UNITED STATES *v.* ALCEA BAND OF TILLAMOOKS ET AL.

CERTIORARI TO THE COURT OF CLAIMS.

No. 281. Argued March 2, 1951.—Decided April 9, 1951.

In determining the amount of compensation to which respondents were entitled after the decision of this Court in *United States* v. *Alcea Band of Tillamooks*, 329 U. S. 40, the Court of Claims entered judgment for the value of the lands as of 1855 plus interest from that date. *Held:* The award of interest was erroneous, since recovery was not grounded on a taking under the Fifth Amendment and the relevant statute contains no provision expressly authorizing an award of interest. Pp. 48–49.

115 Ct. Cl. 463, 87 F. Supp. 938, reversed.

Solicitor General Perlman argued the cause for the United States. With him on the brief were *Assistant Attorney General Vanech, Stanley M. Silverberg, Roger P. Marquis, Fred W. Smith* and *Marvin J. Sonosky.*

L. A. Gravelle and *Edward F. Howrey* argued the cause for respondents. With them on the brief were *Douglas Whitlock* and *John G. Mullen.*

PER CURIAM.

The facts leading to this controversy are fully set forth in *United States* v. *Alcea Band of Tillamooks*, 329 U. S. 40 (1946), where this Court affirmed a judgment of the Court of Claims that certain named Indian tribes "are entitled to recover" compensation for the taking of original Indian title by the United States in 1855. The amount of recovery was reserved expressly for the further proceedings which are before the Court in this case. After the affirmance, the Court of Claims heard evidence on the amount of recovery and entered a judgment for the value of the lands as of 1855 plus interest from that

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date. 115 Ct. Cl. 463, 87 F. Supp. 938. We granted certiorari limited to the question presented by the award of interest. 340 U. S. 873 (1950).

It is the "traditional rule" that interest on claims against the United States cannot be recovered in the absence of an express provision to the contrary in the relevant statute or contract. 28 U. S. C. (Supp. III) § 2516 (a). *United States* v. *Thayer-West Point Hotel Co.,* 329 U. S. 585, 588 (1947), and cases cited therein. This rule precludes an award of interest even though a statute should direct an award of "just compensation" for a particular taking. *United States* v. *Goltra,* 312 U. S. 203 (1941). The only exception arises when the taking entitles the claimant to just compensation under the Fifth Amendment. Only in such cases does the award of compensation include interest. *Seaboard Air Line R. Co.* v. *United States,* 261 U. S. 299 (1923); *United States* v. *Thayer-West Point Hotel Co., supra.*

Looking to the former opinions in this case, we find that none of them expressed the view that recovery was grounded on a taking under the Fifth Amendment. And, since the applicable jurisdictional Act, 49 Stat. 801 (1935), contains no provision authorizing an award of interest, such award must be

Reversed.

MR. JUSTICE JACKSON took no part in the consideration or decision of this case.