

Dear Jim,

Re FOI, Executive Sessions

4/1/74

Am I still naive! And is April Fool's Day the time of recognition!

It has just dawned on me why the government has been stalling on the various filings, even at the risk of angering a judge they knew might anger more easily.

Gessell goes into trial today on the Chapin case.

Any WG case can be expected to take more time. Might it not take him as much as a week to preside over selecting a jury before the trial itself begins? And isn't this the kind of trial that can prompt all sorts of legal arguments, quite aside from the time required for taking evidence and cross examination?

I'm inclined to believe that the defense will take much time with each prosecution witness and there will be long and tedious arguments over such frivolities as Dean was Chapin's counsel and Chapin has not released him from obligation and therefore Dean can't testify.

The abundance of the evidence and the witnesses against Chapin give his counsel few options. They have to resort to tricks and tricks take time.

So, we allowed ourselves to be tricked. We were nice guys and we can't be with bad guys. We don't have to be bad guys. However, we can be sticklers and I think that henceforth we should be.

This is self-criticism, not criticism of you. I should have been alert to this and when they first started stalling, particularly when I pointed out to you that they did not require the time they asked for, even more after their time had expired, I should have started asking myself why. The reason I didn't and I guess the reason you didn't think of it is because we were both so busy we didn't really care because we had so much else to do. The one delay we asked for would not have been necessary if it had not been a) that they delayed into a deadline period for you on other cases (and they could have known this); and b) the gas shortage, which inhibited our getting together.

Based on these and other considerations that should occur to us when we have a ~~chance~~ chance to think - this is off the top of the head after hearing an early a.m. news report that Chapin's trial starts today - I have a proposal which should also get more thought and planning. It is that we have interrogatories ready by the time we file the complaint in future cases. I mean in rough draft, know what we intend asking. We can add and polish easily, if new questions occur. If we are better prepared before starting we can oppose delays and appear more businesslike to the judges ourselves. And there will be more cases any time you want them!

Another thought relevant to the Hoover letter to Rankin about which I wrote you yesterday: If we can't use this before the Supreme Court-I mean at this stage, not if we get to argue - and don't need it in the current case, do you regard it as definitive an answer to the investigatory-files argument as I do? Especially when bracketed with the Hoover testimony I got Bud to use in Spectro? If you do, ought we not consider another alternative, hold it for the next time this exemption is argued? Can that, in another case, have the effect of overturning the evil of the Danaher line, which vitiates the law?

And still another thought: it will be too late for you to do anything about a tax-percentage claim based on fraud along the line I outlined, I suspect, by the time you get back from Houston. So, why not file an action against IRS people for all the feasancess? Meaning all the negative ones? And why not get the tax outfit they bankrupted to join us? If it is not out of business entirely. I think it is The Center for Corporate Responsibility.

There has been no FOI case in which the government has not stalled to the degree possible. Therefore I believe we should assume they always will. And be prepared for it.

Best,