation as the spring of 1861 waned. Although they had anticipated being sent southward into combat at the close of their training, the Fourth Battalion was not assigned to such duty; instead it was to remain in the Boston area and eventually be reduced to ceremonial duties. Finding this unsatisfactory, Holmes, Hallowell, and several others sought to enlist in one of the volunteer Massachusetts Regiments that were then being created. Securing a commission in those Regiments took time, however, and thus Holmes was confronted with the frustrating prospect of having no significant military duties to perform. On June 11, while Holmes was in limbo, President Felton again wrote Dr. Holmes about his son:

The Faculty have been surprised that your son has not rejoined his class since he was relieved of military duty at the Fort; and I have been directed to give him notice that he will be expected to attend the examinations of his class, as a condition of being recommended to the Corporation for a degree.²⁰³

The Harvard Faculty's conclusion, signaled by Felton's letter, was that Holmes and Hallowell, whose extended absence had been discussed in a faculty meeting on June 10, could return, with the only penalty for their two months of absence from classes being accumulated deficiency points that would reduce their class ranks.

Holmes and Hallowell chose to return, took their examinations, and were deemed eligible to graduate. As a consequence Holmes was not listed in the top half of the students in his graduating class, and was not assigned a speaking part during Commencement exercises. It is not clear that he even attended those exercises, although

he did give the class poem on Class Day, June 21. His omission from those designated as being in the top half of the class nonetheless rankled his father, who complained to Felton:

I have expressed the opinion incidentally to several friends that my son had not been treated by the Faculty as I should have expected. . . He left college suddenly, no doubt, but if he did not stop to kiss his Alma Mater, neither did many other volunteers stop to kiss their mothers and wives and sweethearts. He went with the expectation of going into active service, and has never ceased his military discipline and efforts to get into a post where he could serve his country. . .

For his promptitude in offering his services, at the very close of his college life he is not only deprived of the honors which I know you personally wished him to obtain, . . . but is consigned to the inglorious half of the Class, standing forever on the College records as one not worthy to be named along those who had achieved a decent mediocrity. . .

His case was entirely exceptional. Revolutions do not follow precedents nor furnish them. The enforcement of the scholastic rule in this instance seems to me harsh and unworthy of the occasion.²⁰⁴

Dr. Holmes had added in the letter he had "never heard a word of complaint" from his son about the treatment and that he did not think Holmes had "bestowed any thought upon the matter," and in his response Felton noted that "the faculty took it for granted that in engaging in an employment so remote from College study, for such a length of time, he had relinquished all expectation and desire of a commencement part, to secure what he considered of greater importance."²⁰⁵ Felton's instinct, though self-serving, seems sound. Holmes had, after all, not bothered to return to college at all after his tour of duty at Fort Independence had expired. Indeed, the incident may have confirmed for Holmes the irrelevance of Harvard and its rules in a spring in which he, Hallowell, and others were embarking on a crusade to save the civilized world.

Thus it appears that, as in the case of Henry Adams and Henry Cabot Lodge, Harvard College's most lasting contribution to Holmes' education was to afford him stimulating companions and enough leisure time to pursue activities outside the official curriculum. In a variety of unofficial activities he attempted to hone his literary skills and pursue his interests in reading and in "high conversation." In "conversations" with his clubmates and others he was exposed to the political and social views of persons who were inclined, at that point in their lives, to devote a fair amount of their energies to the romanticization of "honor," manliness, and the martial virtues. When the Civil War broke upon Holmes and his contemporaries in the spring of 1861, they were motivated to engage in it, having associated abolitionism and the destruction of corrupt Southern life with the chivalric crusades of the middle ages. They were also inclined to recognize the vast contrast between the world of soldiering and the world of student decorum and religious orthodoxy they had encountered in official Harvard. By trivializing official student experience and at the same time freeing its students to lead a richer and more stimulating unofficial

experience, Harvard had unwittingly prepared Holmes and his contemporaries to leave it, to go to war, without any regrets. Holmes' last entry in his autobiographical sketch declared that he was "too busy to say more" about his life up to July 1861. He was "too busy" trying to find a way to join the Union Army's crusade.

