Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

CASS COUNTY, MINNESOTA, ET AL. *v.* LEECH LAKE BAND OF CHIPPEWA INDIANS

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 97–174. Argued February 24, 1998– Decided June 8, 1998

During the late 19th century, the Federal Government instituted a policy of removing portions of reservation land from tribal ownership and federal protection, allotting some parcels to individual Indians in fee simple and providing for other parcels to be sold to non-Indians. Most allotments were implemented pursuant to the General Allotment Act (GAA), which provided that land would be patented to individual Indians and held in trust for 25 years, after which title would be conveyed in fee simple, §5, and that Indian allottees were subject to plenary state jurisdiction, §6. The Burke Act amended §6 to provide that state jurisdiction did not attach until the end of the trust period, and contained a proviso to the effect that the Secretary of the Interior could issue a fee simple patent before the trust period's end and thereafter restrictions as to, *inter alia*, taxation would be removed. Allotment of the Minnesota reservation lands of respondent Leech Lake Band of Chippewa Indians (Band) was implemented through the Nelson Act of 1889, which provided for the reservation land to be alienated from tribal ownership in three ways: under §3, parcels were allotted to individual Indians as provided by the GAA; under §§4 and 5, pine lands were sold at public auction to non-Indians; and under §6, agricultural lands were sold to non-Indian settlers as homesteads. After Congress ended the allotment practice, the Band began purchasing back parcels of reservation land that had been allotted to individual Indians or sold to non-Indians. Based on this Court's decision, in *County of Yakima* v. *Confederated Tribes and Bands of Yakima Nation*, 502 U. S. 251, 253–254, that a county could assess ad valorem taxes on reservation land owned in fee by individual Indians or the tribe that had originally been made alienable when

patented under the GAA, petitioner Cass County began assessing such taxes on 21 parcels of reservation land that had been alienated under the Nelson Act and reacquired by the Band. Thirteen of the parcels had been allotted to Indians and the remaining eight had been sold to non-Indians. The Band paid the taxes, interest, and penalties under protest and filed suit seeking a declaratory judgment that the county could not tax the parcels. The District Court granted the county summary judgment, holding that the parcels were taxable because, under *Yakima*, if Congress has made Indian land freely alienable, States may tax the land. The Eighth Circuit affirmed in part and reversed in part, holding that the parcels allotted to Indians could be taxed if patented under the Burke Act proviso, which made "unmistakably clear" Congress' intent to allow such taxation, but that the eight parcels sold to non-Indians could not. Only those eight parcels are at issue here.

Held: State and local governments may impose ad valorem taxes on reservation land that was made alienable by Congress and sold to non-Indians, but was later repurchased by the tribe. Pp. 6–11.

(a) Congress' intent to authorize state and local taxation of Indian reservation land must be "'unmistakably clear.'" *Yakima*, 502 U. S., at 258. Congress has manifested such an intent when it has authorized reservation lands to be allotted in fee to individual Indians, making the lands freely alienable and withdrawing them from federal protection. This was the case in both *Yakima* and *Goudy* v. *Meath*, 203 U. S. 146. The *Goudy* Court concluded that, because it would be unreasonable for Congress to withdraw federal protection and permit an Indian to dispose of his lands as he pleased, while releasing the lands from taxation, Congress would have to "clearly manifest" such a contrary purpose in order to counteract the consequence of taxability that ordinarily flows from alienability. *Id.*, at 149. The *Yakima* Court found that both the Burke Act proviso and §5 of the GAA manifested an unmistakably clear intent to allow state and local taxation of allotted land. The Eighth Circuit thus erred in concluding that *Yakima* turned on the Burke Act proviso's express reference to taxability. Both it and *Goudy* stand for the proposition that when Congress makes reservation lands freely alienable, it is unmistakably clear that Congress intends that land to be taxable by state and local governments, unless a contrary intent is "clearly manifested." *Yakima*, 502 U. S., at 259. Pp. 6–9.

(b) The foregoing principle controls the disposition of this case. By providing for the public sale of reservation land to non-Indians in the Nelson Act, Congress removed that land from federal protection and made it fully alienable. Under *Yakima* and *Goudy*, therefore, it is taxable. The Eighth Circuit's contrary holding attributes to Congress

Syllabus

the odd intent that parcels conveyed to Indians are taxable, while parcels sold to the general public remain tax-exempt. Contrary to the Band's argument, a tribe's subsequent repurchase of alienable reservation land does not manifest any congressional intent to reassume federal protection of the land and to oust state taxing authority, particularly when Congress relinquished such protection many years before. Further, holding that tax-exempt status automatically attaches when a tribe acquires reservation land would render unnecessary §465 of the Indian Reorganization Act, which gives the Secretary of the Interior authority to place land in trust, held for the Indians' benefit and tax-exempt, and which respondent has used to restore federal trust status to seven of the eight parcels at issue. Pp. 9–10.

108 F. 3d 820, reversed in part.

THOMAS, J., delivered the opinion for a unanimous Court.