SUPREME COURT OF THE UNITED STATES

Nos. 20–543 and 20–544

JANET L. YELLEN, SECRETARY OF THE TREASURY, PETITIONER
20–543 *v.*
CONFEDERATED TRIBES OF THE CHEHALIS RESERVATION, ET AL.

ALASKA NATIVE VILLAGE CORPORATION ASSOCIATION, INC., ET AL., PETITIONERS
20–544 *v.*
CONFEDERATED TRIBES OF THE CHEHALIS RESERVATION, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[June 25, 2021]

JUSTICE GORSUCH, with whom JUSTICE THOMAS and JUSTICE KAGAN join, dissenting.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) directed trillions of dollars to various recipients across the Nation to help them address the COVID–19 pandemic. Our case focuses on $8 billion Congress set aside for "Tribal governments." The question we must answer is whether Alaska's for-profit Alaska Native Corporations (ANCs) qualify as "Tribal governments." If they do, they may receive approximately $450 million of the earmarked funds; if not, the money will go to tribes across the country. The Court of Appeals for the District of Columbia Circuit wrote a thoughtful and unanimous opinion holding that ANCs are not "Tribal governments." Today, the Court dis-

agrees, providing two competing theories for its result. Respectfully, I find neither persuasive and would affirm.

I

The Alaska Native Claims Settlement Act of 1971 (ANCSA) sought to "settle all land claims by Alaska Natives" by "transfer[ring] $962.5 million in state and federal funds and approximately 44 million acres of Alaska land to state-chartered private business corporations" in which Alaska Natives were given shares. *Alaska* v. *Native Village of Venetie Tribal Government*, 522 U. S. 520, 523–524 (1998); 43 U. S. C. §1601 *et seq.* In particular, ANCSA established over 200 "Village Corporations" and 12 "Regional Corporations." §§1602, 1606. The Village Corporations were created to hold and manage "lands, property, funds, and other rights and assets for and on behalf of a Native village." §1602(j). Meanwhile, shares in the Regional Corporations went to individuals across many different tribes and villages. §§1604, 1606(g)(1)(A). These corporations received most of the settlement funds and lands Congress provided, assets they use to "conduct business for profit." §§1606(d), 1610–1613; see also Brief for Federal Petitioner 5. Today, ANCs are involved in oil and gas, mining, military contracting, real estate, construction, communications and media, engineering, plastics, timber, and aerospace manufacturing, among other things. GAO, Report to Congressional Requesters, Regional Alaska Native Corporations: Status 40 Years After Establishment, and Future Considerations (GAO–13–121, Dec. 2012). "In fiscal year 2017, ANCs had a combined net revenue of $9.1 billion." *Confederated Tribes of Chehalis Reservation* v. *Mnuchin*, 456 F. Supp. 3d 152, 157 (DC 2020).

Everyone agrees that ANCs are entitled to *some* CARES Act relief. Already, they have received benefits Congress allocated to corporations, like the Paycheck Protection Program. See Brief for Respondent Ute Indian Tribe of Uintah

and Ouray Reservation 1 (Brief for Respondent Ute Tribe). Congress also accounted for ANC shareholders, and all Alaskans, when it directed over $2 billion to the State. In fact, Alaska received more money per capita than all but two other States. *Id.*, at 3; Congressional Research Service, General State and Local Fiscal Assistance and COVID–19: Background and Available Data (Feb. 8, 2021). The Alaska Native Villages received hundreds of millions of those dollars because everyone agrees they qualify as tribal governments for purposes of the CARES Act. See *ibid.* This suit concerns only the ANCs' claim of entitlement to *additional* funds statutorily reserved for "Tribal governments." 42 U. S. C. §801(a)(2)(B). If that counterintuitive proposition holds true, ANCs will receive approximately $450 million that would otherwise find its way to recognized tribal governments across the country, including Alaska's several hundred Native Villages. See Letter from E. Prelogar, Acting Solicitor General, to S. Harris, Clerk of Court (May 12, 2021).

In the CARES Act, Congress defined a "Tribal government" as the "recognized governing body of an Indian Tribe." §801(g)(5). In turn, Congress specified in §801(g)(1) that the term "Indian Tribe" should carry here the same meaning that it bears in the Indian Self-Determination and Education Assistance Act of 1975 (ISDA). The relevant portion of that statute provides as follows:

> "'Indian tribe' [or 'Indian Tribe'] means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U. S. C. 1601 et. seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." 25 U. S. C. §5304(e).

