# SUPREME COURT OF THE UNITED STATES

No. 20–493

## YSLETA DEL SUR PUEBLO, ET AL., PETITIONERS *v.* TEXAS

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

[June 15, 2022]

CHIEF JUSTICE ROBERTS, with whom JUSTICE THOMAS, JUSTICE ALITO, and JUSTICE KAVANAUGH join, dissenting.

In order to obtain federal trust status, the Ysleta del Sur Pueblo Tribe agreed that Texas's gambling laws should apply on its reservation. Congress passed a bill codifying this arrangement. The key statutory provision states, "[a]ll gaming activities which are prohibited by the laws of the State of Texas are hereby prohibited on the reservation and on lands of the tribe." Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act, §107(a), 101 Stat. 668 (Restoration Act). The Tribe now wishes to engage in various high-stakes gaming activities that would clearly violate Texas law—if Texas law applies. The question presented in this case is whether all of Texas's gaming laws apply on tribal land, or only those laws that categorically ban a particular game.

The Court today concludes that the latter reading of the statute is the better one. I disagree. A straightforward reading of the statute's text makes clear that *all* gaming activities prohibited in Texas are also barred on the Tribe's land. The Court's contrary interpretation is at odds with the statute's plain meaning, conflicts with an unambiguous tribal resolution that the Act was "enacted in accordance with," *id.,* at 668–669, and makes a hash of the statute's structure. The Court's approach also winds up treating

gambling violations more leniently than other violations of Texas law. This makes little sense, as the whole point of the provision at issue was to further restrict gaming on the Tribe's lands. I respectfully dissent.

I

A

The Ysleta del Sur Pueblo Tribe sits on a 100-acre reservation near El Paso, Texas. The Tribe first received federal recognition in 1968. At that time, Congress simultaneously transferred the United States' trust responsibilities to the State of Texas. See Tiwa Indians Act of 1968, Pub. L. 90–287, 82 Stat. 93. Texas thereafter held the Tribe's land in trust, and Texas law applied in full on the reservation.

The situation became tenuous, however, in 1983. That year Texas's Attorney General issued an opinion concluding that the State's trust relationship with a similarly situated Tribe violated the Texas Constitution. This led to a great deal of uncertainty about the Pueblo's future. Efforts began to establish, for the first time, a direct trust relationship between the Tribe and the Federal Government. But a key sticking point soon emerged: the status of gaming on the reservation.

Texas has long maintained strict controls on gambling. Indeed, since 1876 the Texas Constitution has required the State's legislature to "pass laws prohibiting" such activities. Art. III, §47; see also *Fort Worth* v. *Rylie*, 602 S. W. 3d 459, 460 (Tex. 2020). While the Texas Constitution now contains limited exceptions for charitable bingo and raffles, as well as the State's official lottery, its ban on casino-style gaming remains absolute. With the Pueblo seeking federal trust status, Texas officials worried that if the State's gaming laws no longer applied on tribal lands, the Tribe's small reservation might soon become a large hub for high-stakes gaming.

In 1985, Congress considered a bill that would have

granted the Pueblo federal trust status. The bill also would have authorized gaming on the Tribe's land, so long as it occurred "pursuant to a tribal ordinance or law" that had been "approved by the Secretary of the Interior." H. R. 1344, §107, 99th Cong., 1st Sess., 15. The bill passed the House of Representatives but stalled in the Senate due to opposition from Texas state officials and members of the Texas congressional delegation. They were concerned that the bill "did not provide adequate protection against high stakes gaming operations on the Tribe's reservation." *Texas* v. *Ysleta del Sur Pueblo*, 220 F. Supp. 2d 668, 677 (WD Tex. 2001).

In response, the Tribe adopted a resolution, which is of central importance to this case. See Tribal Resolution No. TC–02–86 (Mar. 12, 1986), App. to Pet. for Cert. 121–124. The resolution's preamble contains a series of prefatory clauses. One states that the Tribe has "[n]o interest in conducting high stakes bingo or other gambling operations on its reservation." *Id.,* at 121. Another says the Tribe remains "firm in its commitment to prohibit outright *any* gambling or bingo in *any* form on its reservation." *Id.,* at 123 (emphasis added). At the same time, other clauses assert the Tribe's view that proposals "to make state gaming law applicable on the reservation [are] wholly unsatisfactory" and represent a "substantial infringement upon [tribal] self government." *Id.,* at 122. Still, the Tribe concluded, "the controversy over gaming must not be permitted to jeopardize" legislation granting it federal trust status. *Id.,* at 123. So the Tribal Council made a single "request[]": that its congressional representatives amend the pending legislation to "provide that *all* gaming, gambling, lottery, or bingo, as defined by the laws and administrative regulations of the State of Texas, shall be prohibited on the Tribe's reservation or on tribal land." *Ibid.* (emphasis added).

The Tribe's request ultimately led to enactment of the Restoration Act, which is the statute at issue in this case.