When one peruses Holmes' autobiographical sketch in search of a central theme, as distinguished from the details he chose to mention, a unifying tension seems to pervade the document. That tension emanates from a juxtaposition of the cumulative weight of Holmes' ancestral heritage against Holmes' selection of those features of his life that he regarded as essential. At least half of the sketch is concerned with Holmes' heritage, stretching from the opening sentences about his father to the sentence about his always having lived in Boston. The other half of the sketch discusses details that were, in July 1861, important for Holmes to emphasize about his current self: his clubs, his literary achievements, his participation in the war, the fact that Penrose Hallowell was his friend.

The arrangement of the sketch, with its implicit separation of heritage from current concerns, serves to underscore the fact that very few of the details Holmes mentioned in connection with his heritage were replicated in details he chose to mention about his present self. Holmes ignored any club memberships or social associations of his family members; he mentioned all those of his own. He devoted almost half of the "current" portion of his sketch to details of his efforts to volunteer in the Civil War; he mentioned only that "some of my ancestors have fought in the revolution," not giving their names. The detail that principally linked him to his heritage was his literary pursuits. In writing for the *Harvard Magazine* and the *University Quarterly* he was pursuing the "strong natural bent to literature" that was one of "[t]he tendencies of the family and of myself."²⁰⁶

The literary connection between heritage and current self, however, was dramatically qualified, even arguably obliterated, by the language that followed the phrase in which Holmes emphasized that connection. After mentioning the "natural bent to literature" that he shared with generations of Olivers, Wendells, and Holmeses, Holmes then wrote:

at present I am trying for a commission in one of the Massachusetts regiments, however, and hope to go south before very long. If I survive the war I expect to study law as my profession or at least for a starting point.²⁰⁷

The use of the terms "at present" and "however" to frame Holmes' statement that he was "trying for a commission in one of the Massachusetts regiments" serves to create a dramatic break with the cumulative weight of his heritage. He and generations of ancestors may have a strong natural bent to literature, but "at present" he is not pursuing literature, but war, a pursuit that in the sketch he associated with his family only in a vague and oblique reference. His first goal on graduating from college, he indicated, would be to secure a military commission; his second to "survive the war"; his next "to study law as my profession."²⁰⁸ While these goals did not represent a complete break with his heritage, as he has chosen to describe it, they did represent a break with the central connection between himself and his ancestors, an interest in literature. Moreover, the break appears to be a product of

the urgency of circumstances: Holmes notes that he has written the sketch "in haste" and is "too busy" attempting to secure a military commission "to say more if I would."²⁰⁹

Seen in this fashion, the sketch appears as the statement of a person exceptionally mindful of the "pedigree" of his heritage, and equally mindful of the literary "tendencies" of his family and himself, who feels at the same time compelled, by events and his own inclinations, to pursue goals that on their face appear inconsistent with what it has meant, over time, to be an Oliver, a Wendell, a Holmes, or a Jackson. The tension one feels is that of a young man embarking on an unexpectedly different path from that toward which his "tendencies" and "natural bent" would have led him. It is also that of a young man taking a certain pride, and feeling a certain sense of independence, in his decision to venture into an unknown and dangerous future.

Holmes' July 1861 autobiographical sketch thus not only provides us with a vehicle for recapitulating the themes of his early life, but with an opportunity to encounter, at this early stage, one of the defining elements in that life as a whole. Literature, for Holmes, conveyed associations of ancestral accomplishment; it also signified a pursuit that seemed natural and inevitable for him, given who he was. At the same time literature was not to be his immediate concern on graduating from college; it was not even to be his choice of profession should he survive his wartime experience.

When Holmes had chosen to talk about himself, as distinguished from his ancestors, in the sketch, he had chosen to talk about his clubs, his wartime service, and his literary projects. In Holmes' later life social clubs and the attendant connections would play a comparatively small part, although his selection and pursuit of his social contacts would play a large role. War, primarily in the forms of a surrogate for immersion in the elemental forces of life and as a romanticized and yet disturbing memory, would also be a recurrent theme. Neither social connections nor war, however, were to occupy the central and ambivalent place in Holmes' life that was occupied by literature.

