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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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AMOCO PRODUCTION CO., ON BEHALF OF ITSELF AND THE CLASS IT REPRESENTS *v.* SOUTHERN UTE INDIAN TRIBE ET AL.

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

No. 98–830. Argued April 19, 1999– Decided June 7, 1999

Land patents issued to western settlers pursuant to the Coal Lands Acts of 1909 and 1910 conveyed the land and everything in it, except the "coal," which was reserved to the United States. Patented lands included reservation lands previously ceded by respondent Southern Ute Indian Tribe to the United States. In 1938, the United States restored to the Tribe, in trust, title to ceded reservation lands still owned by the Government, including the reserved coal in lands patented under the 1909 and 1910 Acts. These lands contain large quantities of coalbed methane gas (CBM gas) within the coal formations. At the time of the 1909 and 1910 Acts, such gas was considered a dangerous waste product of coal mining, but it is now considered a valuable energy source. Relying on a 1981 opinion by the Solicitor of the Department of the Interior that CBM gas was not included in the Acts' coal reservation, oil and gas companies entered into CBM gas leases with the individual landowners of some 200,000 acres of patented land in which the Tribe owns the coal. The Tribe filed suit against petitioners, the royalty owners and producers under the leases, and federal agencies and officials (respondents here), seeking, *inter alia*, a declaration that CBM gas is coal reserved by the 1909 and 1910 Acts. The District Court granted the defendants summary judgment, holding that the plain meaning of the term "coal" in the Acts is a solid rock substance that does not include CBM gas. In reversing, the Tenth Circuit found the term ambiguous, invoked the canon that ambiguities in land grants should be resolved in favor of the sovereign, and concluded that the coal reservation encompassed CBM gas. The Solicitor of the Interior has withdrawn the

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1981 opinion, and the United States now supports the Tribe's position.

Held: The term "coal" as used in the 1909 and 1910 Acts does not encompass CBM gas. Pp. 6–14.

(a) The question here is not whether, based on what scientists know today, CBM gas is a constituent of coal, but whether Congress so regarded it in 1909 and 1910. The common understanding of coal at that time would not have encompassed CBM gas. Most dictionaries of the day defined coal as the solid fuel resource and CBM gas as a distinct substance that escaped from coal during mining, rather than as a part of the coal itself. As a practical matter, moreover, it is clear that Congress intended to reserve only the solid rock fuel that was mined, shipped throughout the country, and then burned to power the Nation's railroads, ships, and factories. Public land statutes should be interpreted in light of the country's condition when they were passed, *Leo Sheep Co.* v. *United States*, 440 U. S. 668, 682, and coal, not gas, was the primary energy for the Industrial Revolution. Congress passed the Acts to address concerns over the short supply, mismanagement, and fraudulent acquisition of this solid rock fuel and chose a narrow reservation to address these concerns. That Congress viewed CBM gas as a dangerous waste product is evident from earlier mine-safety legislation that prescribed specific ventilation standards to dilute such gas. Congress' view was confirmed by the fact that coal companies venting the gas while mining coal made no attempt to capture or preserve the gas. To the extent that Congress was aware of limited and sporadic drilling for CBM gas as fuel, there is every reason to think it viewed this as drilling for natural gas. Such a distinction is significant, since the question is not whether Congress would have thought that CBM gas had fuel value, but whether Congress thought it was coal fuel. In the 1909 and 1910 Acts, Congress chose to reserve only coal, not oil, natural gas, or other energy resources. This reservation's limited nature is confirmed by subsequent enactments, in which Congress used explicit terms to reserve gas rights. Pp. 8–12.

(b) Respondents contend that Congress did not reserve the solid coal but convey the CBM gas because the resulting split estate would be impractical and mining would be difficult if miners had to capture and preserve escaping CBM gas. It is unlikely that Congress considered this issue, since it did not think that CBM gas would be a profitable energy source. Nor would the prospect of a split estate have deterred Congress from reserving only coal, since including CBM gas in the coal reservation would create a split estate between CBM gas and natural gas, which would be at least as difficult to administer as a split coal/CBM gas estate. Pp. 12–14.

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151 F. 3d 1251, reversed.

KENNEDY, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and STEVENS, O'CONNOR, SCALIA, SOUTER, and THOMAS, JJ., joined. GINSBURG, J., filed a dissenting opinion. BREYER, J., took no part in the consideration or decision of the case.