

Dear Js,

10/31/74

NOV 4 1974

It has been impossible to make notes on the actualities or to write letters about the entirely incredible hearing that is now drawing to an end that may, despite the counter efforts I have made, be a super-drama, super-smear effort by the state.

Despite the most serious errors on our part we have a fine record. The errors keep it from being as good as it could be and there was a serious oversight on the basis for a stronger than Ellsberg constitutional argument. The first thing I did the day before the hearing started was get the proof. Jim Lesar, whose performance for a first-case lawyer, has been so good praise can't be exaggerated, was also so utterly exhausted he couldn't remember and at the right times he just didn't find the typed notes. However, the fault is not his. It is that of do-nothing senior counsel who were utterly unprepared and gave Jim no choice but to carry almost the entire load with never with a single witness time for preparation. I just can't speak to highly about Jim's work despite a few such oversights.

Last night, when the rest went out, I dined in the motel with a reporter friend to be on tap to prepare for cross-examination of today's possible State witnesses. I then took a nap, the first since leaving home, and fell into a deep sleep from which Jim awakened me to go to bed, without Bud having any interest in being prepared for any work today. (The few examinations Bud has conducted he has done well but his other courtroom work has been nil. I mean he hasn't even made indicated motions.

There hasn't been the most elemental legal thinking without prodding. Like yesterday, at the end of the day, when the judge was again showing desire for this thing to end yet wanting completeness, I suggested that he move to make closing arguments written rather than verbal. Jim is too ~~xxx~~ tired and too close to the past two weeks to be able now to do a full job of weaving all the evidence together. I doubt Bud will have a motion on it ready for this morning and if he has it is without discussing my idea with me.

We have already establish new and the most basic legal precedent. Jim and I, affirmed by the Supreme Court day before yesterday. The form of affirmation is still unknown to us and unreported here, where the papers are particularly terrible. It is in the area of entirely new rights to discovery under habeas corpus. And the fights in which I engaged on our previous trip gave them the choice between disgracing some of what they'd squandered away and contempt, so they gave us a fraction of what the DA had taken home as ~~2~~ "souvenirs."

To those who know what law and practise are to be in this land and are aware of the practise in the major cities, being here is like being in a foreign land.

Because I still anticipate they'll make an effort to try the case on me I'd made arrangement for local counsel in the extremity.

We became friends. The morning after I was at his home for dinner, Sunday night, the State was on the phone to him four times before they reached him, questioning him about why I'd seen him. This gives a bit of the flavor. But not of the venison he served me. There has been surveillance. We can't prove much but we see and feel it.

Ray has made an incredible witness. He took the press over. The most amazing part is that we simple had no time to prepare him for cross-examination and he came through it magnificently. We were confident of this, knowing him. There are several magnificent stories in this all. One the neophyte against the most experience, Jim beginning against Foreman, who would not show up, and then Jimmy's holding up after five years in solitary. Gotta go see him now. By the time I shave they'll have him waiting for me. Best regards,