

SUPREME COURT OF THE UNITED STATES

United States v. Anderson

Anderson, 76 U.S. at 56 (1870) · Decided February 28, 1870

OPINION

DAYIS, J.

76 U.S. 56 (____) 9 Wall. 56 UNITED STATES v. ANDERSON. Supreme Court of United States. *62 Mr. Hoar, Attorney-General, and Mr. R.S. Hale, special counsel, for the United States. Messrs. J.A. Wills, G. Taylor, T.J.D. Fuller, A.G. Riddle, and W.P. Clarke, contra. *64 Mr. Justice DAVIS delivered the opinion of the court. Whether the positions taken by the learned counsel of the United States in the court below, and maintained in this court also, are well taken or not depends on the construction to be given the act concerning abandoned and captured property, and the 4th section of the act of June 25th, 1868.

The act of March 12th, 1863, in one particular, inaugurated a policy different from that which induced the passage of other measures rendered necessary by the obstinacy and magnitude of the resistance to the supremacy of the National authority.

To overcome this resistance, and to carry on the war successfully, the entire people of the States in rebellion were considered as public enemies; but it is familiar history that there were many persons whom necessity required should be treated as enemies who were friends, and adhered with fidelity to the National cause. This class of people, compelled to live among those who were combined to overthrow the Federal authority, and liable at all times to be stripped of their property by the usurped government, were *65 objects of sympathy to the loyal people of this country, and their unfortunate condition was appreciated by Congress.

During the progress of the war it was expected that our forces in the field would capture property, and, as the enemy retreated, that property would remain in the country without apparent ownership, which should be collected and disposed of.

In this condition of things Congress acted. While providing for the disposition of this captured and abandoned property, Congress recognized the status of the loyal Southern people, and distinguished between property owned by them, and the property of the disloyal. It was not required to do this, for all the property obtained in this manner could, by proper proceedings, have been appropriated to the necessities of the war.

But Congress did not think proper to do this. In a spirit of liberality it constituted the government a trustee for so much of this property as belonged to the faithful Southern people, and while directing that all of it should be sold and its proceeds paid into the treasury, gave to this class of

persons an opportunity, at any time within two years after the suppression of the rebellion, to bring their suit in the Court of Claims, and establish their right to the proceeds of that portion of it which they owned, requiring from them nothing but proof of loyalty and ownership.

It is true the liberality of Congress in this regard was not confined to Southern owners, for the law is general in its terms, and protects all loyal owners; but the number of Northern citizens who could, in any state of the case, be bonâ fide owners of this kind of property was necessarily few, and their condition, although recognized in the law, did not induce Congress to incorporate in it the provision we are considering.

The measure, in itself of great beneficence, was practically important only in its application to the loyal Southern people, and sympathy for their situation doubtless prompted Congress to pass it. It is in view of this state of things, as it is the duty of a court in construing a law to consider the circumstances under which it was passed and the object to *66 be accomplished by it, that we are called upon to apply this particular provision to the facts of this case.

The loyalty of the claimant is not questioned, but his ownership, in the sense of the law, of the property in dispute is denied. It is not denied that he purchased the property in good faith for value, and with no purpose to defraud the government or any one else; but it is said the persons from whom he bought resided in South Carolina, were presumed to be rebels, and were, therefore, prohibited from selling.

This is an attempt to import from the confiscation law of July 17th, 1862, into this law, a disability which it does not contain. If this could be done, but very little benefit would accrue to the loyal people of the South from the privilege conferred on them by the law in question. It is well known that nearly all the Southern people were engaged in the rebellion, and that those who were not thus employed furnished the exception rather than the rule.

Few as they were, the necessities of life required that they should buy and sell, and, equally so, that their trading should be free and unrestricted. This condition of things Congress was aware of, and if it had been its purpose to limit the privilege in controversy to the loyal citizen, who happened to acquire his property from another person equally loyal, they would have said so.

But Congress had no such narrow policy in view. Its policy in the matter was broad and comprehensive, and embraced within its range all persons who had adhered to the Union. It treated all alike, and did not discriminate in favor of the person who could trace his title through a loyal source, and against him who was not so fortunate. It did not consider the loyal planter, who raised his own cotton and rice, as entitled to any more protection than the dweller in the cities and towns who lived by traffic, and bought where he could buy the cheapest.

