

Dear Dr. Rhoads,

The last thing I want to do in this era of Watergate, of which we have indeed had too much, is write a government officials about his own Watergating. I have tried to see some manner in which I could respond to your letter of 7/22/74 without addressing this accusation to you but I have seen none. I regard your letter as not responsive; not fully truthful; as designed to evade, the reason it took more than a month to be written; and in some instances not truthful at all.

It also appears to be at variance with some of your statements under oath, and this is not the first time your statements under oath were questionable and designed to deny me of my rights, in which they succeeded.

You have made reference to the extent of the file of correspondence with me. If you had not brought an earlier Watergate variant to the National Archives there would not be this extensive correspondence. You violate the law and your own regulations with regularity. In one case you rewrote a regulation after misrepresenting it to a federal judge so you could produce it in apparent support of your misrepresentation. This kind of official misconduct by the head of an agency like the National Archives gives the citizen a choice between stalwart effort to end your suppressions and just quitting. As you have seen, I have not quit.

In the past my letters have been long to be specific. In the present matter there should be no doubt about what I mean so I will not be that specific.

You introduce new officials performing official roles in withholding this transcript from me. I here and now ask you to identify each and every one of them and the date on which each performed the function you assign him. In doing this I would like you to reconcile it with your statements under oath. Because of the language in your letter, which I take to have been designed with lawyer-like care, I cannot do this.

Because of the long period of time over which I attempted to obtain a copy of this transcript and the extensive correspondence - and particularly because Mr. Pawter phoned me and practically begged me to file suit so he would not have his job to do - I do not find the words you use, "Oversight," "unfortunate" and "understandable" at all satisfactory.

The questions I asked in my letter of June 19 are not in my view adequately covered in your first paragraph.

The contrivance of your second paragraph is unreal. This is not the first time you are supposed to have or indeed were required to "review" the classification. It is further a deliberate deception in that there was a general review of the classified documents of the Commission in 1972-73 in accordance with Executive Order 11652 and you thereafter continued to deny me this transcript. The advice of your attorneys after I filed this suit is not relevant to your obligations because you were required to have had this additional review before then. In view of this I believe I am entitled to specifics about who delayed all of this, where you speak of "Regrettably, ... final agreement ... was not received until after the court's decision." I want to know names and agencies. The court made demands on this long before decision and you and the Department of Justice responded to them both falsely and deceptively.

I am outraged at your statement that your failure to "provide [you] a final administrative decision on your 1972 request... did not cause any further delay in [your] receipt of a copy of the transcript." This is to say that your appeals mechanism is a rubber-stamp, a fraud. It says I did not make a request until 1972, which is false by some years. Inherent in this is the claim that delay in giving me a copy was not hurtful to me. This also is false because I was the first to ask for it, thus it would have been an exclusive, important to any writer. In addition, at that time I had added specific need for this public information and having been denied it all over again was additionally damaging to me.

Jane  
Smith  
7/10/74

In all our correspondence you have resorted to semantics. Here I address the top of page 2 of your letter, to which I add emphasis: "At that time [what time, my 1972 renewed request?], pursuant to your request and to the request of another researcher, a classification review was undertaken..." Was this second request made "at that time?"

However, you here are specific enough for us to come to grips. You do say that "a classification review was undertaken." If you did this, and it was long before I filed this suit, you cannot have been ignorant of the fact that the Commission did not have the authority to classify as it did, even if you kidded yourself into believing that the Commission itself did the classifying, which you had to know from your own records it did not.

As all of this relates to you personally it is much more serious because you personally have been in direct charge of this particular archive, beginning before you assumed your present post.

However, you say you did have a review. This had to establish two things: the Commission did not do the original classifying and it lacked the authority in any event. You had to know these things and more that are relevant. You then denied me all over again and then made the representations you did to the court. I regard these as serious transgressions, as I do hope at some point you also will. I am not content to let the matter rest here.

You demean yourself in claiming that when you once again did not do what was required of you you did not claim to the court that I had not exhausted my administrative remedies (how inappropriate a word!). This was hardly a favor to me. It hid your neglect from the court, as you hid other things from it. By this point I presume you are not easily shamed, but if you were, saying that with all the deceptions and misrepresentations the government made to this and other courts in my cases, this case was decided "in its substantive merits" ought to evoke a feeling of shame.

I reject your concluding paragraph as completely insincere and another effort to leave false impressions. You say in it, "Once again, we regret the inconvenience and expense" to which you put me. How many times can you do this to me and think anyone can believe it to be only accidental? I have taken no case against you to court in which the court did not rule that you erred or I was not entitled to access. You have been doing this to me since you became Archivist. Dr. Bahner used one of these incidents as a convenient time to retire. You have refused me what I was entitled to on contrived excuses and I am prepared to prove that you, personally, after refusing me, solicited another to apply when he had no such intention and then gave him what I sought as an exclusive to him. You could depend upon his inability to understand and to refuse, and it worked out that way. This is but one of the proofs that you have politicized access to the national heritage upon which you sit. We both know that when I charged this in court years ago you were and you remained silent, making not even pro forma denial.

You, personally, have seriously damaged my work and thereby me. This is but the most recent case. I therefore ask again for a full, honest and unclouded explanation of all that happened and did not happen in this case, with dates and full identifications. If I do not receive it within a reasonable time and if it is not of this description, I will again consult counsel. I am being quite open with you. I have in mind what you will find in what I presume is not strange to your or the office of your counsel, the Administrative Conference report on the Freedom of Information Law.

I also ask that you, personally, see to it that there is a review of all denials made to me to date and that you personally are satisfied with their result. If this entails more work than you would prefer, you are responsible for those denials and therefore for whatever time and effort are required. I include in this some of your "explanations" of the workings of what General Haig described as "sinister forces," disappearance of files and evidence and in some cases of your refusals to replace them. I also include your refusals to give me what other agencies gave you for this purpose. And I do hope that in this the magnitude of what you have done to me and what it has cost me will become apparent to you. You have also, in effect, denied me access to the National Archives.

*You have also, in effect, denied me access to the National Archives*  
*Sincerely*  
*(H)*