

## Statement of the case.

## PUGH v. UNITED STATES.

A petition to the Court of Claims setting forth—

*First.* That the United States, during the late civil war, illegally, violently, and forcibly took possession of the petitioner's plantation, in one of the rebellious States, on the false pretext that it had been abandoned by the owner, and held it until January, 1866, during which time the United States, and the agents placed in charge of the plantation, destroyed and carried away the property of the petitioner to the value of \$42,508;

*Secondly.* That the United States, during the same period, rented the plantation to sundry persons who made large crops, worth \$15,000 or \$30,000;

does not present a case within the present jurisdiction of that court. The case made by the first allegation is barred by the act of July 4th, 1864, which excludes claims growing "out of the destruction or appropriation of or damage to property by the army or navy engaged in the suppression of the rebellion."

The second, because presenting the leasing of the property no otherwise than as an incident to the unlawful appropriation and spoliation of the plantation; and therefore not within the second and third sections of the act of July 2d, 1864, which provide for leasing abandoned lands by *the agents of the Treasury Department*, and the payment of the net amounts into the Treasury.

APPEAL from the Court of Claims; the case being thus:

By the act of Congress of 1855, constituting the Court of Claims, jurisdiction is given to it to hear and determine all claims against the United States founded on any law of Congress, or upon any regulation of an executive department, or upon any contract express or implied with the government of the United States.

A subsequent act, however—that of July 4th, 1864—enacts that this jurisdiction "shall not extend to or include any claim against the United States growing out of the destruction or appropriation of or damage to property by the army or navy engaged in the suppression of the rebellion from the commencement to the close thereof."

An act of July 2d, 1864,\* amendatory of the Abandoned and Captured Property Act (an act which provides for taking possession and selling of captured and abandoned property

\* 18 Stat. at Large, 375.

## Argument for the claimant.

and paying the net proceeds to loyal owners) enacts, by its second and third sections, that the Treasury agents shall take charge of and lease the abandoned lands and houses, &c., and pay the net amount of rents collected into the Treasury.

In this state of statutory law one Pugh filed his petition in the Court of Claims, the substantial averments of it being:

*First.* That the United States, during the late civil war, illegally, violently, and forcibly took possession of his plantation, in the State of Louisiana, on the false pretext that it had been abandoned by the owner, and held it until January, 1866, during which time the United States, and the agents placed in charge of the plantation, destroyed and carried away the property of the petitioner to the value of \$42,508; and,

*Secondly.* That the United States, during the same period, rented the plantation to sundry persons, who made large crops, worth \$15,000 or \$30,000.

This petition was dismissed by the Court of Claims for want of jurisdiction, and the case was now here on appeal.

*Mr. T. J. Durant, for the appellant:*

1. The first part of the case, the claim for the \$42,508, is founded on an implied contract; on that *assumpsit* or undertaking which the law raises, *ex aequo et bono*, against every one who carries off property rightly belonging to another, to restore it. It is not less plainly founded on a law of Congress. There is no allegation in the petition that it was the "army or navy engaged in the suppression of the rebellion," which destroyed or carried off the property to the value of the \$42,508, and accordingly there is nothing to bring the case within the act of July 4th, 1864, which excludes destruction or loss from those sources.

2. But if that act is supposed to be a bar to the first part of the claim, certainly it is no bar to the second. The claim for the profits from leasing comes plainly within the act providing for the leasing of abandoned lands.

*Mr. C. H. Hill, Assistant Attorney-General, contra.*

## Opinion of the court.

The CHIEF JUSTICE delivered the opinion of the court.

The destruction of property complained of was during the war and in one of the States engaged in the rebellion, and the presumption, in the absence of inconsistent allegations, is that it was by the military forces of the United States. It is clear that a petition for compensation for injuries of this character could not be sustained in the Court of Claims, for the demand plainly grows "out of the destruction or appropriation of or damage to property by the army or navy engaged in the suppression of the rebellion," and is excluded from the cognizance of that court by the express terms of the act of July 4th, 1864.

But it is insisted that the court had at least jurisdiction of the case made by the petition in respect to the leasing of the plantation, under the amendment to the Captured and Abandoned Property Act made by the second and third sections of the act of July 2d, 1864. These sections provide for leasing abandoned lands by the agents of the Treasury Department, and the payment of the net amounts of rents collected into the Treasury. But the petition in this case makes the leasing an incident only to the unlawful appropriation and spoliation of the plantation. It does not allege any leasing by the agents of the Treasury Department, or that any rents were collected by them or paid into the Treasury.

It is plain, therefore, that the petition does not state a case within the jurisdiction of the Court of Claims. If the petitioner has any claim upon the government he must seek relief from Congress.

The decree dismissing the petition must be

**AFFIRMED.**