

*Law School of Harvard University,*

*Cambridge, Mass.*

April 27, 1938

Dear Stone:

Whew!!! What will your Court do next? I haven't yet caught my breath over the Tompkins case, and I wish you had been present when we discussed it fore and aft for two hours in the Federal Jurisdiction Seminar. I think you would have enjoyed the discussion--and wouldn't it have been exciting for us to have had you there? It will take me a good long while to shake down my ultimate feelings and understanding about it all, but at the moment I am rather surprised, in view of the general drift of your Willing concurrence, that you did not go along with Reed's narrow ground. And evidently Roberts seemed to have had no such difficulty in this case as that which imprisoned him in the Tipaldo case against considering a ground not raised in the petition for certiorari or otherwise--if I rightly infer the procedural situation from Butler's dissent.

You, yourself, wrote an admirable opinion in the milk case, and I was especially excited by your note 4. I have just finished a series of lectures to the laity on The Court and Mr. Justice Holmes, in which I've tried to reconcile his latitudinarian attitude toward constitutionality in cases other than civil liberties, to use a loose phrase, with his attitude in civil liberties cases. That bit in these lectures, when they are published, may interest you. Your note is extremely suggestive and opens up new territory.

Your Russian case has not yet come. I am awaiting that with real interest. I am glad you decided it as you did.

Laski was full of excitement over his Washington days and full of warm memories of you.

With warm regards,

Faithfully yours,

F.F.

Hon. Harlan F. Stone