

or misconstrued. In our view, the plea of religious liberty does not create property rights, nor does it in this case. The Indians already owned Blue Lake, and the United States "unjustly" deprived them of it. The force of the plea of religious liberty is directed to the Indians' insistence that money or "equivalent" acreage elsewhere will not take the place of Blue Lake in their religious life. It is unique and irreplaceable for religious reasons.

Certainly the idea is not new in human history that certain specific locations, structures or objects are sacred, hallowed, or indispensable to a religious movement and its adherents. The Kaaba in Mecca is the central shrine of Islam. The Holy Sepulchre in Jerusalem is sacred to many kinds of Christians. The Moslems would not willingly accept some other black stone of roughly similar dimensions as a substitute for the Kaaba, and Christians would not consider some other location "equivalent" to the Holy Sepulchre. To offer either group a sum of money in compensation for its holiest shrine would not only seem like blasphemy, but would be virtually meaningless, since money could not take the place of the holy, and even if it could, there isn't that much money.

Cathedrals, mosques, and temples are respected as structures of singular sanctity and significance because they are important in the religious lives of men and women. What the Indians of Pueblo de Taos are asking is that equal consideration—no more and no less—be extended to the shrine where they have performed their religious obligations for at least as long as the famed cathedrals of Europe have been in use.

They are not asking for anything that is not already theirs. What they are asking is for Blue Lake itself and not some substitute. Is that an unreasonable request? They were awarded compensation for 130,000 acres by the Indian Claims Commission. They are willing to accept money or equivalent territory elsewhere for most of it. It is only the 50,000 acres around Blue Lake that they do not wish to part with. The purpose of H.R. 3306 is to give them perpetual possession to those 50,000 acres and it is a minimal restitution for what we owe them.

They are not even asking for territory claimed by others, according to our information. There are no inhabitants in the area in question and few, if any, claimants of mineral or other rights—and these would not be dispossessed except on terms acceptable to them—which is more consideration than the Indians received at the hands of our government!

The plea of religious liberty does not necessarily outweigh all other claims; certain clearly necessary considerations of public health and safety, and respect for the like rights of others, have been given precedence by the courts over claims of religious liberty. But legitimate claims of religious liberty have prevailed over many lesser interests related to property—such as the prerogatives of the managers of a company town or the wish of a householder to be protected from importunate callers. Religious liberty has a privileged rank in the hierarchy of our society's values, as indicated by its place of primacy as the first element in the First Article of the Bill of Rights.

The only claims competing with those of the Indians, to our knowledge, might be those of hunters and fishermen who wish to use Blue Lake area for recreational purposes. Even they are not to be wholly deprived by the present bill, since there are many other lakes and forest areas in the Sangre de Cristo mountains suitable for recreational use which are not claimed by the Pueblo de Taos Indians (or anyone else) as being necessary to their religious practices. And even if no other hunting or fishing areas were nearby, the claims of religious liberty embodied in the First Amendment enjoy a degree of priority over the interests of sport or forestry.

Some people have been concerned that precedents not be set in this instance which might encourage other groups to claim exclusive use of national forest lands or other territories for ostensibly religious purposes. Therefore, we trust that any precedents set by this bill be strictly limited to persons or groups similarly situated—Indian tribes wrongly deprived of property which they have habitually used for religious purposes.

Others have suggested that the Indians' claim that this particular land is "necessary" to their "religious" interests is spurious, exaggerated, or inconsistent with the availability of Roman Catholic churches nearer the pueblo. The proper answer to these scruples is that no man can finally assess or validate the genuineness of another man's religion except in the most superficial way. It is essentially a matter between each person and his God. The Indians are the best, and ultimately the only, human judges of what is necessary for their religious life. We cannot determine for them what is or is not necessary for that purpose, any