ferance of Congress and is subject to complete defeasance." [734] Still, the impact on tribal sovereignty is a prime determinant of relative state and tribal regulatory authority.[735]

In a case of major import for the settlement of Indian land claims, the Court ruled in *County of Oneida v. Oneida Indian Nation*,[736] that an Indian tribe may obtain damages for wrongful possession of land conveyed in 1795 without the federal approval required by the Nonintercourse Act.[737] The act reflected the accepted principle that extinguishment of the title to land by Native Americans required the consent of the United States and left intact a tribe's common-law remedies to protect possessory rights. The Court reiterated the accepted rule that enactments are construed liberally in favor of Native Americans and that Congress may abrogate Indian treaty rights or extinguish aboriginal land title only if it does so clearly and unambiguously. Consequently, federal approval of land-conveyance treaties containing references to earlier conveyances that had violated the Nonintercourse Act did not constitute ratification of the invalid conveyances.[738] Similarly, the Court refused to apply the general rule for borrowing a state statute of limitations for the federal common-law action, and it rejected the dissent's view that, given "the extraordinary passage of time," the doctrine of laches should have been applied to bar the claim.[739]

Although the power of Congress over Indian affairs is broad, it is not limitless.[740] The Court has promulgated a standard of review that defers to the legislative judgment "[a]s long as the special treatment can be tied rationally to the fulfillment of Congress' unique

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[734] United States v. Wheeler, 435 U.S. 313, 323 (1978). *See* South Dakota v. Bourland, 508 U.S. 679 (1993) (abrogation of Indian treaty rights and reduction of sovereignty). Congress may also remove restrictions on tribal sovereignty. The Court has held that, absent authority from federal statute or treaty, tribes possess no criminal authority over non-Indians. Oliphant v. Suquamish Indian Tribe, 435 U.S. 191 (1978). The Court also held, in Duro v. Reina, 495 U.S. 676 (1990), that a tribe has no criminal jurisdiction over nontribal Indians who commit crimes on the reservation; jurisdiction over members rests on consent of the self-governed, and absence of consent defeats jurisdiction. Congress, however, quickly enacted a statute recognizing inherent authority of tribal governments to exercise criminal jurisdiction over nonmember Indians, and the Court upheld congressional authority to do so in United States v. Lara, 541 U.S. 193 (2004).

[735] *E.g.*, New Mexico v. Mescalero Apache Tribe, 462 U.S. 324 (1983).

[736] 470 U.S. 226 (1985).

[737] 1 Stat. 379 (1793).

[738] 470 U.S. at 246–48.

[739] 470 U.S. at 255, 257 (Justice Stevens).

[740] "The power of Congress over Indian affairs may be of a plenary nature; but it is not absolute." United States v. Alcea Bank of Tillamooks, 329 U.S. 40, 54 (1946) (plurality opinion) (quoted with approval in Delaware Tribal Business Comm. v. Weeks, 430 U.S. 73, 84 (1977)).