

Dear Jim,

Further thoughts on 75-1996

1/11/78

Until mail time I'll start again on what I have had much in mind lately and wrote you about Sunday and started to write you about further on Monday or Tuesday. With this opening explanation. I make the explanation not because you are now aware but because you appear not to translate your awareness into actualities.

I have not been feeling badly. The added recent emotional stresses also have not had any influence on the way I felt physically. Last night I went to bed about 10:30. I fell asleep immediately, as usual. I was up twice because of the diuretic, although since I have been on it I have also eliminated the Postum I've been drinking after the morning pot of coffee is consumed. Then, a third time I awakened, without having to void. I tended the fireplace, returned to bed, was wide awake, felt fine and anxious to get to work but felt that now 3:30 a.m. is too early. I never did really fall asleep again. I was wide awake for a half hour and then dozed intermittently until I decided to get up at 5:15. I still felt fine and I went about things as usual. I finished writing Les Payne by the time the a.m. TV news went on. I began to exercise to it. After two miles, also as usual, I got off and walked about perhaps a minute to keep the seat from getting too uncomfortable and then did two miles more. Intending to return I then had a bowl of bran. Then, suddenly, I was exhausted. Like the worst period of the summer only with much more weariness. From the minor aching under the shoulderblades I presume this is from that arterial "embarrassment." A little before 8 I went out and got the paper and while sitting most of the time since about 7:20 remain extremely weary. It is now a little after 9.

It has been a long time since I've been this physically tired, for no reason at all. The exercycling I did is nothing to what I've been doing. The amount of exertion was negligible. But from nothing or from that I have, this strong reaction. It makes me think of what to expect in the future - and what I can't depend on.

While I have no special fear of death there is so much I still want to do and the DJ has me tied up so I can't do anything except react to them. I want to reverse this. I want them to react to me.

In what I shall say I do not draw upon any knowledge of the law or of judges for as you know they are areas largely of ignorance for me. However, I do draw upon long and hard experience. If you recall what I told you about this a year ago last September my forecast was completely accurate. Like Merlin, I remembered the future. I do not intend this as a boast or a joke. It is the kind of thing that you will learn one can do from prior experience, not from a crystal ball.

After I mailed you the Section 60 stuff yesterday afternoon I started to make a few notes. Then Bill came in and offered to help me with some filing and I did with her help clean up all the copies she'd made in the past few days. I have other current filing I'd planned to do before the mail this morning. I'll return to those notes because ~~far~~ without this added motive I was then getting at what I now begin.

With Green as timid and uncertain as she is and with the DJ making full use of this and its power we are doomed to stay on dead center, save for an occasional crumb, unless we take the initiative. This I propose to do, vigorously, subject to the following conditions: it presents no problem to you, does not endanger your fee, and you ~~cannot~~ come up with a better reason than you have to now for not doing it. (Saying what amounts to it isn't done that way in a case of this kind is not persuasive to me.)

There are two basic considerations I want to impress upon you: fear of losing is the most certain course to a loss; and we can't now lose because we have already won. Our loss now is the wasting of the time of us both. So I am proposing what I believe will in the long run take less time and in and of itself will not be a waste.

Not being able to draw upon the law or practise I eschew the philosophers and their wisdom and retell a story: Alger Hiss went to jail not because he was guilty but because he did not know how to fight. If even his manner had been different, if he had acted as one expects the innocent to act, which means if he had reacted, his life thereafter would have been entirely different. So also would all of history have been.

I'm not about to change history nor is it possible for me. But I know very well I'm in a position where I have not been able to try the case on the facts. And the judge is keeping us from trying it on the law. There remains only one alternative to throwing the whole thing in - trying it on the other side. For me and at this time the other side includes the very nice lady who is the judge.

We have a classic case of total abuse that includes felonies, all tolerated by the judge, who has yet to issue a single written order or enforce a verbal one. Now she has raped the law and violated me by having me meet the burden of proof for the government in the grossest contempt for both the actual language of the act and common decency. No matter how mild her manner, no matter how quite her words or pleasant the smile that fleets so easily to her face, what she did is outrageous.

I therefore want to make a breadside attack on all of this and all of those people. Take me literally on the number of people but do not assume I mean to rant and rave, scream and shotgun. To repeat the figure I used in writing Les, these are not a new breed in white hats, they are in remade hoods, their sheets not showing because we assume they are different than the Nixonians. "ullshit. The bureaucracy is of self-perpetuating, self-protecting evil.

If we do this whether or not we prevail before Green we will have brought it all to a head and we will have made a record for the defense of the act.

How we do it I leave to you. My preference is that we do it by an affidavit from me attached to motions and memoranda and informations of whatever else you call them from you. I think this is safer for you than what I really would prefer, that you put me on the stand and do it with live testimony, subject to cross examination. I think this becomes safe for you because of my age, the condition of my ~~VA~~ health, the age of this case and the incredible record of stalling and tolerance of almost anything by the judge for what is not two years in court.

We have a suitable fulcrum for intellectual judo in the unique credentials they have bestowed upon me in saying with the King case as they did with JFK, that I know more than they do in any combination they can muster/ Imagine-they have the whole FBI, the whole Criminal and Civil Rights Divisions of the DJ, the investigating group of CRD and more recently the task force of OPR and they turn not to them but to me. And do you think for a minute that they will now say it was all a bad joke?

So here I am, this kind of expert, getting along in years and in imperfect health and they are all combined, in improprieties and illegalities, to deny me my rights and to deny the country my services as what they call in such cases a private attorney general.

Considering all the disparities we have as good a situation as we can expect for this kind of approach. We also ask for an immediate decision on everything we have filed. The hell with caring whether or not we win on copyright - we want a decision now. The hell with Vaughn v. Rosen - we want a copy of all 25 numbered volumes of the prosecutorial 29 collected without obliterations- and we want it as soon as it can be xeroxed. We want a decision on the reprocessing of the entire files subject to THEIR proving that there would be demonstrable harm. They can then justify each one as they come to it. If we lose, so what? Get it over with and go on to other things. We will not lose on those volumes and they are the most important. We throw it all together and we can expect them in a compromise.

But I do want to make a record of what has happened to us and to me and what it has

cost me. I also want to do this in a way that can lay the basis for use of the punitive provisions. Between the record, the Cullinane retirement on full disability and my situation we now have such grevous and such total offenses that with the making of an adequate record the chance is the best we'll have.

The mail is here. Before I go for it please get me a transcript of the court docket entries in this case.

There are times when men must cry out. There are situations men cannot accept. This is such a time, such a situation. Long has been.

I also fear for you if we do not do this. Whether or not something happens to me but more if it does.

I can see an alternative if you believe that there can be a reaction against you. If you do then just let me know.

But please understand that I must take whatever it is that happened to me as both a ^{prod} ~~prod~~ and a warning.

And that I do not want those who are capable of it criticizing you for not having been vigorous enough.

If all you had to do to agree would be to surmount what you learned in law school and that you have learned in and from observing practise this might not be easy for you. But in addition you have as fine and decent, as tolerant and as non-violent a character as I have met. So you will naturally resist. But please think about this not only from your situation but also from mine.

I think I'd better try getting some of the mess around here cleaned up. Then at least I may find room for more stacks of messes. And then I think I'll jump to my letters to the FBI if I can get to that before I hear from you about the potential of what I have sent you on Volume or Section 60.

Best,