development from the economic purposes endorsed in *Berman* and *Midkiff*, and stressed the importance of judicial deference to the legislative judgment as to public needs. At the same time, the Court cautioned that private-to-private condemnations of individual properties, not part of an "integrated development plan . . . raise a suspicion that a private purpose [is] afoot."[617] A vigorous four-justice dissent countered that localities will always be able to manufacture a plausible public purpose, so that the majority opinion leaves the vast majority of private parcels subject to condemnation when a higher-valued use is desired.[618] Backing off from the Court's past endorsements in *Berman* and *Midkiff* of a public use/police power equation, the dissenters referred to the "errant language" of these decisions, which was "unnecessary" to their holdings.[619]

Just Compensation

"When . . . [the] power [of eminent domain] is exercised it can only be done by giving the party whose property is taken or whose use and enjoyment of such property is interfered with, full and adequate compensation, not excessive or exorbitant, but just compensation."[620] The Fifth Amendment's guarantee "that private property shall not be taken for a public use without just compensation was designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole."[621]

The just compensation required by the Constitution is that which constitutes "a full and perfect equivalent for the property taken."[622] Originally the Court required that the equivalent be in money, not

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[617] 545 U.S. at 487.

[618] Written by Justice O'Connor, and joined by Justices Scalia and Thomas, and Chief Justice Rehnquist.

[619] 545 U.S. at 501.

[620] Backus v. Fort Street Union Depot Co., 169 U.S. 557, 573, 575 (1898).

[621] Armstrong v. United States, 364 U.S. 40, 49 (1960). "The political ethics reflected in the Fifth Amendment reject confiscation as a measure of justice." United States v. Cors, 337 U.S. 325, 332 (1949). There is no constitutional prohibition against confiscation of enemy property, but aliens not so denominated are entitled to the protection of this clause. *Compare* United States v. Chemical Foundation, 272 U.S. 1, 11 (1926) *and* Stoehr v. Wallace, 255 U.S. 239 (1921), *with* Silesian-American Corp. v. Clark, 332 U.S. 469 (1947), Russian Volunteer Fleet v. United States, 282 U.S. 481 (1931), *and* Guessefeldt v. McGrath, 342 U.S. 308, 318 (1952). Takings Clause protections for such aliens may be invoked, however, only "when they have come within the territory of the United States and developed substantial connections with this country." United States v. Verdugo-Urquidez, 494 U.S. 259, 271 (1990).

[622] Monongahela Navigation Co. v. United States, 148 U.S. 312, 326 (1893). The owner's loss, not the taker's gain, is the measure of such compensation. Brown v. Legal Found. of Washington, 538 U.S. 216, 236 (2003); United States ex rel. TVA v. Powelson, 319 U.S. 266, 281 (1943); United States v. Miller, 317 U.S. 369, 375 (1943). The value of the property to the government for its particular use is not a criterion.