

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

March 30, 1937

Dear Stone:

I congratulate you warmly on the tribute implied in Sutherland's pathetic comments on your stinging "our own sense of self-restraint".

But as a teacher who owes his students the most fastidious obligation of intellectual integrity, and who also deeply believes in the Court as an institution, I am truly sad at heart about the Washington minimum wage case in connection with the Tipaldo case. First came Butler's misrepresentation about the scope of New York's petition for certiorari, despite your explicit quotation from that petition. Then comes the Chief's subtly worded repetition of Butler's misrepresentation as to the limited scope of the issues in the Tipaldo case. Finally, there is Roberts' somersault incapable of being attributed to a single factor relevant to the professed judicial process. Everything that he now subscribes to he rejected not only on June first last, but as late as October twelfth when New York's petition for a re-hearing was denied, and everything that he rejected in your dissenting opinion of last June, especially the significance of his own opinion in the Nebbia case, he now subscribes to. What kind of respect for the institution can be aroused in informed and able young minds when they come to consider in detail, as they must, -- in the course on Federal Jurisdiction we deal with the cases as they come down--the intellectual process which underlies this minimum wage litigation? I wish either Roberts or the Chief had the responsibility of conducting the class when we shall reach this case shortly. It is very, very sad business.

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I am awaiting with eagerness the full text of your opinion in the Virginian Railway case. From the extracts given in the Times I infer that you have written a very close-knit, powerful opinion, responsive to the modern world of commerce and that of transportation in particular.

Laski was aglow with the joy of his dinner with you. I envy him.

With warmest regards,

Very sincerely yours,

F. F.

Hon. Harlan F. Stone