



The Path of the Law [with 2011 Foreword and Biographical Summary] (Annotated) (Legal Legends Series)

Oliver Wendell Holmes Jr.

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(Annotated: Contains detailed biographical information and historical context, as well as analysis of the work and its critics, not found in the original work.)

Part of the Legal Legends Series from Quid Pro Books, this ebook features quality digital formatting and presentation, close proofreading from the original text by Oliver Wendell Holmes, Jr., and photographs of the author at various stages of his prodigious career. It also features extensive new introductory and biographical material from Steven Alan Childress, J.D., Ph.D., a law professor at Tulane University. No other digital edition of this book (sold or free) features active contents, true ebook formatting, and an explanatory introduction.

Building on the pragmatic conception of law he introduced in his book 'The Common Law,' Holmes — by 1897 a jurist on Massachusetts' highest court and soon to be an Associate Justice of the U.S. Supreme Court — explored the limits and sources of law, as well as "the forces which determine its content and growth." This presentation is seen as laying down the gauntlet to legal scholars and judges in what would be known as the emerging "legal realism" movement. Later legal thinkers like Pound, Llewellyn and Douglas followed his lead, and that lead is seen most clearly in this essay.

By the time of this pithy and accessible writing, Holmes had crystallized and clarified that conception of law which he had, in introducing his earlier book, described in the famous statement "the life of the law is not logic: it is experience." Taking that observation to the next level, this work made it clear that judges make law, not simply finding it in books — and they must draw on practical effects and ends in declaring legal rules, not simply reasoning from precedent. He does not hedge: it is a "fallacy" to think that "the only force at work in the development of the law is logic."

More controversially, this essay makes a powerful distinction between law and morality. Law is more about what judges do, and how people react to that, than some lofty sense of ethics, he suggests. The new Foreword considers the implications of this putative amoral conception of law.

Also available in the Legal Legends Series are explained, accurate, and introduced editions of Holmes, 'The Common Law'; Benjamin Cardozo, 'The Nature of the Judicial Process'; Woodrow Wilson, 'Constitutional Government in the United States'; and Wilson, 'The State and Federal Governments of the United States.' An extensively-annotated edition of 'The Common Law' is available as well, to decode it for lawyer and nonlawyer alike and make it a very accessible read or an easy adoption in college and law courses. The latter is called 'The Annotated Common Law' and is found at leading retailers and as a quality ebook.

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