Holmes remained throughout his life a person for whom intimacy, of the kind he might have been seeking in his social affiliations at Harvard, was an attractive, if dangerous, pursuit. He also remained convinced that he and his contemporary volunteers—the generation he described as "touched with fire"²¹⁰—had had their lives and sensibilities fundamentally altered by the experience of going to war. He explored the themes of social intimacy and war from many perspectives in the course of his life. But he did not explore, in an analytical fashion, the theme of "literature," especially the theme of having a "natural bent" for literature and yet adopting law as his profession. While he reflected on the difficulties, and eventual opportunities, of using law as a basis for philosophical inquiry, he did not reflect, at least openly, on what it meant to him to recognize his "natural bent to literature" and at the same time to define himself, professionally, as a lawyer, legal scholar, or judge. Alongside Holmes' acknowledgment in the sketch that the essential link between himself and his heritage was "literature," there was an additional, implicit acknowledgment—that in the "real world" of war and other "battles," and in the world of professional aspiration, literature was supposed to be subordinated to other themes. But this subordination, in Holmes' professional life, was never fully to take place.

CHAPTER TWO

The Civil War



IN AN address delivered approximately twenty years after he mustered out of service with the Twentieth Regiment of Massachusetts Volunteers, Holmes said that

the generation that carried on the war has been set apart by its experience. Through our great good fortune, in our youth our hearts were touched with fire. It was given to us to learn at the outset that life is a profound and passionate thing. While we are permitted to scorn nothing but indifference, and do not pretend to undervalue the worldly rewards of ambition, we have seen with our own eyes, beyond and above the gold fields, the snowy heights of honor, and it is for us to bear the report to those who come after us.¹

The passage is one of several in which Holmes, in his later career, sought to distill the meaning of his experiences in the Civil War. That search was a persistent one. An anthology of his writings includes five separate occasions, between 1864 and 1911, on which he made contributions devoted to the war,² and there were many others in which he invoked martial themes, metaphors, or references. His tendency to analogize life to war lasted, allegedly, at least until the day in 1932 when, shortly after his inauguration, President Franklin Roosevelt called on Holmes and asked him for advice on beginning his new job, and Holmes supposedly responded, "Form your ranks and fight."³ Moreover, Holmes' correspondence is filled with occasions in which he remembered the war, his wounds, the deaths of his contemporaries, and reflected on its meaning. Mark Howe was correct in observing that an analysis of Holmes' experiences in the Civil War requires attention not only to "the war in fact," but to "the war in retrospect."⁴

Holmes' Civil War experiences can be viewed from three interrelated perspectives. The first is a narrative chronology of Holmes' service, providing a framework for Holmes' own reactions to the war, and underscoring the very large percentage of time that Holmes spent being wounded or sick, recovering from injury or illness, or witnessing the sufferings, woundings, or deaths of friends and acquaintances. A narrative of Holmes' wartime service demonstrates that it was a notably stressful experience.

The next perspective traces the evolution of Holmes' reaction to his wartime experiences, based on his surviving Civil War letters and diaries. Those sources do not, of course, constitute a complete, or unstructured, account of his reactions to the war, since Holmes destroyed some of his letters, wrote some of his diary entries well

after the fact, and did not leave a record of the time he spent back home in Boston recovering from his wounds. The gaps in, and his efforts to varnish, his "eyewitness" account of his experiences are, in their own fashion, as interesting as his firsthand reactions, and some observations will be made about those "deficiencies" in Holmes' recording of his experiences. The effort is not to evaluate the accuracy of Holmes' perceptions, but rather to explore the sources of those perceptions: what they reveal about the posture from which Holmes observed and recorded his wartime service.

