

AMERICAN CONSTITUTIONALISM
VOLUME II: RIGHTS AND LIBERTIES
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Supplementary Material

Chapter 8: The New Deal/Great Society Era – Equality/Native Americans

United States v. Klamath and Moadoc Tribes of Indians, 304 U.S. 119 (1938)

The United States and the Klamath Indian tribe in 1864 signed a treaty under which the tribe purchased the lands they had occupied in Oregon and California. In 1906, Congress conveyed some of those lands to a private land company. The United States was willing to compensate the Klamaths for the land, but not for the value of the timber on the land. The Court of Claims rejected the Klamath claim that they had a right to compensation. The Klamath appealed to the Supreme Court of the United States.

The Supreme Court unanimously held that the Klamaths were entitled to compensation. Justice Butler's opinion for the Court pointed to both statute and constitutional principle when determining that compensation was due. To what extent was this a constitutional decision? To what extent did basic constitutional principles influence how federal courts interpreted federal law? Suppose no federal law authorized compensation. How would the Court have ruled? Would you witness a conservative/liberal split? What positions would each wing of the early New Deal Court take?

JUSTICE BUTLER delivered the opinion of the Court.

. . . [W]hile the United States has power to control and manage the affairs of its Indian wards in good faith for their welfare, that power is subject to constitutional limitations, and does not enable the United States without paying just compensation therefore to appropriate lands of an Indian tribe to its own use or to hand them over to others. Nor is it quite accurate to say that interest as such is added to value at the time of the taking in order to arrive at just compensation subsequently ascertained and paid. The established rule is that the taking of property by the United States in the exertion of its power of eminent domain implies a promise to pay just compensation, i.e., value at the time of the taking plus an amount sufficient to produce the full equivalent of that value paid contemporaneously with the taking.

. . .
The United States argues that the rule of just compensation does not apply because "the tract was lost by mistake rather than taken by the power of eminent domain." But as to the 87,000 acres here involved there is no foundation for that assertion. Unquestionably Congress had power to direct the exchange and for that purpose to authorize expropriation of plaintiffs' lands. The validity of its enactments is not questioned. The taking was to enable the Government to discharge its obligation, whether legal or merely moral is immaterial, to make restitution of the allotted lands. The taking was *in invitum*, specifically authorized by law, a valid exertion of the sovereign power of eminent domain. It therefore implied a promise on the part of the Government to pay plaintiffs just compensation.

The provision of the Act of 1920 invoked by the United States is: "That if it be determined by the Court of Claims in the said suit herein authorized that the United States Government has wrongfully appropriated any lands belonging to the said Indians, damages therefore shall be confined to the value of the said land at the time of said appropriation. . . ." As shown above, the 87,000 acres were taken by valid exertion of the power of eminent domain. The taking was consummated pursuant to the Act of 1906; it was ratified by appropriation and payment under the Act of 1908. It implied a promise to pay just compensation. Clearly the lands in question were not "wrongfully appropriated."

Moreover the Congress by the Act of May 15, 1936 intended to grant to the plaintiffs the right to have their claim for just compensation under the Constitution for the 87,000 acres judicially determined without regard to the settlement and irrespective of the release. It specifically directed the lower court to determine the claim of plaintiffs on the merits and to enter judgment thereon "upon the present pleadings, evidence and findings of fact." Unquestionably the findings of fact are sufficient to sustain the judgment.

JUSTICE STONE, JUSTICE CARDOZO, and JUSTICE REED took no part in the consideration or decision of this case.

JUSTICE BLACK concurs in the result.



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