The question before us thus becomes whether ANCs count as "Indian tribes" under the longstanding terms Congress adopted in ISDA almost 50 years ago. To resolve that dispositive question, we must answer two subsidiary ones: (1) Does the statute's final clause (call it the recognition clause) apply to the ANCs listed earlier? (2) If so, are ANCs "recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians"? In my view, the recognition clause does apply to ANCs along with the other listed entities. And ANCs are not "recognized" as tribes eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

II

A

Start with the question whether the recognition clause applies to the ANCs. As the nearest referent and part of an integrated list of other modified terms, ANCs must be subject to its terms. Unsurprisingly, the Court of Appeals reached this conclusion unanimously. Lawyers often debate whether a clause at the end of a series modifies the entire list or only the last antecedent. *E.g., Lockhart* v. *United States*, 577 U. S. 347, 350–352 (2016); *id.*, at 362–369 (KAGAN, J., dissenting); *Facebook, Inc.* v. *Duguid*, 592 U. S. ___, ___–___ (2021) (slip op., at 5–7); *id.*, at ___–___ (ALITO, J., concurring in judgment) (slip op., at 1–4). In ISDA, for example, some might wonder whether the recognition clause applies *only* to ANCs or whether it *also* applies to the previously listed entities—"Indian tribe[s], band[s], nation[s]," etc. But it would be passing strange to suggest that the recognition clause applies to everything *except* the term immediately preceding it. A clause that leaps over its nearest referent to modify every other term would defy grammatical gravity and common sense alike. See, *e.g., Fa-*

cebook, Inc., 592 U. S., at ___ (slip op., at 7); *Jama* v. *Immigration and Customs Enforcement*, 543 U. S. 335, 344, n. 4 (2005).

Exempting ANCs from the recognition clause would be curious for at least two further reasons. First, the reference to ANCs comes after the word "including." No one disputes that the recognition clause modifies "any Indian tribe, band, nation, or other organized group or community." So if the ANCs are *included* within these previously listed nouns—as the statute says they are—it's hard to see how they might nonetheless evade the recognition clause. Second, in the proceedings below it was undisputed that the recognition clause modifies the term "Alaska Native village[s]," even as the ANCs argued that the clause does not modify the term "Alaska Native . . . regional or village corporation." *Confederated Tribes of Chehalis Reservation* v. *Mnuchin*, 976 F. 3d 15, 23 (CADC 2020); Brief for Federal Petitioner 46. But to believe that, one would have to suppose the recognition clause skips over only half its nearest antecedent. How the clause might do *that* mystifies. See *Facebook*, 592 U. S., at ___ (slip op., at 6) ("It would be odd to apply the modifier . . . to only a portion of this cohesive preceding clause").

At least initially, the Court accepts the obvious and concedes that the recognition clause modifies everything in the list that precedes it. *Ante,* at 8. But this leaves the Court in a bind. If the recognition clause applies to ANCs, then ANCs must be "recognized" in order to receive funds. And "recognition" is a formal concept in Indian law: "Federal acknowledgement or recognition of an Indian group's legal status as a tribe is a formal political act confirming the tribe's existence as a distinct political society, and institutionalizing the government-to-government relationship between the tribe and the federal government." 1 F. Cohen, Handbook of Federal Indian Law §3.02[3], pp. 133–134 (N. Newton ed. 2012); see also *id.*, §3.02[2], at 132–133. No one

contends that ANCs are recognized by the federal government in this sense.

Admittedly, not every statutory use of the word "recognized" must carry the same meaning. See *ante*, at 14. But not only does ISDA arise in the field of Indian law where the term "recognition" has long carried a particular meaning. The statute proceeds to refer to groups that are "recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." This full phrase is a mouthful, but it was a familiar one to Congress by the time it passed ISDA in 1975. In preceding decades, Congress used similar language in statute after statute granting and terminating formal federal recognition of certain tribes.[1] All of which strongly suggests that ISDA's recognition clause likewise refers to the sort of formal government-to-government recognition that triggers eligibility for the full "panoply of benefits and services" the federal government provides to

