

June 3, 1936.

Dear Frankfurter:

Many thanks for your consoling letter of the 2nd.

This eternal emphasis on what would seem to be obvious is a bit tiresome to me, and I fancy to my readers. But I still think it important not to let these matters go by default. I was reluctant to write at all this time, but it seemed to me a sad business to stand only on differences of the two statutes, especially after all that the Court has decided and said on this subject in the past three years. Just why the Chief Justice felt it necessary to so limit his opinion I do not know. It is a pity that such an imposing façade rests, at times, upon such a meager foundation.

Brandeis and Cardozo, with their great legal knowledge, skill, resourcefulness and steadfastness, have been a consolation to me in this term, as indeed they have been in all the earlier ones. Mine would be indeed a forlorn task were it not for their constant insistence on deliberation and adherence to the highest and best traditions of the judicial office.

I am just reading your "Taney and the Commerce Clause." It is a good job. If some of his ideas could have been followed we should have avoided cresting that "No Man's Land" which has resulted from the "hands off" interpretation of the commerce clause, which precludes the states from entering a field which Congress has refused to occupy because of its local character.

I hope you are going to have a good summer. I shall stay here for a time and then probably go to Maine, where for a while I shall do nothing more important than to live outdoors and do a little reading, which the demands of the winter have compelled me to postpone.

With best regards, I am,

Yours sincerely,

Professor Felix Frankfurter,  
Harvard University Law School,  
Cambridge, Massachusetts.