

CLAIM OF FRANK MIYOKICHI SATO

[No. 146-35-3412. Decided July 6, 1951]

FINDINGS OF FACT

This claim, alleging a loss in the sum of \$1,250, was received by the Attorney General on May 6, 1949. It involves a loss of personal property consisting of an automobile, a motor-driven lawn renovator, three tennis rackets, and one Gladstone bag containing a collection of coins, \$25 in currency and miscellaneous items of wearing apparel and shoes. This property was part of the community estate of the claimant and his wife, Mine Itabashi Sato, who died intestate on March 24, 1950. The claimant and his wife were born in Japan of Japanese parents and at no time since December 7, 1941, has either the claimant or his wife gone to Japan. On and prior to that date, the claimant, his wife, and five children, all of whom were born in the United States, actually resided at 1053 South Kenmore Avenue, Los Angeles, California. On March 13, 1942, the claimant was apprehended as an enemy alien and sent to the Tuna Canyon Detention Camp and thereafter on March 27, 1942, to the Santa Fe Internment Camp, Santa Fe, New Mexico. The claimant's wife and family, with the exception of the claimant's son, Thomas, who joined the Armed Forces of the United States on January 8, 1942, were evacuated on April 28, 1942, and sent to the Santa Anita Assembly Center. On June 7, 1942, the claimant was released from the Santa Fe Internment Camp and permitted to join his family at the Santa Anita Assembly Center. Prior to her evacuation, the claimant's wife left the hereinabove mentioned automobile, lawn renovator, and three tennis rackets with the claimant's employer who promised to care for the property during

the period of evacuation. The claimant had worked for the said employer for more than 32 years and it was reasonable for the claimant's wife to leave such property in her care. The claimant's employer, with the consent of the claimant, arranged to have the registration of ownership of the claimant's automobile changed to her own name for the purpose of affording greater protection to the claimant's property, inasmuch as stored property owned by Japanese persons was known to have been subject to promiscuous vandalism. The said employer continued her residence in Los Angeles and, according to records furnished by the Department of Motor Vehicles, renewed registration of the automobile in her own name for the year 1943. During the winter of 1943-44, the husband of the claimant's employer wrongfully, and without the consent of the claimant or the said employer, removed the claimant's automobile and the other items of the claimant's property outside the State of California, converting same to his own use. On his release from the relocation center, the claimant returned to Los Angeles and discovered that his former employer had died on April 6, 1945. None of the aforementioned property has ever been recovered although diligent efforts were made to find claimant's employer's husband.

While en route to Los Angeles from the Rohwer Relocation Center, it became necessary for the claimant to change trains at Sacramento, California. The claimant's Gladstone bag, among other pieces of baggage, was removed from the train and placed under the supervision and care of an official of the War Relocation Authority. When he attempted to reclaim his suitcase, it was found to be missing. Diligent effort has been made to recover the suitcase even to the extent of enlisting the aid of the railway company, to no avail.

The fair and reasonable value of the property left in the custody of the claimant's employer and the Gladstone bag, including the contents thereof, was \$910 which sum is compensable under the Act. None of the aforemen-

tioned losses have been compensated for by insurance or otherwise.

REASONS FOR DECISION

The evidence of the claimant's loss consists of his sworn statement and other corroborative documentary evidence. While a physical inspection of the property was not possible, investigation has revealed nothing contradictory to the testimony proffered by the claimant and said testimony therefore stands unrebutted.

Although claimant was interned within the meaning of Section 2 (b) (2) of the Act, *supra*, the loss sustained was not the result of action taken by "any Federal agency pursuant to sections 4067, 4068, 4069, and 4070 (relating to alien enemies) of the Revised Statutes, as amended (50 U. S. C. 21-24) * * *." The claimant was released from the Sante Fe Internment Camp on June 7, 1942, at which time his property was in the custody of his employer in Los Angeles. The wrongful taking by the employer's husband resulting in the loss for which claim is made did not occur until the winter of 1943-44 on which date claimant was in the Jerome Relocation Center at Denson, Arkansas. The loss is therefore attributable to his exclusion from the military area in which he had heretofore resided and in which the loss occurred. But for such exclusion, it is safe to assume that he would either have reclaimed his property or have otherwise prevented its removal from the State by the aforementioned employer's husband. Accordingly, the loss incurred was occasioned by the wrongful conversion of the claimant's property and is compensable as a reasonable and natural consequence of his exclusion. *Akiko Yagi, ante*, p. 11; *Seiji Bando, ante*, p. 68. It has been established as a fact that claimant's Gladstone bag, at the time it disappeared from the Sacramento railroad station, was in the custody of an official of the War Relocation Authority. Since Section 1 of the Act permits recovery for "loss of personal property bailed to or in the custody of the Government or any

agent thereof," the loss suffered on account of the bag is reimbursable. *Yasuhei Nagashima, ante, p. 135.*

Claimant's wife died intestate possessed of the right to claim which right descended to her husband, the claimant herein, with the other assets of her estate. *Fumiyo Kojima, ante, p. 209; Kinjiro and Take Nagamine, ante, p. 78; Probate Code of California, §§ 201, 202.*