

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

December 4, 1931.

Dear Stone:

A careful reading of your dissent in the Car-hire Case leaves me with conflicting emotions – admiration for a truly great opinion and perplexity over its failure to win the adherence of Hughes and/or Roberts. You know what admiration your St. Paul Case dissent aroused in me. The new opinion, if anything, is an even more powerful piece. It has what few opinions even of your Court have – don't betray me to your Brethren – impact. Real demonstration is seldom attainable for our juristic problems, but I verily believe your opinion achieved it.

But the more convincing and mind-seizing your opinion is, the more of a psychological problem it creates. I can understand Minimum-wage Cases – indefensible though they really are when judged by the criteria of constitutional adjudication which the Court professes. But how account for this line-up of the Court – how account for Hughes' vote? I ask this even though I am not one of those who has been throwing his hat up in the air and exulting in the belief that two or three swallows make a summer. Grateful as I have been for what the new Court has given us, my judgment as to its likely trend has pursued a policy of watchful waiting – hopefulness curbed by not a little scepticism.

And the line-up on the Wisconsin husband wife case does not help matters. The Old Boy swung out in his old way in his dissent – but where, I ask again, does it leave Hughes and Roberts?

But all these anxieties only sharpen my appetite for your work and intensify my gratitude for the qualities that lie behind your Car-hire opinion.

Faithfully yours,

F.F.

Hon. Harlan F. Stone