

CLAIM OF SAM TAKA

[No. 146-35-13634. Decided February 28, 1951]

FINDINGS OF FACT

This claim was received by the Attorney General on December 19, 1949, and is in the amount of \$770. The claim involves loss on sale of community property of the claimant and his wife, Kanaye Taka, namely, a tractor, a disk harrow and a spring tooth harrow, a safe, a radio, a refrigerator, and a sewing machine. Prior to his evacuation claimant had been a farm laborer. Claimant was born in Japan on November 2, 1877, of Japanese parents. His wife is also of Japanese ancestry. On May 28, 1950, he and his wife voluntarily returned to Japan without governmental compulsion or assistance, but until that time neither of them, since December 7, 1941, had gone to Japan. On December 7, 1941, and for some time prior thereto, claimant resided in Parlier, Fresno County, California, from which place he and his wife were evacuated on August 2, 1942, under military orders pursuant to Executive Order No. 9066, dated February 19, 1942, and sent to the Gila River Relocation Center.

He sold all this property and received for it, except the radio which had a shortwave band, \$155 which was reasonable in the circumstances for no free market was then available to him. He sold the radio about 10 days before his evacuation for \$25. Its fair value was then \$75. The fair value of his other property was \$664.53.

REASONS FOR DECISION

Claimant was eligible to claim. This claim includes all interest of the marital community in the subject prop-

erty, since the wife also is eligible to claim but has made no claim; and the husband having the power of management and control of such property under California law, may claim for the whole. *Tokutaro Hata, ante, p. 21.*

Claimant and his wife went to Japan in May 1950 in order to spend claimant's declining years in that country. He went of his own free will and under no compulsion on the part of the Government. Such departure for Japan does not constitute a deportation within the meaning of the Act. *Kumahichi Taketomi, ante, p. 162.*

The loss on sale, except the radio, is allowable. *Toshi Shimomaye, ante, p. 1.*

Claimant was an alien and his radio was equipped to receive shortwave broadcasts. Prior to his evacuation he sold it to a private individual. Radios equipped to receive shortwave fall into the category of contraband. Claimant should have deposited it pursuant to the regulations then existing. *Presidential Proclamation No. 2525, dated December 7, 1941, § 5 (f); Regulations of Attorney General, dated February 5, 1942, 7 F. R. 844, §§ 30.9, 30.12, 30.13.* The regulations did not permit an enemy alien to pursue an alternative course of selling or giving the prohibited thing away. It is clear, therefore, that any loss sustained by reason of this sale was neither a "reasonable" nor a "natural" consequence of claimant's evacuation or exclusion. *Haruto Tomita, ante, p. 172.*