

Childers Vs. Beaver

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Court : US Supreme Court

Decided On : Apr-12-1926

Appeal No. : 270 U.S. 555

Appellant : Childers

Respondent : Beaver

Judgement :

Childers v. Beaver - 270 U.S. 555 (1926)

U.S. Supreme Court Childers v. Beaver, 270 U.S. 555 (1926)

Childers v. Beaver

No. 202

Argued March 9, 1926

Decided April 12, 1926

270 U.S. 555

APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF OKLAHOMA

SYLLABUS

1. Transfer by descent from one tribal Indian to another of land allotted and patented by the United States to the ancestor with a prohibition against alienation is not taxable by the state where the land lies during the restriction on the title. P.

[270 U. S. 558](#) .

2. Inheritance in such cases is under the acts of Congress, by which heirs are determined by the Secretary of the Interior, the state law being adopted as the expression of the will of Congress. P. [270 U. S. 559](#) .

300 F. 113 affirmed.

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Appeal from a decree of the district court restraining the appellant, Auditor of the Oklahoma, from attempting to collect state inheritance taxes by recourse to appellees' lands.

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MR. JUSTICE Mc REYNOLDS delivered the opinion of the Court.

See-sah Quapaw, a full-blood Quapaw Indian woman, died March 4, 1920. She owned certain duly allotted lands in Oklahoma, patented by the Secretary of the Interior September 26, 1896, and declared to be "inalienable for a period of 25 years" thereafter -- all as provided by the Act of March 2, 1895, c. 188, 1, 28 Stat. 876, 907. Following the state statute of descent, the Secretary declared that the only heirs were her husband and brother -- John Beaver and Benjamin Quapaw -- full-blood Quapaws. Act June 25, 1910, c. 431, 1, 36 Stat. 855; *Henrietta First Moon v. Starling White Tail*, [270 U. S. 243](#) . Restrictions upon the land were continued

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for another 25 years by the Act of March 3, 1921, c. 119, 26, 41 Stat. 1225, 1248.

Apparently appellant supposed that the lands passed to the heirs by virtue of the laws of the state and were subject to the inheritance taxes which she laid. He accordingly demanded their payment of appellees, and threatened enforcement by summary process and sale of the lands. The court below held that the state had no right to demand the taxes, and restrained appellant from attempting to collect them.

The duty of the Secretary of the Interior to determine the heirs according to the state law of descent is not questioned. Congress provided that the lands should descend and directed how the heirs should be ascertained. It adopted the provisions of the Oklahoma statute as an expression of its own will; the laws of Missouri or Kansas, or any other state, might have been accepted. The lands really passed under a law of the United States, and not by Oklahoma's permission.

It must be accepted as established that, during the trust or restrictive period, Congress has power to control lands within a state which have been duly allotted to Indians by the United States and thereafter conveyed through trust or restrictive patents. This is essential to the proper discharge of their duty to a dependent people, and the means or instrumentalities utilized therein cannot be subjected to taxation by the state without assent of the federal government. [*The Kansas Indians*, 5 Wall. 737](#); *Tiger v. Western Investment Co.*, [221 U. S. 286](#) ; *Choctaw, etc., R. Co. v. Harrison*, [235 U. S. 292](#) ; *Hallowell v. Commons*, [239 U. S. 506](#) ; *Lane v. Mickadiet*, [241 U. S. 201](#) ; *Jefferson v. Fink*, [247 U. S. 288](#) ; *Blanset v. Cardin*, [256 U. S. 319](#) ; *United States v. Bowling*, [256 U. S. 484](#) ; *McCurdy v. United States*, [264 U. S. 484](#) ; *Sperry Oil Co. v. Chisholm*, [264 U. S. 488](#) .

The decree below must be

Affirmed.

