

CLAIM OF SEIJI BANDO

[No. 146-35-4557. Decided October 9, 1950]

FINDINGS OF FACT

This claim, in the amount of \$995.75, was received by the Attorney General on June 7, 1949. It involves loss due to theft of personal property consisting of clothing, bedding, \$400 in cash and a check issued by the Treasurer of the United States in the amount of \$78. Claimant has never married and was the sole owner of such property at the time of loss. Claimant was born in Japan on February 10, 1886, of Japanese parents and at no time since December 7, 1941, has claimant gone to Japan. On December 7, 1941, and for some time prior thereto, claimant had a place of residence at 1724 Webster Street, San Francisco, California, but was actually residing at 1734 Post Street, San Francisco, California, when he was evacuated on May 11, 1942, under military orders issued pursuant to Executive Order No. 9066, dated February 19, 1942, and sent to the Pomona Assembly Center in California and from there to the Heart Mountain Relocation Center in Wyoming. Approximately ten months after his evacuation, claimant relocated in Detroit, Michigan. Several days prior to his evacuation from San Francisco, claimant stored a suit, Tuxedo, bedding, trunk, two suitcases, phonograph, phonograph records, and a clock in the basement of the dwelling at 1724 Webster Street, San Francisco, California, where he had maintained a place of residence for many years. Said basement was securely boarded and locked but some time thereafter some unknown person or persons broke into and entered the premises and took the property claimant had stored therein. Upon his return to San Francisco in 1945, claimant

discovered that said basement had been broken into and that such property was missing. He made inquiries concerning the property from people in the neighborhood but found no one who could furnish any information concerning its whereabouts. He has since been unable to recover any of the missing property. After claimant had been at the relocation center several months, he relocated in Detroit, Michigan, where on April 2, 1945, some unknown person or persons broke into his residence and appropriated items of claimant's personal property, consisting of three army trunks, a suit, overcoat, cash in the amount of \$400 and a check issued by the United States in the amount of \$78 payable to the claimant for relocation expenses from the relocation center to Detroit, Michigan. The Detroit Police Department was notified of the theft but was unable to locate such property. Claimant has been unable to recover any of the property lost in Detroit, Michigan, or San Francisco, California, although reasonable effort was made to recover same. None of claimant's losses have been compensated for by insurance or otherwise. As to the property stored in the basement of his residence in San Francisco, California, the claimant acted reasonably in so storing it. The place selected for storage was reasonably safe and well secured and locked. A reasonable and fair value of the property lost in San Francisco, California, at the time of loss was \$188.16.

REASONS FOR DECISION

The evidence submitted by claimant in his sworn statement has been corroborated, in part, by investigation. It was reasonable under the circumstances for the claimant to store his property before his evacuation from San Francisco with the intention of repossessing it on his return from the relocation center. Evacuees were permitted to take with them to the assembly centers only such effects as could be readily hand-carried and were officially encouraged to take only such articles as would be needed for use in the relocation center. (Instructions to Civilian

Exclusion Order No. 5, Hq. Western Defense Command, April 1942.) Claimant, faced with the choice of either selling or storing his property acted reasonably in choosing to store it and, a few days before his actual evacuation, did so store it. It is a recognized fact that the Government encouraged and advised evacuees to store their goods and property "in depositories of their own choice" and "on a voluntary basis." (U. S. Department of Interior pamphlet, *The Wartime Handling of Evacuee Property*, p. 29.) For these reasons it cannot be said that claimant acted unreasonably in storing his property in the basement of his residence in San Francisco, California. Physical inspection of the property could not be had but a view of the premises in which the property was stored in San Francisco disclosed that such basement was a reasonably safe place for the storage of this property. Based on the evidence available a valuation of this property at the time of claimant's evacuation in the amount of \$188.16 is reasonable. Claimant suffered a loss in said amount and is entitled to receive that sum pursuant to aforementioned Act as compensation for loss of personal property as a reasonable and natural consequence of evacuation.

The portion of the claim involving loss through theft in Detroit, Michigan, is not compensable because such loss does not constitute a loss of personal property as a reasonable and natural consequence of claimant's evacuation under the above-mentioned executive order. Congress by the Act, pursuant to which this claim is submitted, intended to indemnify claimants for losses suffered "as a * * * natural consequence of the evacuation" and in using the word "natural" meant to connote only the normal meaning of the word thereto. Elementally, the word "natural" as defined in Webster's New International Dictionary is "that which is in accordance with the ordinary course of nature * * * in accordance with or due to the conditions, events or circumstances of the case; in line with normal or ordinary experience." In *Justesen v. Pennsylvania R. R. Co.*, 92 N. J. L. 257, the court stated

that: "The term 'natural' imports such as might reasonably have been foreseen." In *The Santa Rita*, 173 Fed. 413, the court combining the words natural and consequence as used in the Act states: A 'natural consequence' of an act is the consequence which ordinary follows it; the result which may reasonably be anticipated from it." And again in *Winfree v. Jones*, 51 S. E. 153, 104 Va. 39, the statement is made that "A 'natural consequence' is one which has followed from the original act complained of in the usual ordinary, and experienced course of events; a result therefore which might reasonably have been anticipated or expected."

From the definitions hereinabove quoted and the cases cited, it can readily be seen that in the instant case the theft for which the claimant seeks to be reimbursed is not such as was contemplated by Congress under the term "natural consequence of the evacuation." To hold otherwise would open the door to any damage or loss even, remotely related, which might by some stretch of the imagination be connected with the evacuation. Moreover, as regards the check for \$78 drawn on the Treasurer of the United States it would seem that the claimant had, and presumably still has, an administrative remedy. (Cf. 31 U. S. C. 122.) While it is most probable that claimant would not have been in Detroit at the time of the theft if he had not been evacuated, it is clear that the theft was not a "natural consequence" thereof in any acceptable sense. In so holding we wish not to be understood as intimating that the mere retention or resumption of control and dominion over property by a claimant would in all circumstances require disallowance of compensation for its loss through theft.