10/8/71

Dear Jim,

This not being one of my better days and not trusting myself to work on other matters, I did skim the government's papers in the Nichols appeal (they were better done that the earlier ones, I think). I didn't read it word for word, noted afew minor little tricks, and several things that may, perhaps, have some use for us. For example, here the government itself says that Sirica's question was irrelevant and improper when he asked Bud my purposes in seeling the spectro.

If I remember the form of the Nichols argument, and I'm not certain I do, then I believe that the decision holding the pictures and X-rays exempt is correct. Under other circumstances I would not hold this view.

Although I have never gone into it with you, I ask you to note that I have not filed for them myself, and I have special reasons I believe must control. I have written a long letter on this that I am not distributing, but you would be welcome to read it when you are here again.

While I think that most of the things Nichols sought are records within the meaning of the law, he did not make out a proper case for it. On the other hand, I believe I did and the court was simply wrong. Under one set of circumstances something is a record. Under another it is not.

Besides, Nichols' purposes were in many cases frivolous and other than proper. He had not, really, exhausted his available administrative remedies, of some of which he was well aware, of others he appears not to have been.

I do not share the apparent enthusiasm for Cyril's operation and am, in fact, full of deep forebodings about the entire thing. None of you has thought this through. You have a beginning point in my not having filed for the pictures and X-rays my own way, where I think the law is on my side, especially when I have a book in preparation on that subject. This can be a great danger, and not in the paranoidal Garrison/Salandria sense. But I've neither time nor stomach for more of it. Too many who know too little and understand even less have arrogated sole knowledge and understanding to themselves. Surviving ourself and our friends is our most immediate problem.

Sincerely,