

NR_key_name: 478828563F8B1B6A8525649E004CAE1C
SendTo: CN=Laura Denk/O=ARRB @ ARRB
CopyTo:
DisplayBlindCopyTo:
BlindCopyTo: CN=R ecord/O=ARRB
From: CN=David Marwell/O=ARRB
DisplayFromDomain:
DisplayDate: 05/21/1997
DisplayDate_Time: 9:59:32 AM
ComposedDate: 05/21/1997
ComposedDate_Time: 9:57:33 AM
Subject: Re: Court of Claims

Laura:I am forwarding to you the last paragraph of a message that I received from Jack this morning.To:
David_Marwell @ jfk-arrrb.govcc: (bcc: David Marwell/ARRB)From: Judge.John.Tunheim @ usdcmn.cchub.com
@ INTERNET@WORLDCOM Date: 05/20/97 09:18:20 AM ASTSubject: Re: Court of Claims***** That
was a good meeting with the FBI -- I like the fact that Laura is working on these docs, she can work well with
the Bureau, I think. JRT_____ Reply Separator
_____.Subject: Court of ClaimsAuthor: "David Marwell"<David_Marwell@jfk-
arrrb.gov> at InternetDate: 5/19/97 10:18 AMKermit has asked me to forward the following message to the
Board.To: david_marwell @ jfk-arrrb.govcc: (bcc: David Marwell/ARRB)From: kermith @
HUMANITIES1.COHUMS.OHIO-STATE.EDU @ INTERNET@WORLDCOMDate: 05/19/97 10:01:16 AMSubject:
Court of Claims David, I spent the weekend with Loren Smith, the Chief Judge of the Court of Claims and one
of the nation's authorities on takings. I, of course, did not ask him directly about Zapruder but rather tried to
gain some understanding of how the court works and how it views takings issues. A few matters did become
clear, although they were not informed by our specific case. First, the Court distributes about one-half a billion
dollars a year and in some years it has gone over a billion. Second, the takings fund is appropriated by
Congress based on what the Court does. So, the Court seldom looks at a case in terms of what it will cost the
American public, although Judge Smith did observe that colleagues do start to worry when awards go over the
\$100 million mark. He noted, as well, that the anything under \$10 million was considered small. Third, many
agencies engage in takings and do not have an explicit takings provision in their enabling legislation. The court
views this is an inherent power and that Congress would indicate if the agency did not have it rather than it
did. Fourth, an plaintiff could go to district court to challenge the constitutional status of a taking, but it would
not do so through the Court of Claims. Smith is a Reagan appointee and conservative to the bone. You might
want to pass this along to our fellow board members, since my e-mail list is down for the entire day with
restoration and repair work. Best, Kermit

Body:
recstat: Record
DeliveryPriority: N
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