in the furtherance of the public interest. No definition of the reach or limits of the power is possible, the Court has said, because such "definition is essentially the product of legislative determinations addressed to the purposes of government, purposes neither abstractly nor historically capable of complete definition. . . . Public safety, public health, morality, peace and quiet, law and order—these are some of the . . . traditional application[s] of the police power . . . ." Effectuation of these matters being within the authority of the legislature, the power to achieve them through the exercise of eminent domain is established. "For the power of eminent domain is merely the means to the end."[607] Subsequently, the Court put forward an added indicium of "public use": whether the government purpose could be validly achieved by tax or user fee.[608] Traditionally, eminent domain has been used to facilitate transportation, the supplying of water, and the like,[609] but the use of the power to establish public parks, to preserve places of historic interest, and to promote beautification has substantial precedent.[610]

The Supreme Court has also approved generally the widespread use of the power of eminent domain by federal and state

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[607] Berman v. Parker, 348 U.S. 26, 32, 33 (1954).

[608] Brown v. Legal Found. of Washington, 538 U.S. 216, 232 (2003). *But see* id. at 242 n.2 (Justice Scalia dissenting).

[609] *E.g.*, Kohl v. United States, 91 U.S. 367 (1876) (public buildings); Chicago M. & S.P. Ry. v. City of Minneapolis, 232 U.S. 430 (1914) (canal); Long Island Water Supply Co. v. Brooklyn, 166 U.S. 685 (1897) (condemnation of privately owned water supply system formerly furnishing water to municipality under contract); Mt. Vernon-Woodberry Cotton Duck Co. v. Alabama Interstate Power Co., 240 U.S. 30 (1916) (land, water, and water rights condemned for production of electric power by public utility); Dohany v. Rogers, 281 U.S. 362 (1930) (land taken for purpose of exchange with a railroad company for a portion of its right-of-way required for widening a highway); Delaware, L. & W.R.R. v. Town of Morristown, 276 U.S. 182 (1928) (establishment by a municipality of a public hack stand upon driveway maintained by railroad upon its own terminal grounds to afford ingress and egress to its patrons); Clark v. Nash, 198 U.S. 361 (1905) (right-of-way across neighbor's land to enlarge irrigation ditch for water without which land would remain valueless); Strickley v. Highland Boy Mining Co., 200 U.S. 527 (1906) (right of way across a placer mining claim for aerial bucket line). In Missouri Pacific Ry. v. Nebraska, 164 U.S. 403 (1896), however, the Court held that it was an invalid use when a State attempted to compel, on payment of compensation, a railroad, which had permitted the erection of two grain elevators by private citizens on its right-of-way, to grant upon like terms a location to another group of farmers to erect a third grain elevator for their own benefit.

[610] *E.g.*, Shoemaker v. United States, 147 U.S. 282 (1893) (establishment of public park in District of Columbia); Rindge Co. v. Los Angeles County, 262 U.S. 700 (1923) (scenic highway); Brown v. United States, 263 U.S. 78 (1923) (condemnation of property near town flooded by establishment of reservoir in order to locate a new townsite, even though there might be some surplus lots to be sold); United States v. Gettysburg Electric Ry., 160 U.S. 668 (1896), and Roe v. Kansas ex rel. Smith, 278 U.S. 191 (1929) (historic sites). When time is deemed to be of the essence, Congress takes land directly by statute, authorizing procedures by which owners of appropriated land may obtain just compensation. *See*, *e.g.*, Pub. L. 90–545, § 3, 82 Stat. 931