

8/10/74

Dear Barry,

If tape is legally film, which it is by composition, then it may be in a different category than papers.

The law with film is that the purchaser of the raw film owns it after exposure. I learned this when I paid for some X-rays and then had to borrow them from the hospital to show them to a doctor. The hospital claimed ownership of the X-rays for which I'd paid. Under the law they were correct.

Later, in one of the FOI suits I filed for suppressed evidence, I argued this without refutation by the Government.

As I remember one of the moves the Government made to avoid letting me see the pictures I wanted to see and to deny me copies of some I wanted taken for me, it is that only papers are "records." They argued, as I recall, that film is not.

I don't remember if Paul Valentine was there but I think he was. Gesell was the judge, I was pro se and beyond my depth. And Werdig represented the U.S. Attorney's office.

But it seems to me that if the Department of Justice has taken the position that only papers are records, they have taken a position that argues against Nixon's having the right to take the tapes with him.

I can't recommend Werdig as an honest man. I can authenticate opposite credentials. But if this interests you and you want to ask him, the suit was C.A.2569-70. The record is book length.

While I do not know, I would imagine that by now there are precedents with video-tape that are as the law is with newspaper film.

Audio tape may be the same.

It is my understanding that even if the photographer uses his own film the pictures belong to the newspaper.

With Nixon it seems that nothing was his, not the machines, not the tape, not those who attended the machines.

The bugging was illegal. I have not seen any question raised about his right to the fruit of an illegal endeavor.

As with anything new, this is tenuous. However, I believe that were it to be followed something constructive might emerge. Having all those tapes public property would tell one helluva story.

Hope you finished your book up the way you wanted. I had to lay mine aside too many times. The last time was when I was in the penultimate chapter, using some of his versions of his tapes as they had not been. Some time was required for Ray case work. Tennessee must have both Nofziger and Colson there. And some was on another and completed book I would like to be able to show you sometime soon. There was a time I would have believed it has newsworthy content. But I have learned as there are non-person persons, so also have I learned that there is non-news news.

I hope the inevitable binding of the wounds bit, which will bandage a malignancy, does not hurt your book. That and all the crap about how the system did work. If it had this would have wound up two years ago.

Best,