

Frankfurter - 1

—When re-ordering, specify—

Oxford

These papers are reproductions of some handed to me by Justice Felix Frankfurter during an interview I had with him November 25, 1955. He gave me permission to reproduce them, but asked that he be consulted ~~what~~ would be made of them before publication.

as to what was

The correspondence was loaned Mrs. Stern by Felix Frankfurter and was with practically no omissions discovered in the following files:

- D - Felix Frankfurter
- D - Weed, Lewis H.

Cohn

Also see letter 1/17/31 to FE relating to this

December 14th, 1931.

Dear Abe,

Here's a first go at a draft of by-laws. What

I've chiefly done is:

1. To separate the period of organization of the Institute from the period when the show is a going concern. The paragraph on education (Article V. Sec. 1. c.) won't work any way, so that a technique would be required to get the Institute for Advanced Study into being. I think I've done that. The Director does it.
2. When the Institute is a-going, I've done what you have been saying you wanted done - freed the faculty from the control of power, inevitably, inalienably, inextricably tied to money. I've decided there's only one way to do that and that's to do it. And I've done it. A small representation, a minority, never in history established any rights. It just can't be done. Frankness demands a recognition of that fact. I've recognized it, anyway. If any one should say
 - (a) Scholars quarrel
 - (b) Scholars have no senseI have a perfect defense. I'd say first, it isn't so and second, even if it is, it doesn't matter. They will learn; they must if they don't know already* To give away the opportunity of freedom and leadership is to substitute corruption - of various kinds, all well known in autocracies.
3. I've crossed out everything about degrees. The paragraphs came in by way of routine, I suppose. They're another source of corruption anyway.

Even if you agree with the general plan of academic freedom, I think I can hear you say "All very well in principle -

But you must let the thing evolve." And I reply; "Evolution does not occur; Eliot and Gilman and Welch and Mall are no wiser than Aristotle. The problem of the rule of the few and the rule of the many is ancient. And if the many are to rule it is they that must rule."

Now I've exposed myself to wrath and criticism. Well, I'm ready. I'm very appreciative of your great generosity in letting me have my say - and being willing to listen.

Frankfurter and Beard have shared in the process of deliberation and they tell me that I may say that I have their concurrence both in the principles of the government of learned societies on which I have build and in the details of their formulation.

Ever yours,

*Eine Sache wird nur völlig auf dem Wege verstanden, wie Sie selbst entsteht.

Wie das Denken erst nach und nach reift, so wird auch der freie Wille nicht fertig geboren, sondern in der Entwicklung erworben.

Le gouvernement constitutionnel, come tout gouvernement libre, present et doit présenter un état de lutte permanent. La liberté est la perpétuité de la lutte.

Mr. Abraham Flexner,
Institute for Advanced Study,
100 East 42nd Street,
New York.

AEC:EC.

December 28th, 1951.

Dear Abe,

You would have received this answer sooner had it not been for the holiday.

I know, or suspect, that I am supposed now to be completely answered on the subject of the By-laws. But I'm a graceless fellow and so I'm not. After all you might say, with W. S., "I'm not bound to please thee with mine answer"; and I should be obliged to be content. And content I am, for the Institute for Advanced Study is after all your responsibility and not mine. Being one man in the street you may continue to care though for the remarks I have to make.

First let me say that that sentence in my letter which accompanied the copy of the By-laws I sent you, in which I said that Frankfurter and Beard had approved of them not only in principle but in detail, was no idle facon de parler but a literal statement of fact. We corresponded with each other and discussed in person not only each several item, but the accompanying letter as well; both expressed our united convictions. Those quotations from Beard in your letter (p.3) are open, I think, to a quite different interpretation, consonant with the meaning of the By-laws, and one with which I agree. We can ask him what he meant;

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his answer will not, I am confident, inject an inconsistency into the situation.