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[1] *E.g.,* Act of Sept. 21, 1959, §5, 73 Stat. 593 (upon termination, the former Tribe and its members "shall not be entitled to any of the special services performed by the United States for Indians because of their status as Indians"); Act of Aug. 23, 1954, §2, 68 Stat. 769 (same); Act of Aug. 18, 1958, §10(b), 72 Stat. 621 (same); Act of Sept. 5, 1962, §10, 76 Stat. 431 (same); Act of Apr. 12, 1968, Pub. L. 90–287, §2, 82 Stat. 93 ("Nothing in this Act shall make such tribe or its members eligible for any services performed by the United States for Indians because of their status as Indians"); Menominee Restoration Act, Pub. L. 93–197, 87 Stat. 770 (An Act "to reinstitute the Menominee Indian Tribe of Wisconsin as a federally recognized sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians"). This sort of language also appeared in recognition statutes in the years immediately following ISDA. *E.g.,* Indian Tribal Restoration Act, §4, 92 Stat. 247 (Tribes and their members "shall be entitled to participate in the programs and services provided by the United States to Indians because of their status as Indians"); Siletz Indian Tribe Restoration Act, §3(a), 91 Stat. 1415 (reinstating eligibility for "all Federal services and benefits furnished to federally recognized Indian tribes"); Paiute Indian Tribe of Utah Restoration Act, §3a, 94 Stat. 317 (same).

Indians. 1 Cohen, Handbook of Federal Indian Law §3.02[3], at 134.

There is more evidence too. When Congress passed ISDA, it sought to provide Indians "meaningful leadership roles" that are "crucial to the realization of self-government." 25 U. S. C. §5301. Accordingly, "tribes may enter into 'self-determination contracts' with federal agencies to take control of a variety of federally funded programs." *Menominee Tribe of Wis.* v. *United States*, 577 U. S. 250, 252 (2016); see also §5321. Handing over federal government programs to tribal governments in order to facilitate self-government is precisely the sort of government-to-government activity that aligns with formal recognition. See also §§5384, 5385 (reflecting later amendments to ISDA) (instructing the Secretary to enter compacts and funding agreements "with each Indian tribe participating in self-governance in a manner consistent with the Federal Government's trust responsibility, treaty obligations, and the government-to-government relationship between Indian tribes and the United States").

The CARES Act itself offers still further clues. In the provision at issue before us, Congress appropriated money "for making payments to States, Tribal governments, and units of local government." 42 U. S. C. §801(a)(1). Including tribal governments side-by-side with States and local governments reinforces the conclusion that Congress was speaking of government entities capable of having a government-to-government relationship with the United States. Recall, as well, that the CARES Act defines tribal governments as the "recognized governing body of an Indian Tribe." §801(g)(5). ANCs, like most corporations, have a board of directors, 43 U. S. C. §1606(f), and a corporate board may well be the governing body of an enterprise. But they do not govern any people or direct any government.

B

While initially acknowledging that the recognition clause applies to ANCs, the Court interprets its terms differently. Rather than understanding it as denoting a government-to-government relationship, the Court says, we should look to its "plain meaning." *Ante*, at 7. But even if we could somehow set aside everything we know about how the term is used in Indian law and the CARES Act itself, it's far from clear what "plain meaning" the Court alludes to or how ANCs might fall within it.

First, consider the Federally Recognized Indian Tribe List Act of 1994 (List Act). The List Act instructs the Secretary of the Interior to keep a list of all federally recognized Indian tribes. It does so using language materially identical to that found in ISDA's recognition clause: "The Secretary shall publish in the Federal Register a list of all Indian tribes which the Secretary recognizes to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians." 25 U. S. C. §5131(a). No one before us thinks the Secretary of the Interior should list the ANCs as federally recognized tribes. And given that, it is unclear how ANCs might count as federally recognized tribes under ISDA. To be sure, the List Act came after ISDA. But the Court never attempts to explain how the plain meaning of nearly identical language in remarkably similar legal contexts might nevertheless differ.

Second, on any account, ISDA requires an Indian tribe or group to be "recognized." But what work does this term do on the Court's interpretation? Without explanation, the Court asserts that ANCs are "'recognized as eligible' for ANCSA's benefits" because they are "'established pursuant to' ANCSA." *Ante,* at 8. But on this understanding, any group eligible for benefits would seem, on that basis alone, to be "recognized" as eligible for those benefits. The Court's

reading comes perilously close to rendering the term "recognized" surplusage: If ISDA really does capture any group merely "eligible" for federal benefits, why not just say *that* and avoid introducing a term with a particular and well-established meaning in federal Indian law?

