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

CHAMBERS OF JUSTICE FELIX FRANKFURTER

May 2, 1944

Reproduced from the Collections of the Manuscript Division, Library of Congress

and the second and

Dear Wiley:

Your feeling of doubt and confusion regarding the interrelations between national and state powers under the Commerce Clause will be confirmed and perhaps comforted by what J. B. Thayer said regarding Marshall's opinions and our decisions in that field on pp. 88 and 89 of his little book on John Marshall. For me, at least, no man has thought more profoundly on constitutional law than J. B. Thayer - I do not exclude Holmes or Brandeis. What I get out of his observations together with my own worries on the subject for thirty years is that we should pursue the creep-crawl method of dealing with tax cases arising under the Commerce Clause - decide no more and say no more than we inescapably can.

Ever yours,

Mr. Justice Rutledge