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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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UNITED STATES *v.* LOCKE, GOVERNOR OF WASHINGTON, ET AL.

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

No. 98–1701. Argued December 7, 1999– Decided March 6, 2000*

After the supertanker *Torrey Canyon* spilled crude oil off the coast of England in 1967, both Congress, in the Port and Waterways Safety Act of 1972 (PWSA), and the State of Washington enacted more stringent regulations for tankers and provided for more comprehensive remedies in the event of an oil spill. The ensuing question of federal pre-emption of the State's laws was addressed in *Ray* v. *Atlantic Richfield Co.*, 435 U. S. 151. In 1989, the supertanker *Exxon Valdez* ran aground in Alaska, causing the largest oil spill in United States history. Again, both Congress and Washington responded. Congress enacted the Oil Pollution Act of 1990 (OPA). The State created a new agency and directed it to establish standards to provide the "best achievable protection" (BAP) from oil spill damages. That agency promulgated tanker design, equipment, reporting, and operating requirements. Petitioner International Association of Independent Tanker Owners (Intertanko), a trade association of tanker operators, brought this suit seeking declaratory and injunctive relief against state and local officials responsible for enforcing the BAP regulations. Upholding the regulations, the District Court rejected Intertanko's arguments that the BAP standards invaded an area long pre-empted by the Federal Government. At the appeal stage, the United States intervened on Intertanko's behalf, contending that the District Court's ruling failed to give sufficient weight to the substan-

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*Together with No. 98–1706, *International Association of Independent Tanker Owners (Intertanko)* v. *Locke, Governor of Washington, et al.*, also on certiorari to the same court.

Syllabus

tial foreign affairs interests of the Federal Government. The Ninth Circuit held that the State could enforce its laws, save one requiring vessels to install certain navigation and towing equipment, which was "virtually identical to" requirements declared pre-empted in *Ray*.

Held: Washington's regulations regarding general navigation watch procedures, crew English language skills and training, and maritime casualty reporting are pre-empted by the comprehensive federal regulatory scheme governing oil tankers; the case is remanded so the validity of other Washington regulations may be assessed in light of the considerable federal interest at stake. Pp. 6–25.

(a) The State has enacted legislation in an area where the federal interest has been manifest since the beginning of the Republic and is now well established. Congress has, beginning with the Tank Vessel Act of 1936, enacted a series of statutes pertaining to maritime tanker transports. These include the PWSA, Title I of which authorizes, but does not require, the Coast Guard to enact measures for controlling vessel traffic or for protecting navigation and the marine environment, 33 U. S. C. §1223(a), and Title II of which, as amended, requires the Coast Guard to issue regulations addressing the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of covered vessels, 46 U. S. C. §3703(a). Congress later enacted OPA, Title I of which, among other things, imposes liability for both removal costs and damages on parties responsible for an oil spill, 33 U. S. C. §2702, and includes two saving clauses preserving the States' authority to impose additional liability, requirements, and penalties, §§2718(a) and (c). Congress has also ratified international agreements in this area, including the International Convention of Standards of Training Certification and Watchkeeping for Seafarers (STCW). Pp. 6–11.

(b) In *Ray*, the Court held that the PWSA and Coast Guard regulations promulgated under that Act pre-empted Washington's pilotage requirement, limitation on tanker size, and tanker design and construction rules. The *Ray* Court's interpretation of the PWSA is correct and controlling here. Its basic analytic structure explains why federal pre-emption analysis applies to the challenged regulations and allows scope and due recognition for the traditional authority of the States and localities to regulate some matters of local concern. In narrowing the pre-emptive effect given the PWSA in *Ray*, the Ninth Circuit placed more weight on OPA's saving clauses than they can bear. Like Title I of OPA, in which they are found, the saving clauses are limited to regulations governing liability and compensation for oil pollution, and do not extend to rules regulating vessel operation, design, or manning. Thus, the pre-emptive effect of the PWSA and its regulations is not affected by OPA, and *Ray*'s holding survives OPA's

