

Supreme Court of the United States
Washington, D.C.

January 13, 1926.

My dear Judge:

I enclose herewith an opinion of mine in the Maryland mandamus case, and also an opinion of Justice Holmes in the Fidelity & Deposit Company of Maryland. Van Devanter is disposed to criticize the language on page 3 that I have marked, and also that on page 4, as intimating an opinion as to what we might think of the statute if it made another provision. I agree with him that it is wiser not to give our opinion on another act than the one we have before us. There were two other cases of mandamus in that Maryland matter in which it is sought to remand prosecutions for perjury and obstruction to justice which consists in the defendants having testified that they did not commit the murder and that they did not see the dead man. We agreed that a mandamus would not lie in such case under Section 33, but I am a good deal troubled about that conclusion. The purpose of the Act was to prevent obstruction and delay in the enforcement of law by the arrest and prosecution of the law officers of the Federal Government, and I don't know why it does not obstruct as much to indict men for swearing that they did not commit murder as it does to indict them for the murder itself. I don't know that I can get the rest of the Court to agree with me, but I am drafting something to submit to them, and I shall send it to you.

I sincerely hope you had a pleasant trip down and that you find everything lovely in Charleston. We miss you, but we are vouching you in in every case, and I hope your Secretary attends to the forwarding of your mail.

Give my love to Mrs. Sutherland and say to her we are all happy in the hope that this rest is going to do you both good.

Affectionately yours,

William H. Taft

Hon. George Sutherland,

Villa Marguerita,
Charleston, S. C.

Enclosures.