See 101 Stat. 666; see also *Ysleta del Sur Pueblo*, 220 F. Supp. 2d, at 677–679. The Act contains various provisions setting forth the relationship between the Tribe, the State of Texas, and the United States. Two statutory provisions are particularly pertinent. The first addresses general application of Texas law on the reservation, and the second addresses the more specific application of Texas's gaming laws.

First, in §105(f) of the Act, Congress made the Public Law 280 framework applicable to the Ysleta del Sur Pueblo. 101 Stat. 668. The Tribe, Texas, and the United States all embrace this interpretation of the Act. See Brief for Petitioners 25; Brief for Respondent 18; Brief for United States as *Amicus Curiae* 12. Public Law 280 allows certain States to apply in full their criminal laws, and some of their civil laws, on tribal lands. See *Bryan* v. *Itasca County*, 426 U. S. 373 (1976); see also *ante,* at 3–4. The law was designed to address "the problem of lawlessness on certain Indian reservations." *Bryan*, 426 U. S., at 379. In *California* v. *Cabazon Band of Mission Indians*, 480 U. S. 202 (1987), the Court interpreted Public Law 280 to mean that state laws that are "'criminal/prohibitory'" apply on designated reservations, whereas those laws that are merely "'civil/regulatory'" do not, *id.,* at 209. Put differently, we said, "if the intent of a state law is generally to prohibit certain conduct, it falls within Pub. L. 280's grant of criminal jurisdiction [to the State], but if the state law generally permits the conduct at issue, subject to regulation, it must be classified as civil/regulatory and Pub. L. 280 does not authorize its enforcement on an Indian reservation." *Ibid.* Because §105(f) grants Texas Public Law 280 authority on Pueblo lands, the State may directly enforce all of its laws that generally prohibit conduct.

Second, Congress adopted a more specific rule to govern gaming on the reservation, which is set forth at §107 of the Restoration Act. The provision has three parts. Section

107(a) begins with the primary rule. It states unequivocally that "[a]ll gaming activities which are prohibited by the laws of the State of Texas are hereby prohibited on the reservation and on lands of the tribe." 101 Stat. 668. It continues by noting that this rule was "enacted in accordance with the tribe's request in Tribal Resolution No. T.C.–02–86." *Id.,* at 669.

The next part, §107(b), says that the section's prohibition on gaming on the reservation should not be construed as a "grant of civil or criminal regulatory jurisdiction to the State of Texas." *Ibid.*

Finally, §107(c) clarifies how the gaming provision is to be enforced: "Notwithstanding section 105(f), the courts of the United States"—rather than Texas courts—"shall have exclusive jurisdiction over any offense in violation of [§107(a)]." *Ibid.* "However," §107(c) continues, "nothing in this section shall be construed as precluding the State of Texas from bringing an action in the courts of the United States to enjoin violations of the provisions of this section." *Ibid.* This means that—unlike most state laws that apply on tribal land, which Texas can directly enforce given its authority under §105(f)—Texas cannot directly enforce its gaming laws in state court. Instead, if Texas determines the Tribe is conducting prohibited gaming activities, it must seek relief by way of a federal-court injunction.

B

It was not long before things wound up in federal court. The Pueblo sued first. Although the Tribe had previously expressed its "firm" "commitment to prohibit outright any gambling or bingo in any form on its reservation," App. to Pet. for Cert. 123, it now wished to host a bonanza of high-stakes, casino-style games, including baccarat, blackjack, craps, roulette, and more, *Ysleta del Sur Pueblo Tribe* v. *Texas*, 36 F. 3d 1325, 1331, n. 12 (CA5 1994). The dispute made its way to the Fifth Circuit, which ruled against the

Tribe. The court held that through the Restoration Act, "Congress—and the Tribe—intended for Texas' gaming laws and regulations to operate as surrogate federal law on the Tribe's reservation in Texas." *Id.*, at 1334. The Tribe was thus required to follow all of Texas's gaming rules unless it could persuade Congress to repeal the Restoration Act. We denied certiorari. 514 U. S. 1016 (1995).

For more than 25 years, this straightforward interpretation of the Restoration Act held. Yet the Tribe continually pushed the Act's limits, resulting in numerous successful requests for injunctive relief from Texas to enforce its gaming laws. See, *e.g.*, 955 F. 3d 408, 412 (CA5 2020). In several instances, federal courts had to hold tribal officials in contempt for disregarding injunctions. *Ibid.*

The present litigation traces back to 2016. After a District Court enjoined illegal "'sweepstakes'" games being conducted by the Pueblo, the Tribe announced it would be "'transitioning to bingo.'" *Ibid.* As noted, Texas outlaws almost all gambling, though it does permit charitable bingo activities in certain limited situations.

