

CLAIMS OF HIROTOSHI J. ODA; SHINA ODA; AND  
 JACK H. ODA, ADMINISTRATOR OF THE ES-  
 TATE OF TETSU ODA, DECEASED

[No. 146-35-16597. Decided November 5, 1954]

FINDINGS OF FACT

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REASONS FOR DECISION

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A question arises in this case as to whether or not the loss sustained by claimant, Hirotoishi J. Oda, who was a member of our Armed Forces at the time of the evacuation of his parents, was "a reasonable and natural consequence of the evacuation or exclusion of such person by the appropriate military commander from a military area in \* \* \* California" within the meaning of those words as used in Section 1 of the Act. Since the exclusion orders issued pursuant to Executive Order No. 9066 applied to persons of Japanese ancestry who were in the Armed Forces, as well as to those who were not, the only problem here consists in the possibility that, due to his military duties, this claimant could not have returned to the area in an event, so that the losses could not be said actually to have resulted from an exclusion order. Investigation has disclosed, however, that military leave was denied such persons in the Armed Forces, who wished to return to evacuation areas to look after their property interests, because the granting of such leave would have been futile. We do not know whether the instant claimant actually applied for such leave or whether it would have been feasible for him to have done so even if he could have obtained special permission to return to his home; but we think that such information should not control the out-

come of this case. As pointed out in the adjudication of the claim of *Sina Katsuma*, *ante*, p. 186, compensability of such a loss does not depend upon tracing its cause to Executive Order No. 9066. It is enough that the loss resulted from the "exclusion of such person by the appropriate military commander from a military area in \* \* \* California." There can be no doubt, therefore, that claimant's loss is expressly covered by the language of the Statute.

The claimant's situation, moreover, was within the circumstances deemed by the Congress to give rise to the moral obligation that the Act was designed to satisfy. Paraphrasing a passage from the adjudication of *Fumiyo Kojima*, *ante*, p. 209, it can be as truly said of this case as of that:

If *this claimant* had merely been called into military service, the losses here involved need not have occurred because *his parents* could have remained at home to take care of the property. Here, however, both he and *they* were called upon to evacuate their home in the interest of national defense. Hence, the property was lost.

The losses here involved are thus clearly distinguishable from those normally sustained by members of the Armed Forces by reason of their service. We hold, accordingly, that persons of Japanese lineage who were members of the Armed Forces and sustained losses in such circumstances are as much entitled to compensation under the Act as if they had been evacuated to assembly and relocation centers with the other members of their families.