Third, even putting aside the recognition requirement, ISDA says tribes must receive services from the United States "because of their status as Indians." §5304(e). The Court says that ANSCA made ANCs eligible for settlement funds and lands because its shareholders are Alaska Natives. *Ante*, at 8. But is compensation provided to profit-maximizing corporations whose shareholders happen to be Alaska Natives (at least initially, see 43 U. S. C. §§1606(h)(1), 1629c) a benefit provided to *Indians*? And were ANSCA settlement funds provided to ANCs and their shareholders because of their Indian *status* or simply because Congress wanted to resolve a land dispute regardless of the claimants' status? See §1601(b) ("[T]he settlement should be accomplished . . . without establishing any permanent racially defined institutions, rights, privileges, or obligations . . . "); but see §1626(e)(1) ("For all purposes of Federal law, a Native Corporation shall be considered to be a corporation owned and controlled by Natives . . . "). Again, the answers remain unclear. *Ante,* at 8–9.

Finally, ISDA provides that tribes must be recognized as eligible for "*the* special programs and services provided by the United States." 25 U. S. C. §5304(e) (emphasis added). It is a small word to be sure, but "the" suggests the statute refers to a particular slate of programs and services—here the full panoply of federal Indian benefits—not just *any* special programs and services the government might supply. See *Nielsen* v. *Preap*, 586 U. S. ___, ___ (2019) (slip op., at 14) ("[G]rammar and usage establish that 'the' is 'a function word . . . indicat[ing] that a following noun or noun equivalent is definite or has been previously specified by context'" (quoting Merriam-Webster's Collegiate Dictionary 1294

(11th ed. 2005))). It's undisputed too that, while ANSCA provided certain compensation to ANCs, Congress has never made those entities "eligible for the full range of federal services and benefits available to [recognized] Indian tribes." Brief for Federal Petitioner 48.

Rather than confront this last problem, the Court elides it. In its opinion "the special programs and services" becomes "federal Indian programs and services," *ante,* at 10, 14. Nor, even if one were to (re)interpret "the special programs" as "some special programs," is it clear whether ANCSA qualifies. See *ante,* at 10. On what account is settling a dispute over land title a "program" or "service"? See 43 U. S. C. §1626(a) ("The payments and grants authorized under this chapter constitute compensation for the extinguishment of claims to land, and shall not be deemed to substitute for any governmental programs otherwise available to the Native people of Alaska"). Beyond even that, ANCSA extended specific compensation to ANCs—money and title—in exchange for settling land claims. ANCSA provided ANCs nothing in the way of health, education, economic, and social services of the sort that ISDA allows tribes to contract with the federal government to provide.

The Court's reply creates another anomaly too. If receiving any federal money really is enough to satisfy the recognition clause, many other Indian groups might now suddenly qualify as tribes under the CARES Act, ISDA, and other federal statutes. A 2012 GAO study, for example, identified approximately 400 nonfederally recognized tribes in the lower 48 States, of which 26 had recently received direct funding from federal programs. GAO, Indian Issues: Federal Funding for Non-Federally Recognized Tribes (GAO–12–348, Apr. 2012). This number does not include additional entities that may have received federal benefits in the form of loans, procurement contracts, tax expenditures, or amounts received by individual members. *Id.,* at 35. And still other groups may have federal rights secured

by treaty, which may exist even if the tribe is no longer recognized. Cf. *Menominee Tribe* v. *United States*, 391 U. S. 404, 412–413 (1968). How does the Court solve this problem? With an *ipse dixit*. See *ante,* at 11 ("[T]he Court does not open the door to other Indian groups that have not been federally recognized becoming Indian tribes under ISDA"). The Court's "plain meaning" argument thus becomes transparent for what it is—a bare assertion that the recognition clause carries a different meaning when applied to ANCs than when applied to anyone else.

III

With its first theory facing so many problems, the Court offers a backup. Now the Court suggests that ANCs qualify as tribes even if they fail to satisfy the recognition clause. *Ante,* at 18. Because ISDA's opening list of entities specifically includes ANCs, the Court reasons, the recognition clause must be read as inapplicable to them alone. Essentially, the Court quietly takes us full circle to the beginning of the case—endorsing an admittedly ungrammatical reading of the statute in order to avoid what it calls the "implausible" result that ANCs might be included in ISDA's first clause only to be excluded by its second. *Ante,* at 20.

