

## CLAIM OF KIHEI HASHIOKA

[No. 146-35-5106. Decided February 28, 1951]

## FINDINGS OF FACT

This claim, alleging a loss in the sum of \$220, was received by the Attorney General on June 24, 1949. It involves a loss incurred by reason of the sale of personal property consisting of the claimant's household furniture and furnishings, including a radio with shortwave band. The claimant and his wife were born in Japan of Japanese parents and since December 7, 1941, the claimant has never returned to his native country. He was living at 2227 Damon Street, Los Angeles, California, when he was evacuated on May 6, 1942, pursuant to military orders issued under authority of Executive Order No. 9066, dated February 19, 1942. He was sent to the Santa Anita Assembly Center, California, and thereafter to the Rohwer Relocation Center, Arkansas. Unable to take the aforementioned personal property with him, claimant acted reasonably in selling same, including the shortwave radio for the sum of \$80, although the fair and reasonable value thereof at the time of sale was \$166. The fair and reasonable value of the radio alone was \$65. None of the alleged losses have been compensated for by insurance or otherwise.

Claimant and his wife were married in Japan in 1900. The claimant thereafter immigrated to the United States in 1903, leaving his wife in Japan. He has never since that time returned to Japan nor has his wife ever come to this country. He has furnished a statement to the effect that he has no intention of ever returning to Japan because of his advanced age. His wife presently resides in Japan with her parents.

## REASONS FOR DECISION

Under circumstances as set forth in the findings of fact, the property on account of which the alleged loss was

suffered is the separate property of the claimant. *Masao Ando, ante*, p. 38; *Ishi Ishizawa, ante*, p. 119. The loss on sale of the claimant's household furniture and furnishings, exclusive of the shortwave radio, is allowable. *Toshi Shimomaye, ante*, p. 1.

No allowance can be made on account of the shortwave radio since the claimant failed to deposit same with the local police authorities in the community in which he resided, as required by Section 9 of the "Regulations Controlling Travel and Other Conduct of Aliens of Enemy Nationality," issued by the Attorney General of the United States on February 5, 1942. *Haruto Tomita, ante*, p. 172.

The fair and reasonable value of the claimant's personal property so sold, inclusive of the shortwave radio, was \$166. From the sale thereof the claimant received \$80. Inasmuch as any loss suffered on account of the sale of the shortwave radio, the fair and reasonable value of which has been found to be \$65, must be disallowed, the fair and reasonable value of the remaining property of the claimant was \$101. Since the sale price of \$80 included therein the amount received on account of the radio, how much of the \$80 constituted the sale price of the radio is unknown. It would seem that a fair method of computing such price would be to allocate this unknown price to the \$65 which represents the true value of the radio in the same proportion as the \$80 received for all the property bears to the \$166 which has been found to be its true value. Thus:  $\frac{\$80}{\$166} = \frac{x}{\$65}$  or \$31.33. This \$31.33, the sale price of the radio, deducted from the \$80, total sales price, leaves \$48.67, the sale price of the remaining property. The fair and reasonable value of this property, excluding the radio, was \$101. From the sale thereof he received \$48.67, leaving the claimant with a compensable loss of \$52.33.