Now let me address myself to your letter. And about this may I say that I am puzzled. It is quite true that I have deep convictions on this subject, otherwise naturally I should not be defending the principle which the by-laws express. You say in your letter (p.5.) ". . . my mind is still absolutely open, and I haven't a conviction about it that I am not ready to chuck in favor of a reasonable experiment." That is what I believed to be a fact and have therefore, with my friends, let blow from my quarter the wind, zephyr perhaps I should say, of doctrine in the by-laws. But behold - you tell me (p.1.) "my solution is not an a priori one. It is based upon a long acquaintance with the actual operation of a variety of methods in use in England, France, Germany and in the United States." Does "my solution", though a chance statement, remotely reveal the existence, perhaps unsuspected, of a conviction already formed? Now of course it's absurd on my part, to urge a personal or, better, personal considerations, but for the sake of completeness let me do so. You could scarcely say that Beard and Felix, leaving myself out of account, have had no "acquaintance with the actual operation of a variety of methods" A consideration such as this can, of course, be no more than a debating point.

The important words are "a priori." I do not know whether you are suggesting that, since the proposed by-laws were outlined by us, they can have no background in experience. Should that be so, and it is of course quite possible that that experience is inadequate, you propose now to "experiment." I am afraid that I do not know precisely what the "experiment" is? If you

mean that it is to consist in passing from one unsuccessful situation to another, until the successful situation has arrived and is recognized, the word "evolved", already used in this correspondence was selected to designate just this process. But the process itself was discarded in precisely that one connection in which, it seemed to us, resided the crucial device which was to be employed in establishing, what we believed to be, the outstanding and distinctive characteristic of your Institute.

And what is your problem? You say in your letter(p.5.) "The only thing I have faith in is ideals." This is the phase of the subject, I am certain, with which we can get on - better than with a consideration of details in England, France and Germany, of which we can each find innumerable examples to illustrate both sides of the argument. I might, for example, cite the discussions that went on before Helsholz was called to Oxford or before Keilin was appointed to Cambridge. But that method leads nowhere. Undoubtedly the word "ideals" means to you something concrete. I thought I understood what you meant by it when you asked me to write that memorandum(or letter) which I sent to you on June 17th, 1931. And I thought again, that I understood what you meant, when you suggested after one of our conversations that I try my hand at the by-laws, to see whether it was possible to make that ideal actual. [The ideal which I thought you had in mind, and I think I voice Beard's and Felix's interpretation too, was the creation of a society of scholars, living a life devoted to learning, spacious but not luxurious, civilized but not sybaritic, a community without irrelevant domination.] As an example of the possibilities of the scholastic life, we thought your plan held out to the country, if not its one hope of salvation, at least an important and significant one in a direction away from the de-

gradation of an exclusively mechanical existence.

We thought, innocently perhaps, that you were expecting from us, suggestions that were to make this ideal of yours actual. We were not thinking of a faculty on the level of that of Yale or of any other university. Since they exist and are not described by the word "ideal", something we thought far different and not to be described in their terms was in your mind. But if it were far different, something else in the way of its realization should be essential; the "by-laws" implicitly suggest that difference - in constitution and consequently also a difference in the very nature of its existence.

You speak of Oxford and Cambridge in reference to "a desirable solution of the problem" and you cite their behavior in reference to their libraries. By chance I have been interested in the reports, especially that of Oxford, both the majority and minority reports. You praise Cambridge at the expense of Oxford. There are interesting and important issues involved in their respective orientations. Can it be that the significant consideration here is, as you say, that "it is all but impossible to get anything done in a reasonable length of time, and their library problem has been hopelessly messed up for lack of practical sense"? Surely the promise of the scholarly life in the United States is not dependent on the rate of speed with which things get done! From my own brief experience, I think I could cite examples to show that, to satisfy the demands of the practical life, speed had all but wrecked a proper and decent arrangement for the development of society. Speed and the practical life! That is what I thought you were wishing to abandon - you do not really wish us to believe that those are the objects of your enterprise?

No - I don't believe it. You have not shown to us the doorway of the Kingdom of Heaven so as to point out to us as doorkeepers Practicality and Fear. . . . You have meant to build, I believe, on an elevated level, not on the level of N.M.B. or a Yale Faculty; that would be too uninteresting. And if the Institute for Advanced Study is to be something else, why not have as the outstanding qualities, Faith and Courage. If they fail us, no harm is done - we shall, because we can go no further; the gesture will have been made.

