

in excess of that price.⁶²⁹ By a five-to-four decision, the Court ruled that the government was not obliged to pay the present market value of a tug when the value had been greatly enhanced as a consequence of the government's wartime needs.⁶³⁰

Illustrative of the difficulties in applying the fair market standard of just compensation are two cases decided by five-to-four votes, one in which compensation was awarded and one in which it was denied. Held entitled to compensation for the value of improvements on leased property for the life of the improvements and not simply for the remainder of the term of the lease was a company that, while its lease had no renewal option, had occupied the land for nearly 50 years and had every expectancy of continued occupancy under a new lease. Just compensation, the Court said, required taking into account the possibility that the lease would be renewed, inasmuch as a willing buyer and a willing seller would certainly have placed a value on the possibility.⁶³¹ However, when the Federal Government condemned privately owned grazing land of a rancher who had leased adjacent federally owned grazing land, it was held that the compensation owed need not include the value attributable to the proximity to the federal land. The result would have been different if the adjacent grazing land had been privately owned, but the general rule is that government need not pay for value that it itself creates.⁶³²

Interest.—Ordinarily, property is taken under a condemnation suit upon the payment of the money award by the condemner, and no interest accrues.⁶³³ If, however, the property is taken in fact before payment is made, just compensation includes an increment which, to avoid use of the term “interest,” the Court has called “an amount sufficient to produce the full equivalent of that value paid contem-

⁶²⁹ *United States v. Felin & Co.*, 334 U.S. 624 (1948); *United States v. Commodities Trading Corp.*, 339 U.S. 121 (1950). See also *Vogelstein & Co. v. United States*, 262 U.S. 337 (1923).

⁶³⁰ *United States v. Cors*, 337 U.S. 325 (1949). See also *United States v. Toronto Navigation Co.*, 338 U.S. 396 (1949).

⁶³¹ *Almota Farmers Elevator & Warehouse Co. v. United States*, 409 U.S. 470 (1973). The dissent argued that since upon expiration of the lease only salvage value of the improvements could be claimed by the lessee, just compensation should be limited to that salvage value. *Id.* at 480.

⁶³² *United States v. Fuller*, 409 U.S. 488 (1973). The dissent argued that the principle denying compensation for governmentally created value should apply only when the government was in fact acting in the use of its own property; here the government was acting only as a condemner. *Id.* at 494.

⁶³³ *Danforth v. United States*, 308 U.S. 271, 284 (1939); *Kirby Forest Industries v. United States*, 467 U.S. 1 (1984) (no interest due in straight condemnation action for period between filing of notice of *lis pendens* and date of taking).