The last perspective recapitulates the "meaning" of the Civil War, as Holmes sought to convey that meaning in a series of retrospective addresses. An emphasis on the war in retrospect, as Holmes saw it, introduces a contrast between his experiences as a contemporary soldier and the memory of those experiences as a surviving veteran. While such a contrast is arguably present in any retrospective account of a wartime experience, it is of particular interest in Holmes' case. The suggestiveness of the contrast between the tone of Holmes' contemporary and retrospective accounts of his wartime experiences lies in its complexity. In both accounts Holmes was seeking, implicitly or explicitly, to draw meaning from the act of going to war. The meaning that he drew, in the two sets of accounts, appears to be radically different on the surface, but at the same time reveals an overriding similarity. Exploring the relationship of Holmes' contemporary and retrospective reactions to his Civil War experience helps locate the essential place of the Civil War in Holmes' life.



The ordinary details of Holmes' wartime experiences underscore the arbitrariness, drudgery, and myopia of war. In passage after passage from Holmes' letters and diaries his regiment is depicted as trudging over ground between battles, bivouacking in the cold and wet or wading through rivers and swamps in the heat, pausing only to confront the enemy and witness losses in its ranks. Bodies lie on the landscape; men with fearful wounds are transported behind the lines; officers in one moment rise to encourage their troops and in the next are slain. All the while there is no sense of where the regiment is headed or the overriding purpose of its maneuvering; encounters with the enemy seem random and devoid of any larger meaning. Most of the time Holmes and his comrades do not seem aware of why they are in a particular location or whether their aim is to attack the enemy or defend themselves. Sometimes they indiscriminately strike out at anyone in a different colored uniform; sometimes they avoid fighting altogether and exchange newspapers or canteens. Their war seems confined to the space around them; it seems to bear no relationship to anything else. Least of all does it appear like "a crusade in the cause of the whole civilized world," a description Holmes gave to it as late as April 1864.⁵

Such is the overall impression of Holmes' wartime environment. On the other hand his diaries and letters, together with secondary accounts, make it possible to give a chronological, if not an existential, order to his wartime service. That service had begun, we have seen, while Holmes was still at Harvard, when he joined the Fourth Battalion, and had only temporarily been interrupted during the months of June and July 1861, while he waited for a commission in what turned out to be the Twentieth Massachusetts Volunteer Infantry Regiment. His commission took a while

to materialize, and there is evidence that his father intervened with the Governor of Massachusetts on his behalf.⁶ By August the formalities of the enlistment process were complete, and Holmes had signed on for a three-year term as an officer.

Holmes' first assignment was to recruit additional men for the Regiment, and he was dispatched to Pittsfield, Massachusetts, in August to perform that task. It is not clear when he returned from Pittsfield to Camp Massasoit in Readville, Massachusetts, about eight miles from Boston, where the Regiment was encamped for training.⁷ On September 4 the Regiment, now numbering about 750 men, was dispatched from Readville to Washington, D.C. The trip, made by steamer and train, took three days, with stops at Groton, Connecticut, New York, Philadelphia, and Baltimore. In New York most of the troops attended a dinner in barracks in Central Park, but Holmes and a few fellow officers stayed away, eating at Delmonico's restaurant. On arriving in Washington the Regiment disembarked at Camp Kalorama, located in Georgetown Heights, overlooking the northwest of the city. At that site they met other regiments of the Army of the Potomac, under the command of General George B. McClellan.⁸

From Camp Kalorama the Regiment proceeded to Camp Burnside on Meridian Hill closer to the center of Washington, and from there to Camp Benton at Poolesville, Maryland, following the Potomac River in a northwesterly direction from Washington. The Potomac marked the boundary line between northern and southern armies at the time, and Holmes' Regiment was assigned to picket duty at Edwards Ferry, two miles from Poolesville on the Maryland side of the river, where they could observe and communicate with Confederate soldiers on the Virginia side. They remained in the Poolesville area for the rest of September and a good portion of October, training and observing the enemy.⁹ Holmes wrote his mother, on September 23, that "it seems so queer to see an encampment & twig men through a glass & think they are our enemies & hear of some of our pickets talking across & so on." "All these things," he added, "give reality to the life but I don't expect any fighting for the present."¹⁰ He added that "all details like those I've written of our actual or probable movements are strictly private as we are strongly forbidden to write about such things."¹¹

