

Re: Frankel v SEC

4/8/73

I read the Law Week version of the Supreme Court decision but I've not seen the full text. I have just read the district and appeals court decisions as they appear in the appendix to the petition cert.

There is usefulness and danger in both decisions, as I read them. I suppose that what the Supreme Court ruled will bind with respect to them. Instead of writing a long and possibly premature memo, I have marked the parts I think we should discuss in the margin.

Maybe it would be worthwhile to compare the language of Bitt with the Williams affidavit. It seems that Williams cribs his language to make it fit the decision, not the facts. If this turns out to be the case (and Williams had to get his irrelevancies somewhere) it is the more culpable because the court had held that an affidavit is not enough to meet the requirements of the law and he and those who suborned his perjury therefore had to have known - and ignored that.

I suggest that we must be careful in what we include when we get before this and possibly a worse Supreme Court, for it is possible to undo much good that earlier decisions have done. In some respects I think Frankel was a bad case because of the combination of factors involved.

For Ray purposes, note citations of earlier decisions, esp. last sentence penult. graf: "...ordered to produce investigatory reports pertaining to plaintiff's alleged wrongful imprisonment."

If I have anything to say after reading the rest of the Frankel papers you sent, I'll write separately. However, you can assume that if I find anything that seems like it may be relevant, I'll mark it in the margin and list the pages on the first, as I have in this case.