enactment undiminished. The *Ray* Court's prefatory observation that an "assumption" that the States' historic police powers were not to be superseded by federal law unless that was the clear and manifest congressional purpose does not mean that a presumption against pre-emption aids the Court's analysis here. An assumption of nonpre-emption is not triggered when the State regulates in an area where there has been a history of significant federal presence. The *Ray* Court held, among other things, that Congress, in PWSA Title I, preserved state authority to regulate the peculiarities of local waters, such as depth and narrowness, if there is no conflict with federal regulatory determinations, see 435 U. S., at 171–172, 178, but further held that Congress, in PWSA Title II, mandated uniform federal rules on the subjects or matters there specified, *id.*, at 168. Thus, under *Ray*'s interpretation of the Title II provision now found at 46 U. S. C. §3703(a), only the Federal Government may regulate the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of tankers. The Court today reaffirms *Ray*'s holding on this point. Congress has left no room for state regulation of these matters. See *Fidelity Fed. Sav. & Loan Assn.* v. *De la Cuesta*, 458 U. S. 141. Although the *Ray* Court acknowledged that the existence of some overlapping coverage between the two PWSA titles may make it difficult to determine whether a pre-emption question is controlled by conflict pre-emption principles, applicable generally to Title I, or by field pre-emption rules, applicable generally to Title II, the Court declined to resolve every question by the greater pre-emptive force of Title II. Thus, conflict pre-emption will be applicable in some, although not all, cases. Useful inquiries in determining which title governs include whether the regulation in question is justified by conditions unique to a particular port or waterway, see *Ray*, *supra*, at 175, or whether it is of limited extraterritorial effect, not requiring the tanker to modify its primary conduct outside the specific body of water purported to justify the local rule, see *id.*, at 159–160, 171. Pp. 11–20.

(c) The field pre-emption rule surrounding PWSA Title II and 46 U. S. C. §3703(a) and the superseding effect of additional federal statutes are illustrated by the pre-emption of four of Washington's tanker regulations, the attempted reach of which is well demonstrated by the briefs and record. First, the imposition of a series of training requirements on a tanker's crew does not address matters unique to Washington waters, but imposes requirements that control the staffing, operation, and manning of a tanker outside of those waters. The training and drill requirements pertain to "operation" and "personnel qualifications" and so are pre-empted by §3703(a). That training is a field reserved to the Federal Government is further con-

firmed by the circumstance that the STCW Convention addresses crew "training" and "qualification" requirements, and that the United States has enacted crew training regulations. Second, the imposition of English language proficiency requirements on a tanker's crew is not limited to governing local traffic or local peculiarities. It is pre-empted by §3703(a) as a "personnel qualification" and by 33 U. S. C. §1228(a)(7), which requires that any vessel operating in United States waters have at least one licensed deck officer on the navigation bridge who is capable of clearly understanding English. Third, Washington's general requirement that the navigation watch consist of at least two licensed deck officers, a helmsman, and a lookout is pre-empted as an attempt to regulate a tanker's "operation" and "manning" under §3703(a). Fourth, the requirement that vessels in Washington waters report certain marine casualties regardless of where in the world they occurred cannot stand in light of Coast Guard regulations on the same subject that Congress intended be the sole source of a vessel's reporting obligations, see 46 U. S. C. §§6101, 3717(a)(4). On remand, Washington may argue that certain of its regulations, such as its watch requirement in times of restricted visibility, are of limited extraterritorial effect, are necessary to address the peculiarities of Puget Sound, and therefore are not subject to Title II field pre-emption, but should instead be evaluated under Title I conflict pre-emption analysis. Pp. 20–24.

(d) It is preferable that petitioners' substantial arguments as to pre-emption of the remaining Washington regulations be considered by the Ninth Circuit or by the District Court within the framework this Court has herein discussed. The United States did not participate in these cases until appeal, and resolution of the litigation would benefit from the development of a full record by all interested parties. If, pending adjudication on remand, Washington threatens to begin enforcing its regulations, the lower courts would weigh any stay application under the appropriate legal standards in light of the principles discussed herein and with recognition of the national interests at stake. Ultimately, it is largely for Congress and the Coast Guard to confront whether their regulatory scheme, which demands a high degree of uniformity, is adequate. States, as well as environmental groups and local port authorities, will participate in the process. See 46 U. S. C. §3703(a). Pp. 24–25.

148 F. 3d 1053, reversed and remanded.

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