

5/26/72

Dear Harvey,

This will explain why I write you two letters.

I could not go to Washington right after I last saw you because I had to go to New York to make a speech that made the trip possible. I had to use that time in an effort to find out why the lawyer supposedly trying to collect what was <sup>due</sup> us had been silent for so long and to try and place some books. (He is temporarily disbarred for a very human transgression and was embarrassed so he didn't tell us. Only the unlikely happens to us!) The first time I had to go to Washington Morse was not free, so we made the appointment for Thursday.

Because all of what really transpired can seem so improbable to others, I took a tape recorder with me so you would know that the withholding of the discovery material and the nature of the agreement are exactly as I have told you and so that, if Better didn't believe it, you'd have persuasive proof for him. However, Morse felt that if we did this the government might regard it as the equivalent of a deposition, so he said that if I'd like he'd be glad to initial the letter I sent you. I'll send him a carbon for this purpose.

His recollections are much clearer and more inclusive than I've indicated. We had a long chat. He remains very friendly. We have known for years that this whole thing troubled him because he had discussed it with friends of his who had, in turn, discussed it with my wife when they met. He expressed concern for my wife's health several times, he recalls the concern I then displayed that well. He remembers how he parked me at the Pentagon and was then so certain that the overflights continued, despite the successful litigation, that he said he'd see to it that any pilot we caught got court-martialed. And he seemed genuinely surprised at the government's motion on the running of the statute. He knew we had stopped that by filing the claims but was not aware of the lapse in filing the complaint. He did some hasty legal research while I was with him to see if it could be helpful. What he then looked at seemed irrelevant on this point. He had the idea that Taft had filed under the Military Claims Act, the law the government had decided, before our conference, would be used and what was better for our needs. On this he told me what I did not remember until he did, that under this law, if any claim exceeded the then statutory limit, they could still pay it to avoid litigation and report to Congress on it. He says this limit has been raised to \$15,000 per claim. While I was with him he discussed 10 U.S.C. 2731 and 2733. I asked him if he'd like to see a copy of the government's motion and he said he would. It is possible that he might come up with something, because he remembers that the Secretary directed that a settlement be reached if at all possible. I have the feeling that if he could think of a way around this motion for us he would want to. Consulting the books he had in his office was his idea. I did not ask or suggest it. If you would please send him one, thanks. Walter Herbert Morse, general counsel, Selective Service System, Washington 20435 will reach him.

While talking to him, the dirty trick that was played on us by Leahy et al became clear to me. They were between the pressure from the DOD to settle on the basis of DOD desire and their own determination not to recognize the applicability of the Military Claims Act, an Army posture. On this, when I was with him, Morse was quite pointed with Coggins. I am certain this is contemporaneously detailed in my log. And I remember Morse saying that it was not only applicable but that the DOD had asked for it in its own interest and that he had been one of the DOD witnesses sent to Congress to get it enacted. Also, there was the traditional pretense that aviation does no damage and when it does, they can't be held to account for it. So, they sent Van Voris, who told us one thing about his mission to deceive us and quite another was his real purpose, that disclosed in his memo on it. However, I am certain you will find in my log what he told us, what I told and offered him, and I think it will disclose that I asked him to go around and see the quite visible damage and that he said it wasn't necessary, that he knew without looking.

I go into this for several purposes, some I think obvious, that we were entrapped, in effect, by this deception when we thought he had been sent to us pursuant to the agreement to agree amicably. It directly addresses his allegation that we offered no proof, the basis cooked up for rejecting the claims. We thought we had reached the end of the first of the three steps with this and proceeded to the second. You will find this in the files in the form of estimates on values by maybe Bill Langston and I am sure Jake Maness of the Agricultural Economics Department of the Univ. of Md. In any event, a damage inspection was made by Colonel Low, despite the limit on the time he had. And, as I think you can see, all my requests that they send their own experts was pursuant to the agreement, so that there would not later be any question. The strange situation was that I was trying to live up to the agreement and the army was trying to frustrate it while making a pretense of trying to work things out. The VanVoris memo is, I think, a key in this and thus the value of my sending the government copies of the logs may help, if any of this can be made relevant. If they disputed the representation of it in the logs, they never did to me or in their own files. I think all of this can help with the judge and in the trial. I think it is the kind of thing Lewin had in mind. And looking to the future, no matter how improbable, I think we want a clear record on this for there remains the possibility of a private bill in Congress.

I think Morse will help in any way he can, including as a witness. He seems to have no objection to being deposed. He didn't want to be in the position of seeming to do anything for which there could be a contrived criticism of him.

On the expert witness end, I wrote Helligers but got no answer. When I phoned I learned that he has been out of town on a case. Someone else was to have called me back yesterday, but it didn't happen or happened when I was away. My car had been damaged in a parking lot the previous trip to Washington and I was having it repaired. If I do not hear soon, I will contact them again.

On that special Air Force file on me, have you asked? This now seems more important for reasons of other improprieties. When I was in New York I spoke to the ACLU about doing something about improper federal intrusions into my life. I have copies of some of the surveillance on my public appearances by the CIA and when I protested that it had been reported to me that the FBI had done, there was not even pro forma denial. Recent disclosures indicate this was not as abnormal as it might have seemed. There is substantial reason to believe that the same hunt you have been reading about was part of this when he was still with CIA. So, aside from its possible value in this case, that Air Force file can have other importances for me. I do hope you have asked better for it and for the one with the in-between number, for I believe it possible that with the two files on me separated by one with the in-between number, that one might be relevant. All of this surveillance of various kinds (and it extended to mail and phone) was after the beginning of this litigation. Recently I have had a confession from someone who claims to have been sliced on me. It is made credible by the faithful reporting of a phone conversation I had, and I was told that it was a phone conversation either the tape or transcript of which this person had heard or read.

I've got a delugated bird's egg for you boy when we meet again. I hope he found pleasure in the rocks.

Sincerely,

Harold Weisberg