

6/19/71

Dear Hal,

There was, I think, a remarkable and fortunate coincidence in the federal court decision last night in favor of The Washington Post against the Nixon-Mitchell-Eleindienst effort to block further disclosures of the Vietnam history: the judge to whom the case fell is the judge who had just had his first experience with the Freedom of Information law from me. He is the judge who held the hearing Tuesday on my suit for the pictures of the clothing. As a prelude to that, I had, knowing the adverse effect, inundated him with detailed and documented charges of federal lies, distortions, misrepresentations and, indeed, a spelled-out charge of perjury. My final papers alone are booklength. They show no single faithful quotation from either regulations or the law, for every one used by the government was edited to omit the relevant. In each case I quoted the Government's bastardized citation with the full text. Then I went farther and cited the most relevant regulations not cited by the Government, and to this I added the citation of the Canons which requires it of them. To this I added documented lying, false statements that could not possibly be accidental in some cases and are without excuse where it was possible. I did not expect him to do anything about the perjury charge, but I made and documented it. All of this bellyfull lay undigested inside of him when the same issue in different legal form came before him. Whether or not it influenced his decision, I cannot know. That could have been based on different considerations, but it is, in my belief, not possible that he had had this very heavy dose of completely documented charges as completely undenied by the Government (they objected to my language only) on precisely the point in issue, regardless of the form of the legal problem, without it having some influence on his thinking.

I have an exhausting faith in the need for us to make as complete as possible a record, and I did. I could have written a book with less effort than went into this suit. Beginning with the complaint, enough to inform a judge, I was thorough and I did go into explanations and statements of context, etc. My feeling has been that if I can do this in a court record, I leave an official one to stand against the WR, one that I am willing to and to subject to confrontation and cross-examination. This, historically, means more than charges and proofs in a book.

I go into this early in the morning after that decision, without having a chance to read it, because it happened so late the copy of the paper that is now at the end of my lane cannot have any accounting of it. And, after I awaken Lil, we have a happy occasion which she is now up to attending, a bar mitzvah in the family, something that will give me a rare opportunity to see many of the relatives I like and never see. It is but an hour from here, and Lil can now drive that far because she did on Thursday. My purpose is to add to what you may be able to use in your p.r. efforts, although from two experiences last night, it would seem that this, too, is a futility. I phoned Harv, at the station, not knowing his present work schedule. I did not attempt Jim Eason again. Harv, it turned out, is now working the evening schedule (he was early a.m. when I was last there). He was on the air and was to return the call when he came off. He never did. The same thing happened with an old friend in another city closer to here and with a station that goes into most states at night, one of the clear-channels. No callback.

If I haven't written you of the decision, in defeat I won. I am not getting copies but I am getting access, the promise made based on which the judge dismissed the complaint (I've asked for court help in appeal, without which appeal is impossible for me). I want to pursue the legal principle and think that it is possible to prevail on appeal.

All of my hearings on the three suits that have thus far gone into court have been attended by a reporter from the Post, which carried no stories on any of them. They sent a reporter to my press conference announcing the first, the won by which I got the suppressed



Ray records. There I charged and proved that Kleindienst is a liar. He filed a full column, but not a word appeared. That this much can be filed and not used is not impossible in the normal course of events, but that the entire story was killed is not as usual. Last night I tried to phone him, but this line stayed busy. He is on the city, not the national staff, and this was a national-desk story. I got a guy on the national desk later, when there must have been turmoil there, so if there is a willingness to use the story it may have been legitimately impossible. By then, side from the magnitude of their own story, they had to have been on deadline.

I will be filing more suits. I have been going through the painful and time-consuming steps of exhausting my preliminaries, called "administrative remedies". Again Bud has offered to help, as he has both offered and done in the past (and also not done after offering). So, I'll be laying writing aside again for a short while to prepare drafts of complaints. This time there may be more interest, whether or not more reporting. One of the major media, which steadfastly refuses to report, has arranged for me to see their special counsel in this area, for they are all beginning to get a bit concerned, now that it is too late. I'll do that this coming week. We'll see then what the extent of their interest then. I have not spoken to him. One of the editors, whose idea it was, made the arrangements. It is a late-afternoon appointment, when the guy will be anxious to get out of the office.

There are other side benefits of my work. Today, which will not air me, is supposed to be doing a 15-minute segment on Ray's present status. Back in 1966, when I had a friend close to one of the top Today people (she has left the country), she kept pushing them to air me on WHITTEWASH. Their refusal took this form: we'll air him on anything else on which he can talk, but not this subject. My love for animals could not be advanced by it so I just didn't accept it. Although they and one of their key bureaus are familiar with this book and its work, I have no reason to expect mention. And back in March, NBC did assign a reporter to the book. I've not had a word from him since giving him a copy (that I had to buy!). When I filed this action, the NBC DJ reporter had two hour-long phone conversations with me about it, but not a single mention. It is not possible that he is aware of the relevance of that suit and this Post decision, nor is it likely that if he were NBC would air it. There and at CBS there have been to-level policy decisions against me. It is not only clear, but in some cases reporters have made it explicit that they have been so informed.

Best,