

Opinion of the Court.

UNITED STATES v. KAGAMA & Another, Indians.

CERTIFICATE OF DIVISION IN OPINION FROM THE CIRCUIT COURT OF
THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA.

Argued March 2, 1886.—Decided May 10, 1886.

The ninth section of the Indian Appropriation Act of March 3, 1855, 23 Stat. 385, is valid and constitutional in both its branches; namely, that which gives jurisdiction to the courts of the Territories of the crimes named (murder, manslaughter, rape, assault with intent to kill, arson, burglary, and larceny), committed by Indians within the Territories, and that which gives jurisdiction in like cases to courts of the United States for the same crimes committed on an Indian reservation within a State of the Union.

While the Government of the United States has recognized in the Indian tribes heretofore a state of semi-independence and pupilage, it has the right and authority, instead of controlling them by treaties, to govern them by acts of Congress: they being within the geographical limit of the United States, and being necessarily subject to the laws which Congress may enact for their protection and for the protection of the people with whom they come in contact.

The States have no such power over them as long as they maintain their tribal relations.

The Indians owe no allegiance to a State within which their reservation may be established, and the State gives them no protection.

The case is stated in the opinion of the court.

Mr. Solicitor General for plaintiff in error.

Mr. Joseph D. Redding for defendants in error.

Mr. Justice MILLER delivered the opinion of the court.

The case is brought here by certificate of division of opinion between the Circuit Judge and the District Judge holding the Circuit Court of the United States for District of California.

The questions certified arise on a demurrer to an indictment against two Indians for murder committed on the Indian reservation of Hoopa Valley, in the State of California, the person murdered being also an Indian of said reservation.

Though there are six questions certified as the subject of difference, the point of them all is well set out in the third and sixth, which are as follows:

Opinion of the Court.

“3. Whether the provisions of said section 9, (of the act of Congress of March 3, 1885,) making it a crime for one Indian to commit murder upon another Indian, upon an Indian reservation situated wholly within the limits of a State of the Union, and making such Indian so committing the crime of murder within and upon such Indian reservation ‘subject to the same laws’ and subject to be ‘tried in the same courts, and in the same manner, and subject to the same penalties as are all other persons’ committing the crime of murder ‘within the exclusive jurisdiction of the United States,’ is a constitutional and valid law of the United States?”

“6. Whether the courts of the United States have jurisdiction or authority to try and punish an Indian belonging to an Indian tribe for committing the crime of murder upon another Indian belonging to the same Indian tribe, both sustaining the usual tribal relations, said crime having been committed upon an Indian reservation made and set apart for the use of the Indian tribe to which said Indians both belong?”

The indictment sets out in two counts that Kagama, alias Pactah Billy, an Indian, murdered Iyouse, alias Ike, another Indian, at Humboldt County, in the State of California, within the limits of the Hoopa Valley Reservation, and it charges Mahawaha, alias Ben, also an Indian, with aiding and abetting in the murder.

The law referred to in the certificate is the last section of the Indian appropriation act of that year, and is as follows:

“§ 9. That immediately upon and after the date of the passage of this act all Indians committing against the person or property of another Indian or other person any of the following crimes, namely, murder, manslaughter, rape, assault with intent to kill, arson, burglary and larceny, within any Territory of the United States, and either within or without the Indian reservation, shall be subject therefor to the laws of said Territory relating to said crimes, and shall be tried therefor in the same courts and in the same manner, and shall be subject to the same penalties, as are all other persons charged with the commission of the said crimes, respectively; and the said courts are hereby given jurisdiction in all such cases; and all such In-