During the months of September and October the Twentieth Regiment was treated as part of General Charles P. Stone's Corps of Observation, which had been assigned by McClellan to monitor Confederate troop movements along the Potomac, from the Confederate stronghold in Leesburg, Virginia, forty miles up the river from Washington, to Washington itself. McClellan, relying on misleading intelligence reports, believed that the Confederates had amassed large numbers of troops along the Virginia side of the Potomac, and were preparing to attack Washington. As a result the Army of the Potomac remained inert during the months of September and early October 1861, despite considerable pressure from elements in Congress to launch an attack into Virginia.¹²

On October 19 McClellan, who was planning to make a foray across the Potomac, sent a telegram to Stone, suggesting that Stone make a "slight demonstration" of the presence of Union forces on the Maryland side of the Potomac so as to encourage the Confederate forces to vacate Leesburg. Stone assigned the responsibility for that demonstration to Colonel Edward Baker, a friend of President Lincoln's and former

United States Senator from Oregon who had very little military experience. Baker selected companies from several regiments, including the Twentieth Massachusetts Volunteers, and arranged for them to move across the river at Ball's Bluff, where supposedly there was a Confederate camp. On the night of October 20 and the morning of October 21 the Union troops moved across the Potomac, climbed a 150-foot bluff, and camped on a field at its top.

By afternoon the Confederate command post at Leesburg had learned that McClellan had abandoned his foray across the Potomac and that the Union forces encamped at Ball's Bluff were isolated in enemy territory, exposed in an open field, with a river at their back, inadequate boats to ferry the river, and no reinforcements. As a result Confederate forces moved forward, from the woods surrounding the field at the top of Ball's Bluff, and began firing on the Union forces. The fighting started at about 3:30 P.M. By 6 P.M. Union troops had been driven back to the bluff; by 8 P.M. the entire Union contingent had been forced back across the river to the Maryland side, and over half of the 1700 men originally assigned to the mission had been captured, killed, or wounded by Confederate soldiers. Among those captured was Colonel William R. Lee, in command of the Twentieth Regiment; among those killed was Colonel Baker; among those wounded was a twenty year old taking part in his first military battle, Oliver Wendell Holmes, Jr.¹³

Holmes had been shot in the chest,¹⁴ the bullet entering on the left and lodging on the right side. One of the members of his company, First Sergeant Smith, dragged him to the rear, opened his shirt, squeezed out the bullet from a cavity it had made on the right side, and gave it to Holmes. He was subsequently taken down the bluff and transported, in a small boat, to a temporary hospital on Harrison's Island, a small island in the middle of the Potomac a few miles upstream from Edwards Ferry and in the vicinity of Ball's Bluff. He was examined by Dr. Nathan Hayward, the Surgeon of the Twentieth Regiment, who told him that he might recover, turned him over on his chest, and arranged to transport Holmes and other wounded men from Harrison's Island to the Maryland shore and then to Camp Benton. They eventually arrived there in the early morning hours of October 22, Holmes in a semiconscious state, having been given a dose of laudanum at Harrison's Island. By October 23, after being examined by a hospital steward, who plugged his wounds with lint, and Dr. Hayward, he was well enough to write a reassuring letter to his mother.¹⁵ He had had a narrow escape from death, but the bullet had missed any vital organs and his wounds healed in an uncomplicated fashion.

By October 31 Holmes was well enough to be moved from Camp Benton to Philadelphia, where he was housed at the home of Penrose Hallowell's family and seen by a physician. Dr. Holmes journeyed to Philadelphia to retrieve his son, and they returned to Boston on November 9. From that time until March 26, 1862, he was not in active service, although in January and February he was sent to Pittsfield on recruiting duty.¹⁶ By the time he returned to the Twentieth Regiment, it was stationed in Washington, having just arrived there from Camp Bolivar Heights, near Harper's Ferry, Maryland.¹⁷ On March 27 the entire Army of the Potomac, including the Twentieth Regiment, sailed from Washington to Hampton, Virginia, where it disembarked at Fort Monroe. Just prior to his having returned to active duty Holmes had been promoted by Governor Andrew to Captain, but the official notice had not