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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

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CITY OF SHERRILL, NEW YORK *v.* ONEIDA INDIAN NATION OF NEW YORK ET AL.

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

No. 03–855. Argued January 11, 2005—Decided March 29, 2005

Respondent Oneida Indian Nation of New York (OIN or Tribe) is a direct descendant of the Oneida Indian Nation (Oneida Nation), whose aboriginal homeland, at the Nation's birth, comprised some six million acres in what is now central New York State (State). See, *e.g., Oneida Indian Nation of N. Y.* v. *County of Oneida,* 414 U. S. 661, 664 *(Oneida I).* In 1788, the State and the Oneida Nation entered into a treaty whereby the Oneidas ceded all their lands to the State, but retained a reservation of about 300,000 acres for their own use. See *County of Oneida* v. *Oneida Indian Nation of N. Y.*, 470 U. S. 226, 231 (*Oneida II*). The Federal Government initially pursued a policy protective of the New York Indians. In 1790, Congress passed the first Indian Trade and Intercourse Act (Nonintercourse Act), barring sales of tribal land without the Government's acquiescence. And in the 1794 Treaty of Canandaigua, the United States "acknowledge[d]" the Oneidas' 300,000-acre reservation and guaranteed their "free use and enjoyment" of the reserved territory. Act of Nov. 11, 1794, 7 Stat. 44, 45, Art. III. Nevertheless, New York continued to purchase reservation land from the Oneidas. Although the Washington administration objected, later administrations made not even a pretense of interfering with New York's purchases, and ultimately pursued a policy designed to open reservation lands to white settlers and to remove tribes westward. Pressured by the removal policy, many Oneidas left the State. Those who stayed continued to diminish in number and, during the 1840's, sold most of their remaining lands to New York. By 1920, the New York Oneidas retained only 32 acres in the State.

Although early litigation over Oneida land claims trained on mone-

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tary recompense from the United States for past deprivations, the Oneidas ultimately shifted to suits against local governments. In 1970, they filed a federal "test case" against two New York counties, alleging that the cession of 100,000 acres to the State in 1795 violated the Nonintercourse Act and thus did not terminate the Oneidas' right to possession. They sought damages measured by the fair rental value, for the years 1968 and 1969, of 872 acres of their ancestral land owned and occupied by the two counties. The District Court, affirmed by the Court of Appeals, dismissed the complaint for failure to state a federal claim. This Court reversed in *Oneida I,* 414 U. S., at 675, 682, holding that federal jurisdiction was properly invoked. After the Oneidas prevailed in the lower courts, this Court held, *inter alia*, that the Oneidas could maintain their claim to be compensated "for violation of their possessory rights based on federal common law," *Oneida II*, 470 U. S., at 236, but reserved "[t]he question whether equitable considerations should limit the relief available to present day Oneida Indians," *id.*, at 253, n. 27.

In 1997 and 1998, OIN purchased separate parcels of land in petitioner city of Sherrill, New York. These properties, once contained within the historic Oneida Reservation, were last possessed by the Oneidas as a tribal entity in 1805. In that year, the Oneida Nation transferred the parcels to one of its members, who sold the land to a non-Indian in 1807. The properties thereafter remained in non-Indian hands until OIN reacquired them in open-market transactions. For two centuries, governance of the area in which the properties are located has been provided by the State and its county and municipal units. According to the 2000 census, over 99% of the area's present-day population is non-Indian. Nevertheless, because the parcels lie within the boundaries of the reservation originally occupied by the Oneidas, OIN maintained that the properties are tax exempt and accordingly refused to pay property taxes assessed by Sherrill. Sherrill initiated state-court eviction proceedings, and OIN brought this federal-court suit. In contrast to *Oneida I* and *II*, which involved demands for monetary compensation, OIN sought equitable relief prohibiting, currently and in the future, the imposition of property taxes. The District Court concluded that the parcels are not taxable, and the Second Circuit affirmed. In this Court, OIN resists the payment of the property taxes on the ground that OIN's acquisition of fee title to discrete parcels of historic reservation land revived the Oneidas' ancient sovereignty piecemeal over each parcel, so that regulatory authority over the newly purchased properties no longer resides in Sherrill.

Held: Given the longstanding, distinctly non-Indian character of central New York and its inhabitants, the regulatory authority over the area

constantly exercised by the State and its counties and towns for 200 years, and the Oneidas' long delay in seeking judicial relief against parties other than the United States, standards of federal Indian law and federal equity practice preclude the Tribe from unilaterally reviving its ancient sovereignty, in whole or in part, over the parcels at issue. The Oneidas long ago relinquished governmental reins and cannot regain them through open-market purchases from current titleholders. Pp. 12–21.

