

AMERICAN CONSTITUTIONALISM  
VOLUME I: STRUCTURES OF GOVERNMENT  
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Supplementary Material

Chapter 11: The Contemporary Era – Federalism

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**Inyo County v. Paiute-Shoshone Indians, 538 U.S. 701 (2003)**

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*The Bishop Paiute Tribe created a federally regulated casino on its reservation land in Inyo County, California. In 1999, the county Department of Health and Human Services discovered that three casino employees failed to report their casino earnings on their applications for state welfare benefits. After the casino refused to provide employment records, the county district attorney executed a search warrant to obtain those materials in order to build a case for charges of welfare fraud. When the district attorney sought records on six additional employees, the tribe filed suit in federal district court to enjoin further state processes against tribal entities and seeking damages for past constitutional violations. The tribe argued that the district attorney and sheriff were acting without the authority of the law and outside their jurisdiction in violation of the tribe's right of sovereign immunity.*

*The district court dismissed the suit. The Court of Appeals for the Ninth Circuit reversed, holding that the state officials violated the tribe's right against unconstitutional searches by executing warrants on tribal land. The county appealed to the U.S. Supreme Court, which unanimously reversed the circuit court.*

*The critical issue before the Court was whether the tribe could use Section 1983 of the Civil Rights Act of 1871, which authorized "any citizen . . . or other person within the jurisdiction" of the United States to sue for violations of "rights, privileges, or immunities secured by the Constitution and laws" by state officials acting "under the color of law." Were tribes a "person" for purposes of Section 1983? Could the tribe use this legislative provision to vindicate its claims of sovereign immunity? The Court concluded that it could not. Sovereign entities were not persons for purposes of the Civil Rights Act. The Court had not yet clearly ruled on whether tribal sovereign immunity blocked state search warrants of tribal property during investigations of off-reservation crimes. This case only clarified that Section 1983 was not an available remedy for any constitutional violations that might be involved in such a search.*

*Why did the Court not extend Section 1983 to Indian tribes? Under what circumstances might a collective entity make use of Section 1983? What would be the argument for extending the scope of the Civil Rights Act of 1871 to include claims of violation of sovereign immunity? Did the Court hold that the search was a violation of constitutional rights?*

JUSTICE GINSBURG, delivered the opinion of the Court.

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The issue pivotal here is whether a tribe qualifies as a claimant -- a "person within the jurisdiction" of the United States -- under § 1983. The United States maintains it does not, invoking the Court's "longstanding interpretive presumption that 'person' does not include the sovereign," a presumption that "may be disregarded only upon some affirmative showing of statutory intent to the contrary." . . .

The Tribe responds that Congress intended § 1983 "to provide a powerful civil remedy 'against all forms of official violation of federally protected rights.'" . . . To achieve that remedial purpose, the Tribe maintains, § 1983 should be "broadly construed." . . .

As we have recognized in other contexts, qualification of a sovereign as a “person” who may maintain a particular claim for relief depends not “upon a bare analysis of the word ‘person,’” . . . but on the “legislative environment” in which the word appears. . . . Thus, in *Georgia v. Evans* (1942), the Court held that a State, as purchaser of asphalt shipped in interstate commerce, qualified as a “person” entitled to seek redress under the Sherman Act for restraint of trade. . . .

There is in this case no allegation that the County lacked probable cause or that the warrant was otherwise defective. It is only by virtue of the Tribe’s asserted “sovereign” status that it claims immunity from the County’s processes. . . .

Section 1983 was designed to secure private rights against government encroachment . . . , not to advance a sovereign’s prerogative to withhold evidence relevant to a criminal investigation. For example, as the County acknowledges, a tribal member complaining of a Fourth Amendment violation would be a “person” qualified to sue under § 1983. . . . But, like other private persons, that member would have no right to immunity from an appropriately executed search warrant based on probable cause. Accordingly, we hold that the Tribe may not sue under § 1983 to vindicate the sovereign right it here claims.

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The judgment of the United States Court of Appeals for the Ninth Circuit is vacated, and the case is remanded. . . .

JUSTICE STEVENS, concurring.

In my judgment a Native American tribe is a “person” who may sue under 42 USC § 1983. The Tribe’s complaint, however, does not state a cause of action under § 1983 because the county’s alleged infringement of the Tribe’s sovereign prerogatives did not deprive the Tribe of “rights, privileges, or immunities secured by the Constitution and laws” within the meaning of § 1983. At bottom, rather than relying on an Act of Congress or a provision of the Constitution, the Tribe’s complaint rests on the judge-made doctrine of tribal immunity -- a doctrine that “developed almost by accident.” . . . Because many applications of that doctrine are both anomalous and unjust . . . , I would not accord it the same status as the “laws” referenced in § 1983.

It is demeaning to Native American tribes to deny them the same access to a § 1983 remedy that is available to any other person whose constitutional rights are violated by persons acting under color of state law. The text of § 1983 -- which provides that § 1983 defendants are “person[s] who, under color of [State law]” subject any “other person” to a deprivation of a federal right - -adequately explains why a tribe is not a person subject to suit under § 1983. For tribes generally do not act under color of state law. But that text sheds no light on the question whether the tribe is an “other person” who may bring a § 1983 suit when the tribe is the victim of a constitutional violation. The ordinary meaning of the word “person” as used in federal statutes, as well as the specific remedial purpose of § 1983, support the conclusion that a tribe should be able to invoke the protections of the statute if its constitutional rights are violated.

In this case, however, the Tribe’s allegations do not state a cause of action under § 1983. The execution of the warrant challenged in this case would unquestionably have been lawful if the casino had been the property of an ordinary commercial corporation. . . . Thus, the Tribe rests its case entirely on its claim that, as a sovereign, it should be accorded a special immunity that private casinos do not enjoy. That sort of claim to special privileges, which is based entirely on the Tribe’s sovereign status, is not one for which the § 1983 remedy was enacted.

Accordingly, while I agree with the Court that the judgment should be set aside, I do not join the Court’s opinion.