

*Law School of Harvard University,*

*Cambridge, Mass.*

April 2, 1932.

Dear Stone:

Mere “inferior” judges, I suppose, cannot tell you what they really think. But no such limitation confines these law professors! And so I feel free to quote from a letter that I have just had from Learned Hand, whom I was joshing about the use that Sutherland had made of him:

“I thought that was a cracking good dissent of Stone’s, and I was amused by what you mentioned. As far as I can remember, Frew v. Bowers is the only case in which I have ever voted to declare an Act of Congress unconstitutional, and I did it then only after much wringing of the heart. It did seem a little tough to have it used against me in a case where I came very near to dissenting below, and should have done so had it not been that Roberts in the second Wisconsin case, lifted the Admiral’s [McReynold’s] language in Schlesinger v. Wisconsin and used it anew. It seemed to me that after that it was my duty as a little dog to suppress my own opinions.”

I am with you about the bar – or rather the so-called leaders. I think they are about the least educable portion of the community. Nothing that you could tell me about the Journal of the A.B.A. would really surprise me – some day I’ll tell you some yarns about the things they suppress or refuse to publish – but I really cannot believe that eventually they won’t summarize in their stupid way the cases in which you dissented. But they are about as close as any group I know in the community to vindicating the Bourbon tradition – they not only learn nothing; they forget nothing.

But you are writing for many others. In the first place, for the law teachers, and if you think they don’t need it you are greatly mistaken. Apart from all else, they need encouragement against, and liberation from, the inert influence which the leaders of the bar directly and indirectly exert upon law schools and those who influence law schools. Secondly,

you educate students and the younger bar. Thirdly, it is more and more important to enlighten as you do the other departments of the social sciences and the influence that they exert upon the young and opinion generally. Finally, of course, there is the lay public and the lay press which, I think, are interested in the work of the Court as never before in our history because of the increasing awareness that the Court touches the daily affairs of the lives of people as never before.

Faithfully yours,

F.F.

Hon. Harlan F. Stone