But it is difficult to see anything "implausible" about that result. When Congress adopted ANSCA in 1971, it "created over 200 new legal entities that overlapped with existing tribes and tribal nonprofit service organizations." Brief for Professors and Historians as *Amici Curiae* 27. At that time, there was no List Act or statutory criteria for formal recognition. Instead, as the Court of Appeals ably documented, confusion reigned about whether and which Alaskan entities ultimately might be recognized as tribes. 976 F. 3d, at 18; see also Brief for Professors and Historians as *Amici Curiae* 28; Cohen, Handbook of Federal Indian Law 270–271 (1941). When Congress adopted ISDA just four years later, it sought to account for this uncertainty. The statute

listed three kinds of Alaskan entities: Alaska Native Villages, Village Corporations, and Regional Corporations. And the law did "meaningful work by extending ISDA's definition of Indian tribes" to whichever among them "ultimately were recognized." 976 F. 3d, at 26. It is perfectly plausible to think Congress chose to account for uncertainty in this way; Congress often adopts statutes whose application depends on future contingencies. *E.g., Gundy* v. *United States*, 588 U. S. ___, ___–___ (2019) (GORSUCH, J., dissenting) (slip op., at 11–12) (citing examples).

Further aspects of Alaskan history confirm this understanding. Over time, the vast majority of Alaska Native Villages went on to seek—and win—formal federal recognition as Indian tribes. See 86 Fed. Reg. 7557–7558 (2021); Brief for Respondent Confederated Tribes of Chehalis Reservation et al. 23. (It's this recognition which makes *them* indisputably eligible for CARES Act relief. See *supra*, at 2.) By the time it enacted ISDA, too, Congress had already authorized certain Alaska Native groups to organize based on "a common bond of occupation, or association, or residence." 25 U. S. C. §5119. This standard, which did not require previous recognition as "bands or tribes," was unique to Alaska. See *ibid.* And at least one such entity—the Hydaburg Cooperative Association, organized around the fish industry—*also* went on to receive federal tribal recognition in the 1990s. 86 Fed. Reg. 7558; see also Brief for Respondent Confederated Tribes of Chehalis Reservation et al. 35–36. Though short lived and not a full government-to-government political recognition, the Secretary of the Interior at one point even listed ANCs as "'Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs,'" before eventually removing them. *Ante,* at 15–16. And in 1996, Congress considered a bill that would have "deemed" a particular ANC—the Cook Inlet Region, Inc.—"an Indian tribal entity for the purpose of federal programs for which

Indians are eligible because of their status as Indians" and required that it be included on "any list that designates federally recognized Indian tribes." H. R. 3662, 104th Cong., 2d Sess., §121. Of course, the ANCs before us currently are *not* recognized as tribes. But all this history illustrates why it is hardly implausible to suppose that a rational Congress in 1975 might have wished to account for the possibility that some of the Alaskan entities listed in ISDA might go on to win recognition.

The particular statutory structure Congress employed in ISDA was perfectly ordinary too. Often Congress begins by listing a broad universe of potentially affected parties followed by limiting principles. Take this example from the CARES Act. Congress afforded benefits to certain "'unit[s] of local government,'" and defined that term to mean "a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level with a population that exceeds 500,000." 42 U. S. C. §801(g)(2). The litigants tell us no parish in the country today has a population exceeding half a million. See Brief for Respondent Ute Tribe 31. Suppose they're right. Is that any basis for throwing out the population limitation and suddenly including all parishes? Of course not. Once more, an opening list provides the full field of entities that may be eligible for relief and the concluding clause does the more precise work of winnowing it down. The clauses work in harmony, not at cross-purposes.[2]

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[2]To support its implausibility argument, the Court proposes a hypothetical advertisement for "'50% off any meat, vegetable, or seafood dish, including ceviche, which is cooked.'" *Ante*, at 20. The Court posits that any reasonable customer would expect a discount even on uncooked ceviche. It's a colorful example, but one far afield from Indian law and the technical statutory definitions before us. Even taken on its own terms, too, the example is a bit underdone. A reasonable customer might notice some tension in the advertisement, but there are many plausible takeaways. Maybe the restaurant uses heat to cook its ceviche—many chefs "lightly poach lobster, shrimp, octopus or mussels before using

In defense of its implausibility argument, the Court submits any other reading would yield a redundancy. Unless ANCs are exempt from the recognition clause, the Court suggests, Congress had no reason to mention them in the statute's opening clause because they already "fit into one of the pre-existing ISDA categories," like "'tribe[s], band[s], nation[s], or other organized group[s] or communit[ies],'" *ante,* at 20–21 (quoting 25 U. S. C §5304(e)).

