
Menominee Tribe of Indians v. United States

Date of Decision: May 27, 1968

Summary of case

Menominee Tribe of Indians v. United States is a landmark case in Native American law. In 1954, Congress passed the Menominee Termination Act, which effectively ended federal recognition of the Menominee Indian Tribe of Wisconsin and federal protection for its reservation lands. Full implementation of the act did not go into effect until 1961, at which point the tribe was subject to the same state and federal laws and resources as other U.S. citizens.

In 1953, Congress had also passed Public Law 280, which gave six states (including Wisconsin and Oregon) criminal and civil jurisdiction over tribal lands within their state boundaries. Public Law 280 also stipulated that “Nothing in this section . . . shall deprive any Indian or Indian tribe . . . of any right, privilege, or immunity afforded under Federal treaty . . . with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.”

These two laws would be tested in 1963, when three Menominee tribal members were charged with violating the hunting and fishing laws of Wisconsin. The men were on land that had been designated under federal treaty as reservation land for the Menominee Tribe. While the tribal members were found not guilty, the state appealed, and the Wisconsin Supreme Court ruled that as a result of the Menominee Termination Act of 1954, the tribe could no longer claim hunting and fishing rights. In 1968, this case was brought to the U.S. Supreme Court, which ruled that the Menominee Tribe retained its tribal hunting and fishing rights even after the Menominee Termination Act of 1954.

Summary of majority opinion

The Court agreed with the Menominee Tribe of Indians and ruled that due to Public Law 280 the tribe maintained its hunting and fishing rights under the Treaty of Wolf River of 1854. In the majority opinion statement, Justice William O. Douglas stated that:

In 1954, when Public Law 280 became effective, the Menominee Reservation was still “Indian country” within the meaning of Public Law 280. Public Law 280 must therefore be considered in pari materia with the Termination Act. The two Acts, read together, mean to us that, although federal supervision of the tribe was to cease and all tribal property was to be transferred to new hands, the hunting and fishing rights granted or preserved by the Wolf River Treaty of 1854 survived the Termination Act of 1954.

Menominee Tribe v. United States *(Continued)*

Summary of dissent

Justice Potter Stewart and Justice Hugo Black presented the dissenting opinion that the Menominee Termination Act of 1954 essentially ended the Menominee reservation and gave the state of Wisconsin legal authority over these lands. The dissenting opinion concluded that as a result of the Termination Act, tribal members were subject to all state laws without exception.

Summary Quote: <https://supreme.justia.com/cases/federal/us/391/404/#tab-opinion-1947383>

Majority Opinion Quote: <https://supreme.justia.com/cases/federal/us/391/404/#tab-opinion-1947383>
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