The confiscation law, however, was not intended to apply to a person occupying the status of this claimant. The purpose which Congress had in view in passing that law was very different from

that which induced it, in the Captured *67 and Abandoned Property Act, to extend a privilege to the loyal owner.

The confiscation law concerns rebels and their property; was intended as a measure to cripple their resources; and, in so far as it claims the right to seize and condemn their property, as a punishment for their crimes, recognizes that certain legal proceedings are necessary to do so. But by the act in question the government yielded its right to seize and condemn the property which it took in the enemy's country if it belonged to a faithful citizen, and substantially said to him, "We are obliged to take the property of friend and foe alike, which we will sell and deposit the proceeds of in the treasury; and if, at any time within two years after the suppression of the rebellion, you prove satisfactorily that of the property thus taken you owned a part, we will pay you the net amount received from its sale."

The two acts cannot be construed in *pari materiâ*. The one is penal, the other remedial; the one claims a right, the other concedes a privilege. It is said the vendors of the cotton were incompetent witnesses by reason of the 4th section of the act of June 25th, 1868, which declares that no plaintiff or claimant, or any person from or through whom any such plaintiff or claimant derives his alleged title, claim, or right against the United States, or any person interested in any such title, claim, or right, shall be a competent witness in the Court of Claims in supporting any such title, claim, or right.

There are three classes of persons who are, by this section, prohibited from testifying. The claimant cannot testify, nor can the person who, after a claim has accrued to him against the United States, has sold or transferred it to the claimant, nor can any one who is interested in the event of the suit. Doucen and Fleming, the immediate vendors of Anderson, are not excluded by this rule.

They were not interested in the suit, and in no sense did Anderson derive his claim against the United States through them. They never had any claim against the United States, because when the property was taken it belonged to Anderson, and it is *68 only after the property was sold that Anderson's claim even to the proceeds attached. If the property in transitu from Charleston to New York had been lost, no claim could arise under the law in favor of Anderson against the United States, his claim being contingent upon the proceeds of the property finally reaching the treasury.

But the point most pressed in the argument against the right to recover in this case relates to the limitation in the law. It is contended that the claim was barred by this limitation, as it was not preferred until the 5th of June, 1868. It is, therefore, necessary to determine when the time for preferring claims commenced, and when it ended.

The words of the statute on this subject are, that any person claiming to be the owner of abandoned or captured property may, at any time within two years after the suppression of the

rebellion, prefer his claim to the proceeds thereof in the Court of Claims. There is certainly nothing in the words of this provision which disables a person from preferring his claim immediately after the proceeds of his property have reached the treasury, and there is no good reason why a different interpretation should be given them.

On the contrary, there is sufficient reason in the nature of the legislation on this subject, apart from the letter of the law, to bring the mind to the conclusion that Congress intended to give the claimant an immediate right of action.

The same motive that prompted Congress to grant the privilege to prefer a claim at all, operated to allow it to be done so soon as the property had been converted into money. If in the condition of the country, it was known that the Union men of the South, as a general thing, would be unable to prosecute their claims while the war lasted, still it was recognized that some persons might be fortunate enough to do so, and to meet the requirements of their cases the right to sue at once was conferred.

In the progress of the war, as our armies advanced and were able to afford protection to the Union people, it was expected that many of them, availing themselves of the opportunity, would escape into the National *69 lines, and be thus in a condition to secure the rights conceded to them by this statute; and the history of the times informs us that this expectation was realized.

To impute to Congress a design to compel these people, impoverished as they were known to be, to wait until the war was over before they could institute proceedings in the Court of Claims, would be inconsistent with the general spirit of the statute, and cannot be entertained. If, then, the right to prefer a claim attached as soon as the money reached the treasury, when did it expire?

The law says two years after the rebellion was suppressed; but the question recurs, when is the rebellion to be considered suppressed, as regards the rights intended to be secured by this statute? It is very clear that the limitation applied to the entire suppression of the rebellion, and that no one was intended to be affected by its suppression in any particular locality.

It might be suppressed in one State and not in another, but the citizen of the State that had ceased hostilities was in no better or worse position in this regard than the citizen of the State where hostilities were active.

The limitation was not partial in its character, but operated on all persons alike who are affected by it; was dependent on the solution of a great problem, and an interpretation of it which would prescribe one rule for the people of one State, and a different rule for those living in another State, cannot be allowed to prevail.

