

*Law School of Harvard University,*

*Cambridge, Mass.*

January 29, 1930.

Dear Max:

1. I should have told you long ago what you now doubtless have long since been told, namely, that Herman Adler's assistant will be through with the work by the 1st. You will be glad to know that Herman's operation came off very successfully. You may want to write him a note to the Deaconess Hospital, Boston.

2. Sam Warner told me that Pound talked with him about statistics, after Sam came to him with your letter in regard to estimates for next year. Pound then told him that they wanted him to do statistics for the federal courts. Sam said that he put it up to him in a way that looked to Sam as though Pound wanted to sabotage it, and in any event as though Pound were most ready to have Sam agree not to do it.

Sam's letter to the Chairman, he wrote after consultation with me. He will do whatever is wanted from him, but it is absolutely essential that he be not asked to begin it until he has finished his work for the Boston Survey. That means about three months. This will not in the slightest delay what you had in mind for him, for there is no hurry about the kind of things that you want of him. In any event, he must finish his Boston work, because upon his statistics depend the other branches of our Survey.

3. Pound told me, as well as others, that all the newspaper talk about dissensions is pure bosh. There is nothing to it in the world and it is all due to the fact that Wickersham fired an assistant to Max and a stenographer (about the merits of which R.P. professed no knowledge)

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who were going up and down Washington airing their grievances and telling all sorts of lies about internal dissensions within the Commission. “My relations with Wickersham are most cordial and Judge McIntosh and Judge Kenyon are the finest people I have ever worked with. Monte Lemann is brilliant and suggestive when he is there, but the trouble with Monte is that he doesn’t know anything about Criminal procedure. The only possible ground for talking about dissention that I can think of is that McIntosh, Kenyon and I have written a report in regard to the Mikell and Keedy Code of Criminal Procedure, which Monte may not like, because he is on the council of the American Law Institute, and perhaps Wickersham, but that code is the sloppiest thing you ever saw, and we proved it, too. After we wrote our report, Wickersham added two more members to our committee, Grubb and Monte Lemann, and when I sent both of them our report, Grubb admitted the correctness of our report in pointing out errors that we pointed out.”

4. In the course of the same talk, Pound quoted Lowell as saying to him that the Commission would undoubtedly live for another year. And Pound said he replied that he won’t stay away from the School for another year and that he didn’t believe the Commission would survive another year. He thought that the Wets were pushing the Drys very skillfully, and the Drys would cut off the appropriation of the Commission – that Wes Jones and Shepard and other Senators, with whom he indicated he talked, thought there is no use of the Commission extending beyond June. When I asked him whether he thought the Commission could complete its labors by June, he said not if we do what we have set out to do, and in the way it ought to be done. Don’t you think we have selected very good experts? I allowed they did. He then continued, “You don’t realize what an awful job it has been to keep charletans and incompetents

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off. It has been a constant fight for me.” I then repeated my remark that I thought the work couldn’t be done by June – the kind of work that Miss Van Waters has been charged with. To which he replied “Of course, not. It needs two or three years. But I don’t believe the Commission will be allowed to live.” I got the strong impression that he would welcome the death of the Commission after June.) When I suggested that undoubtedly the Commission would go on, he said, “Well, then, I’ll either resign from the Law School or the Commission. I don’t propose to stay away from this Law School another year. Say what you will, it needs constant watchfulness by a strong man who won’t allow himself to be steam rolled by the authorities, or who isn’t so absolutely wasteful and careless about money as is Beale.”

5. Clark wrote me that he is planning to go to Washington on Friday, and I have written him not to. Will you please write him directly suggesting quite specifically when he should come. And be as specific with him as you can be – he doesn’t understand roundaboutness very well, at least not yet.

Yours always,

F.

Max Lowenthal, Esq.