(a) The Court rejects the theory of OIN and the United States that, because *Oneida II* recognized the Oneidas' aboriginal title to their ancient reservation land and because the Tribe has now acquired the specific parcels at issue in the open market, it has unified fee and aboriginal title and may now assert sovereign dominion over the parcels. The Oneidas sought only money damages in *Oneida II,* see 470 U. S., at 229, and the Court reserved the question whether "equitable considerations" should limit the relief available to the present-day Oneidas, *id.,* at 253, n. 27. Substantive questions of rights and duties are very different from remedial questions. Here, OIN seeks declaratory and injunctive relief recognizing its present and future sovereign immunity from local taxation on parcels the Tribe purchased in the open market, properties that had been subject to state and local taxation for generations. The appropriateness of such relief must be evaluated in light of the long history of state sovereign control over the territory. From the early 1800's into the 1970's, the United States largely accepted, or was indifferent to, New York's governance of the land in question and the validity *vel non* of the Oneidas' sales to the State. Moreover, the properties here involved have greatly increased in value since the Oneidas sold them 200 years ago. The longstanding assumption of jurisdiction by the State over an area that is predominantly non-Indian in population and land use creates "justifiable expectations." *E.g., Rosebud Sioux Tribe* v. *Kneip,* 430 U. S. 584, 604–605. Similar justifiable expectations, grounded in two centuries of New York's exercise of regulatory jurisdiction, until recently uncontested by OIN, merit heavy weight here. The wrongs of which OIN complains occurred during the early years of the Republic, whereas, for the past two centuries, New York and its local units have continuously governed the territory. The Oneidas did not seek to regain possession of their aboriginal lands by court decree until the 1970's. And not until the 1990's did OIN acquire the properties in question and assert its unification theory to ground its demand for exemption of the parcels from local taxation. This long lapse of time, during which the Oneidas did not seek to revive their sovereign control through equitable relief in court, and the attendant dramatic changes in the character of the properties, preclude OIN from gaining

the disruptive remedy it now seeks. Pp. 12–16.

(b) The distance from 1805 to the present day, the Oneidas' long delay in seeking equitable relief against New York or its local units, and developments in Sherrill spanning several generations, evoke the doctrines of laches, acquiescence, and impossibility, and render inequitable the piecemeal shift in governance this suit seeks unilaterally to initiate. This Court has long recognized that the passage of time can preclude relief. For example, the doctrine of laches focuses on one side's inaction and the other's legitimate reliance to bar long-dormant claims for equitable relief. See, *e.g., Badger* v. *Badger,* 2 Wall. 87, 94. Moreover, long acquiescence may have controlling effect on the exercise of States' dominion and sovereignty over territory. *E.g., Ohio* v. *Kentucky,* 410 U. S. 641, 651. This Court's original-jurisdiction state-sovereignty cases do not dictate a result here, but they provide a helpful point of reference: When a party belatedly asserts a right to present and future sovereign control over territory, longstanding observances and settled expectations are prime considerations. It has been two centuries since the Oneidas last exercised regulatory control over the properties here or held them free from local taxation. Parcel-by-parcel revival of their sovereign status, given the extraordinary passage of time, would dishonor "the historic wisdom in the value of repose." *Oneida II*, 470 U. S., at 262. Finally, this Court has recognized the impracticability of returning to Indian control land that generations earlier passed into numerous private hands. See, *e.g., Yankton Sioux Tribe* v. *United States*, 272 U. S. 351, 357. The unilateral reestablishment of present and future Indian sovereign control, even over land purchased at the market price, would have disruptive practical consequences similar to those that led the *Yankton Sioux* Court to initiate the impossibility doctrine: Sherrill and the surrounding area are today overwhelmingly populated by non-Indians, and a checkerboard of state and tribal jurisdiction—created unilaterally at OIN's behest—would "seriously burde[n] the administration of state and local governments" and would adversely affect landowners neighboring the tribal patches. *Hagen* v. *Utah*, 510 U. S. 399, 421. If OIN may unilaterally reassert sovereign control and remove these parcels from the local tax rolls, little would prevent it from initiating a new generation of litigation to free the parcels from local zoning or other regulatory controls that protect all landowners in the area. See *Felix*, 145 U. S., at 335. Recognizing these practical concerns, Congress has provided, in 25 U. S. C. §465, a mechanism for the acquisition of lands for tribal communities that takes account of the interests of others with stakes in the area's governance and well being. Section 465 provides the proper avenue for OIN to reestablish sovereign authority over territory last held by the

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Oneidas 200 years ago. Pp. 16–21.

(c) The question of damages for the Tribe's ancient dispossession, resolved in *Oneida II,* is not at issue here, and the Court leaves undisturbed its *Oneida II* holding. P. 21.

337 F. 3d 139, reversed and remanded.

GINSBURG, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, KENNEDY, SOUTER, THOMAS, and BREYER, JJ., joined. SOUTER, J., filed a concurring opinion. STEVENS, J., filed a dissenting opinion.