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April 19, 1961

C
Mr. Byron Johnson
I. C. A.
Room 4898
Department of State Building
Washington 25, D. C.

Dear Byron:

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In accordance with our telephone conversation today I have reviewed my Miwa files and I believe that perhaps the simplest and most prompt way of refreshing your recollection is to provide you with copies of pertinent documents. Accordingly I enclose herewith a copy of my 28 November 1958 Memorandum before the Attorney General on behalf of Miwa; a copy of the 12 December opinion of the Attorney General in the case; a carbon of your 15 January 1959 letter to the Attorney General; a copy of the 6 February 1959 reply to you by the Deputy Attorney General; a carbon of your 13 February 1959 letter to the Attorney General; and a thermofax copy of his reply to you (apparently undated).

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Y
I am convinced that the result in this case was wrong although I will admit that this is a question on which there can be a reasonable difference of opinion. Leon Ulman, who handles alien property cases for the Attorney General in the Office of Legal Counsel of the Department of Justice disagrees with my conclusion. He is a first-rate lawyer, but, in this instance, I think that he was a victim of the fact that very few, if any, returns of vested property have ever been made to Japanese. Very likely this background influenced his approach to the question.

I feel that we have given the government a respectable legal basis for deciding this case our way if they want to do so. As you may recall, the essence of our approach is that the presence of Larry's father in Japan during the war years should not defeat the return of the property because his being in Japan was a matter of duress. Our basis for claiming duress is somewhat technical: Larry's father was repatriated to Japan while an order of deportation was outstanding against him; under the immigration law a person who has departed the country under those circumstances is determined to have been deported. If the elder Miwa was "deported", then his presence in Japan should be deemed to have been under duress.

Although the Gross case may be distinguished on fine points, essentially it held contrary to our position. But the Gross case was decided at a lower level in the administrative process, and the Attorney General need not have been

bound by it. What we should drive for is a fresh look at this case by the Department of Justice and preferably by someone other than Ulman.

If we need a peg on which to hang this request of Byron White for a review (and I would hope that under the circumstances such a peg would not be necessary), it would probably be that the last decision in this case is not necessarily final because it was an exercise of authority delegated by the Attorney General, and not actually the decision of the Attorney General personally.

The ways of government being what they are, one cannot be optimistic about obtaining a reversal. But perhaps things are different under the New Frontier. In any event we are confronted by a wrong that should be righted and deserving of our vigorous effort. If there is any further material that you need before we pursue this matter, I shall be glad to provide it.

With warm personal regards, I am

Sincerely,

Oliver E. Stone

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