But this much is hard to see too. Admittedly, illustrative examples of more general terms are in some sense always redundant. See *Chickasaw Nation* v. *United States*, 534 U. S. 84, 89 (2001) ("[That] is meant simply to be illustrative, hence redundant"). But Congress often uses illustrative examples in its statutory work, and the practice is not entirely pointless. As this Court has explained, illustrative examples can help orient affected parties and courts to Congress's thinking, and often they serve to "remove any doubt" about whether a particular listed entity is captured within broader definitional terms. *Ali* v. *Federal Bureau of Prisons*, 552 U. S. 214, 226 (2008); see also *Federal Land Bank of St. Paul* v. *Bismarck Lumber Co.*, 314 U. S. 95, 99–100 (1941); A. Scalia & B. Garner, Reading Law 176–177 (2012). That much is certainly true here. If Congress had failed to list ANCs in ISDA's first clause, a dispute could have arisen over whether these corporate entities even qualify as "Indian . . . organized group[s] or communit[ies]." See Brief for Petitioners in No. 20–544, p. 5; *supra,* at 9 (citing 43 U. S. C. §1601(b)).

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them in ceviche." See Cordle, No-Cook Dishes, St. Louis Post-Dispatch, July 17, 2013, p. L4. Maybe the restaurant meant to speak of ceviche as "cooked" in the sense of "fish . . . 'cooked' by marinating it in an acidic dressing" like lime juice. See Bittman, Ceviche Without Fear, N. Y. Times, Aug. 14, 2002, p. F3. Or maybe the restaurant simply listed every dish it makes, understanding some dishes would be excluded by the concluding "cooked" proviso. Even in the Court's own hypothetical it is not "implausible" to apply the modifier across the board.

Having said all this, my disagreement with the Court's "implausibility" argument is a relatively modest one. We agree that linguistic and historical context may provide useful interpretive guidance, and no one today seeks to suggest that judges may sanitize statutes in service of their own sensibilities about the rational and harmonious.[3] Instead, our disagreement is simply about applying the plain meaning, grammar, context, and canons of construction to the particular statutory terms before us. As I see it, an ordinary reader would understand that the recognition clause applies the same way to all Indian groups. And if that's true, there's just no way to read the text to include ANCs as "Tribal governments" for purposes of the CARES Act.

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In my view, neither of the Court's alternative theories for reversal can do the work required of it. The recognition clause denotes the formal recognition between the federal government and a tribal government that triggers eligibility for the full panoply of special benefits given to Indian tribes. Meanwhile, a fair reading of that clause indicates that it applies to ANCs. Accordingly, with respect, I would affirm.

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[3] The Court does not suggest, for example, that the reading of the statute it rejects would be "absurd." Absurdity doctrine "does not license courts to improve statutes (or rules) substantively, so that their outcomes accord more closely" with "'what we might think is the preferred result.'" *Jaskolski* v. *Daniels*, 427 F. 3d 456, 461 (CA7 2005) (Easterbrook, J. for the court) (ellipsis omitted). At most, it may serve a linguistic function—capturing circumstances in which a statute's apparent meaning is so "unthinkable" that any reasonable reader would immediately (1) know that it contains a "technical or ministerial" mistake, and (2) understand the correct meaning of the text. See *Lexington Ins. Co.* v. *Precision Drilling Co.*, 830 F. 3d 1219, 1221–1223 (CA10 2016); A. Scalia & B. Garner, Reading Law 237–238 (2012). Anything more would threaten the separation of powers, undermine fair notice, and risk upsetting hard-earned legislative compromises. *Ibid*; see also *Virginia Uranium, Inc.* v. *Warren*, 587 U. S. ___, ___–___ (2019) (slip op., at 15–16).