And so I come to your recent letter in which you ask concerning the "contacts and environment" of the faculty. Fortunately or unfortunately, I can add little to what I have already said or written to you on this subject. I think the members of such a faculty as yours want neither bars nor a gilded cage. They want, as I say, an urbane, a civilized, a spacious, a decent (in the original sense) life. They want the opportunity for association in a cultivated society; they want civilized opportunities for their wives and children as well as for themselves; they want books, they want music, they want the theatre. Scholars are also men, free men, not tame men; ambitious men, not slaves; courageous men, not sycophants. If scholarship is a career, scholars know or should be given the chance to know the business of such a career. Otherwise you will never have scholars, you will have instead, weak, shifty, unreliable leaders of opinion. There is a responsibility of a scholar, deeper and more far reaching in time, than the responsibility of the president of a bank or even of the president of a university. If you do not make him responsible for the ways of his own life, you provide for a truncated existence, which, as we find, is not even the ornament which the society that

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has created and has perversely prostituted it, had hoped to develop.

Sincerely yours,

Mr. Abraham Flexner,
Institute for Advanced Study,
100 East 42nd Street,
New York.

ABC:EC.

COPY

Institute for Advanced Study,
100 East 42nd Street,
New York. .

January 7, 1932.

Dear Alfred,

Thank you very much for your letter of December 28 in answer to mine on the subject of the By-Laws. You may be very sure that I "continue to care" for anything that you think and are willing to say to me on the subject of the Institute, its By-Laws, or anything else.

I can't understand Beard's approval after the way in which he wrote to me, and I am not sure that we can get much further in writing. We ought, I think, to have lunch together and talk the thing through. For example, when I say "my solution", I don't mean my permanent solution. I mean only the experimental solution now being tried.

As to the meaning of the word "ideals", I think we are in complete agreement even though I should find it absolutely impossible to define ideals. I know and feel ideals, though I cannot define them, precisely as I know an oyster when I see it, though I cannot describe nor define it; and I am not bothering about "speed." To show you how little I care about it, I may quote a remark I made to the Master of John Winthrop House at Harvard a few weeks ago when he asked me for advice. I told him to let his college grow and then come back in five hundred years in order to see what had happened. On the other hand, it would be folly to create an organization which, as Mr. Hughes said to me in reference to the United States Constitution, "is ideally designed to keep things from being done."

What you add in your final paragraph in answer to the letter sent to some fifty persons seeking to extract the results of their own experience is admirable. Write me anything further that occurs to you. Meanwhile, among the interesting things that are coming to me is the repeated desire on the part of individuals to have nothing to do with the "administration" of the Institute but to be put into a position where they can be left alone to do their work. However, let us in the near future lunch together and talk, for the thing is not easy or simple.

With all good wishes and profounder appreciation than you might readily suppose, I am

Sincerely yours,

(Signed)

A. F.

Dr. Alfred E. Cohn
Hospital of the Rockefeller Institute
66th Street and York Avenue, New York

HENRY MOSKOWITZ
1717 PARAMOUNT BUILDING
NEW YORK CITY
CHICKERING 4-1400

January 19th, 1934

My dear Felix:

You have probably met Elias Lowe, who is an Oxford Don and a palaeographer of world renown. I saw Elias last June at Oxford and again in New York in the autumn. He as good as told me that he would be glad to end his exile of over thirty years. His health has suffered from the enervating Oxford climate and he finds that his work is hampered in consequence. In fact he has periodically had to come back to America to get fresh strength.

He has a monumental work on hand (subsidized by \$75,000 from the Rockefeller Foundation). This fund is coming to an end and the work still requires considerable research before all its ten volumes, published by the Clarendon Press, can see the light. The present conditions for continuing it along with his teaching are not favorable. On the other hand, Elias' work seems to be of the pure research type which the Institute is expressly designed to foster.

Elias' rank in his own field is well known, so there is no need of wire-pulling. However, your colleagues at Harvard and your Oxford friends would give you all the information you need. I may add that he is on very good, even intimate terms with Flexner, who thinks highly of his work and has told him that palaeography lies within the scope of the Institute. What Elias does not know is whether it would be the correct procedure to apply for the position direct to Flexner. In fact, what he needs of you is not so much recommendation as advice about procedure. It may easily be that Flexner himself intends to propose Elias at some future meeting of the trustees, as soon as financial conditions in America warrant further expansion of the Institute's activities. If this is the case, you may already know something about it.

