5/12/70

Memorandum of John Mitchell's letter of May 6.

Bud had phoned me Thursday (which was the 7th) to say he had been informed by phone that DJ was capitulating rather than go to court but he had not yet received the letter, having been informed by phone. On the 8th, before leaving town, he mailed me a copy with a note suggesting I go to DC today and "lets go down to the DOJ" and "see what they will show us".

I was at his office 9:30 this morning and he phoned and we never got called back. At about 3:45 I asked him to phone again and there still was no message. Thus, with this little bit of extra harrassment, they wasted a day for both of us and put me to the extra cost of the trip.

Mitchell's letter is fascinating.

It pretends to be belated response to Bud's letter of 2/2, which is a gross and deliberate misrepresentation and deception, for when he failed to respond to that we did file suit. Therefore, although he pretends otherwise, it is and can be only in response to the suit, as other papers Bud had just received leaves without doubt.

It pretends Kleindienst had said no more than that he had "declined" to make the Ray documents available. He adds that "Whether or not the documents you seek (and Bud seeks nothing-I do and he is but my lawyer) are technically exepmpt under one or more of the provisions of ~~#~~ 552(b) (and Kleindienst had claimed only one, misquoted (7)), I have determined that you shall be granted access to them. The exemptions do not require that the records falling within them be withheld; they merely authorize the withholding..." which I think is a ruling we must bear in mind, for it acknowledges that the exemptions are not mandatory.

While pretending other than his deputy had said in his name, Mitchell manages to ignore the major point, that Kleindienst had lied in saying they did not have these records and had stuc to the lie when we called upon him to reconsider it.

This further pretends that we have appealed Kleindienst's refusal to make the affidavits available. This part says, "Although you requested access to several items whic the Deputy declined to make available, you have appealed only his denial of the request for '(e)ll documents filed by the United States with the Court in England..." This is not Bud's appeal but mine and this is not the language of the ~~xxxxxx~~ request I made.

Oddly, the letterhead seems to be an aged one, perhaps really so, perhaps made to appearso. It is actually yellowed around the edges.

No ref to ident Sent Civil action No 718-70