The point, therefore, for determination is, when, in the sense of this law, was the rebellion entirely suppressed. And in this connection it is proper to say, that the purposes of this suit do not require

us to discuss the question which may have an important bearing on other cases whether the rebellion can be considered as suppressed for one purpose and not for another, nor any of the kindred questions arising out of it, and we therefore express no opinion on the subject.

The inquiry with which we have to deal concerns its suppression only in its relation to those persons who are within the protection of this law. It is argued, as the rebellion was in point of fact suppressed when the last Confederate general *70 surrendered to the National authority, that the limitation began to run from that date. If this were so, there is an end to the controversy; but did Congress mean, when it passed the statute in question, that the Union men of the South, whose interests are especially cared for by it, should, without any action by Congress or the Executive on the subject, take notice of the day that armed hostilities ceased between the contending parties, and if they did not present their claims within two years of that time, be forever barred of their recovery?

The inherent difficulty of determining such a matter, renders it certain that Congress did not intend to impose on this class of persons the necessity of deciding it for themselves. In a foreign war, a treaty of peace would be the evidence of the time when it closed, but in a domestic war, like the late one, some public proclamation or legislation would seem to be required to inform those whose private rights were affected by it, of the time when it terminated, and we are of the opinion that Congress did not intend that the limitation in this act should begin to run until this was done.

There are various acts of Congress and proclamations of the President bearing on the subject, but in the view we take of this case, it is only necessary to notice the proclamation of the President, of August 20th, 1866, and the act of Congress of the 2d of March, 1867.

On the 20th day of August, 1866, the President of the United States, after reciting certain proclamations and acts of Congress concerning the rebellion, and his proclamation of 2d of April, 1866, that armed resistance had ceased everywhere except in the State of Texas, did proclaim that it had ceased there also, and that the whole insurrection was at an end, and that peace, order, and tranquillity existed throughout the whole of the United States of America.

This is the first official declaration that we have, on the part of the Executive, that the rebellion was wholly suppressed, and we have shown, in a previous part of this opinion, that the limitation, in its effects on the persons whose rights we are considering, did not begin to run until the rebellion was suppressed throughout the whole country. But we are not *71 without the action of the legislative department of the government on this subject.

On the 20th day of June, 1864, Congress fixed the pay of non-commissioned officers and privates, and declared that it should continue during the rebellion; and on the 2d day of March 1867, it continued this act in force for three years from and after the close of the rebellion, as announced by the proclamation of the President. Congress, then, having adopted the 20th day of August,

1866, in conformity with the announcement of the President, as the day the rebellion closed, for the purpose of regulating the pay of non-commissioned officers and privates, can it be supposed that it intended to lay down a harsher rule for the guidance of the claimants under the Captured and Abandoned Property Act, than it thought proper to apply to another class of persons whose interests it equally desired to protect.

In order to reach this conclusion, it is necessary to ascribe to Congress a policy regarding the statute under which this claim is preferred foreign to the views we have expressed concerning it. Besides, it would require us to construe two acts differently, although relating to the same general subject, in the absence of any evidence that such was the intention of the legislature.

If we are right as to the motive which prompted Congress to pass the law in question, and the object to be accomplished by it, it is clear the point of time should be construed most favorably to the person who adhered to the National Union, and who has proved the government took his property, and has the money arising from its sale in the treasury.

As Congress, in its legislation for the army, has determined that the rebellion closed on the 20th day of August, 1866, there is no reason why its declaration on this subject should not be received as settling the question wherever private rights are affected by it. That day will, therefore, be accepted as the day when the rebellion was suppressed, as respects the rights intended to be secured by the Captured and Abandoned Property Act.

The point taken that the court below was not authorized *72 to render judgment for a specific sum, but only to determine whether the claimant was entitled to receive the proceeds of his property, leaving it for an officer of the treasury to fix the amount, cannot be sustained.

To sustain this position, would require us to hold that for this class of cases Congress intended to constitute the Court of Claims a mere commission. This court will not attribute to Congress a purpose that would lead to such a result, in the absence of an express declaration to that effect. It is proper to say, in conclusion, that the case of *McKee v. United States*,[*] cited as an authority against the claimant's right to recover, has no application whatever to this case.

JUDGMENT AFFIRMED. NOTE. Soon after judgment was rendered in the case which precedes, was decided also another case under the same acts of Congress, but presenting a state of facts distinguishing it from that case. It was the case of *NOTES* [*] 8 Wallace, 163.