The political pot is boiling and F.D.R. is still on top of the heap. He is stronger than ever with the public. I presume you are following American papers. Our friends the opposition still consider it expedient to be patriotic. They intended to throw a blast at the opening of Congress but when they saw how popular F.D.R. is, they postponed action.

You will be interested to know that Major LaGuardia is proving himself a magnificent strategist. His appointments have elicited approval everywhere. He had a little difference of opinion with Lehman but that has been ironed out and the Governor is supporting him. With Charles C. Burlingame and Seabury by his side

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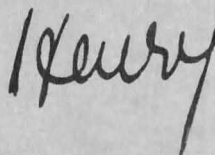
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and with his industry, knowledge and point of view, I think he ought to be the best Mayor New York has ever had. He is very witty, unlike the Walker wisecracks his wit has content. The other night he said, "people sometimes in referring to operations say the operation was successful but the patient died. In my case the operation may be successful but the surgeon will die. I am frankly trying an experiment in non-partisan government. I don't know if it will succeed." I believe the radio will help him. Somehow or other the new organs of stimulating public opinion are taking the place of a weak organization to back up causes like the one LaGuardia represents.

I hope you will do something about Dr. Lowe. He is a boyhood friend of mine. I always cite Lowe's career to show the general ability of the Jew. Here is a Russian Jew who has become the greatest authority, perhaps in the world, on a certain type of medieval script, which I know nothing about, but in which the Roman Catholic Church is vitally interested. He is as well known to priests, as Al Smith is to Tammany Hall. No wonder the Jew is a paradox.

My best to you and Mrs. F.

Cordially,



Professor Felix Frankfurter,
18, Norham Gardens,
Oxford, England

X ✓ B. Mitrany

THE INSTITUTE FOR ADVANCED STUDY

January 17, 1933

My dear Mitrany:

You may have guessed from the fact that you have been asked to come to Princeton that I am approaching the making a start in the field of economics and government or political theory. This winter I have devoted myself to mathematics, and I hope that before the winter is over I shall have the mathematical group in shape so that I can turn my attention to another field.

I have chosen economics in a very broad sense and in it I should like to include precisely the kind of study which you briefly outline in your memorandum. I should like also to have the so-called economic group contain a lawyer like Frankfurter and a historian so that economics could be viewed not as a separate science concerned with exchange or transportation or profit or loss but as one factor in the organization of society. I know of no one who would fit into such a group more adequately than would you and, if, as I hope I can, I devote my attention next to forming a nucleus in this field, I should, I think, without doubt want you to be associated with it. Is this enough for the next few weeks? I should like your critical reaction to the scheme as I have outlined it above, and I should like also to talk with you about it and your possible relation to it on your way to or from Princeton or earlier.

I should have moved more rapidly but for the fact that

Anne has been unwell and that I have myself had this miserable neuritis which has diminished for the time being my working power, also I have been handling a couple of very temperamental mathematicians, who, however, are now, I think, off my shoulders. Of course, the financial situation has led me to proceed more slowly than I otherwise would, but our funds are fortunately thus far intact and our income has been but slightly affected, though it is from the American point of view a modest sum.

This morning comes your note which mine to East Sandwich. The Princeton people have been marvelous. I did not know that there was in America or indeed anywhere else an academic group so wedded to the promotion of knowledge as to be willing to make great sacrifices in order that this new scheme might succeed. I suspect that the Harvard Society of Fellows has been conceived more or less under the influence of what the Institute for Advanced Study is trying to do, and I wish it well. Things of this kind are rarely thought out thoroughly in America. We leave too much to impulse or competition or mere notion. That by the way is another reason for my slow mental functioning.

I hope that Ena continues to improve. Anne is much better and will be returning next week. My arm has also improved. "There is a good time coming yet."

Ever sincerely,

A.F.

Mr. David Mitrany
East Sandwich
Massachusetts

AF:ESB