

*Law School of Harvard University,
Cambridge, Mass.*

January 7, 1932

Dear Stone :

Now that I have read your decision in The First National Bank of Boston v. Maine, I am trebly glad that you were undeterred by the wrecking work of the majority (which you so charmingly characterized as a recognition of the “responsibility” that “must rest primarily on those who undertake to blaze a new path in the law”) from elucidating so beautifully the in’ards of the Court’s action. After all, a case, particularly in public law, is not merely an adjudication. It is also a generating force for the future. And a dissenting opinion, particularly one so powerfully put as yours, sets up counterforces for the future. The history of American constitutional law is partly the history of whipping the devil around the stump. In these cases, the Court is setting an example of disrespect for wisdom in past adjudications which the future may exercise against the doctrines of the present Court. Particularly with reference to such practical matters as taxation it is, I believe, a public duty no less than a public service, to point out the mischievous unrealities which underlie the Court’s contemporary taxation adjudications.

With warm regards,

Very sincerely yours,

F.F.

Hon. Harlan F. Stone