In 2017, Texas inspected the Pueblo's Speaking Rock Entertainment Center to determine whether it was complying with state law. The answer appeared to be "no." Slot machines are outlawed in Texas, as are "gambling device versions of bingo." Tex. Penal Code Ann. §47.01(4)(A) (West 2011); see also §47.02(a)(3) (West Supp. 2021). Yet inside the Tribe's casino, officials found more than 2,000 machines that looked exactly like "'Las-Vegas-style slot machines.'" 955 F. 3d, at 412. Players press a button, graphics spin, noise plays, and eventually players learn whether they have won or lost. The machines are accessible 24 hours a day and, for added effect, are emblazoned with names like "Big Texas Payday," "Welcome to Fabulous Las Vegas," and "Lucky Duck." 2019 WL 639971, *5 (WD Tex., Feb. 14, 2019). Although the machines resemble slot machines in every relevant respect, the Tribe insisted they were a form

of bingo, because whether a player wins turns on "historical bingo draws." *Ibid.*[1]

In addition to these electronic gaming machines, the Tribe also offered live-called bingo 24 hours a day. But the conditions under which these actual bingo games were conducted violated Texas law in many ways. See Tex. Occ. Code Ann. §2001.419 (West Supp. 2021) (setting forth certain bingo restrictions).

Texas filed suit in federal court seeking injunctive relief against the Tribe and tribal officials. The District Court granted an injunction, holding that "the Tribe's bingo operations fail to comply with Texas law." 2019 WL 639971, *11. The Fifth Circuit affirmed, concluding that in exchange for federal trust status, "the Pueblo agreed that its gaming activities would comply with Texas law," including all of the State's gaming regulations. 955 F. 3d, at 410. We granted certiorari. 595 U. S. ___ (2021).

## II

At this point in the litigation, the Tribe does not argue that all of its gaming activities are consistent with Texas law. Rather, it insists that Texas's gaming laws simply do not apply to it, unless Texas categorically bans the playing of a particular type of game altogether. The Tribe does not make this argument based primarily on the text or structure of the statute. It instead relies on *Cabazon Band of Mission Indians*, 480 U. S. 202, which interpreted Public Law 280. The Tribe asks us to treat §107 of the Restoration Act as implicitly adopting *Cabazon Band*'s framework, which distinguishes between laws that are "'criminal/prohibitory'" and laws that are "'civil/regulatory.'" *Id.*, at 209. Under this framework, state laws that totally prohibit a

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[1] A photograph from the record of this version of "bingo" is appended to this opinion. It confirms that the electronic bingo played at the Speaking Rock Entertainment Center is about as close to real bingo as Bingo the famous dog.

type of activity apply on tribal land, while state laws that simply regulate the activity do not. And as the Tribe sees it, Texas does not ban the playing of bingo under *all* circumstances, so none of the State's restrictions on the game apply.

The Court today accepts the Tribe's position, but I am not persuaded.

A

1

I begin with the statute's plain text. Section 107(a) provides:

> "All gaming activities which are prohibited by the laws of the State of Texas are hereby prohibited on the reservation and on lands of the tribe. Any violation of the prohibition provided in this subsection shall be subject to the same civil and criminal penalties that are provided by the laws of the State of Texas. The provisions of this subsection are enacted in accordance with the tribe's request in Tribal Resolution No. T.C.–02–86 which was approved and certified on March 12, 1986." 101 Stat. 668–669.

The best reading of this statute is that all of Texas's gambling rules apply in full on the Tribe's land. "All" gaming activities prohibited by Texas are prohibited on the reservation. "Any" violation is subject to the same penalties that Texas would ordinarily impose.

The Tribe posits that this plain text may be read to refer only to the banning of entire games—such as poker, baccarat, or roulette. See Brief for Petitioners 27–28. But had Congress wished to adopt this narrower definition of "gaming activities," it easily could have done so. For example, it could have referred to "types of gambling," or mentioned that the prohibition would apply only if Texas "flatly," "categorically," or "completely" banned a particular type of

game. Congress did not do so.

2

Further textual evidence points decisively in the same direction. Section 107(a) says that it was "enacted in accordance with the tribe's *request* in Tribal Resolution No. T.C.–02–86." 101 Stat. 668–669 (emphasis added). As noted above, the Tribal Resolution contains just a single "request[]": that Congress enact "language which would provide that all gaming, gambling, lottery, or bingo, as defined by the laws and administrative regulations of the State of Texas, shall be prohibited on the Tribe's reservation or on tribal land." App. to Pet. for Cert. 123. This language is categorical. So the breadth of the Tribe's request, and Congress's clear statement that it enacted §107(a) in accordance with that request, strongly indicate that Congress intended to ban "all" gaming activities—"as defined by" Texas—that are inconsistent with Texas law.[2]

The Court does not view the Tribal Resolution as significant because Congress did not "purport to incorporate [it] into federal law." *Ante*, at 16. But this is not mere legislative history; it is statutory text. *Congress* told us exactly why it did what it did: It was acting in accord with the Tribe's request that it ban on the reservation all gaming as defined by Texas.

The Court says that "Congress *did* legislate 'in accordance with' the Tribe's resolution" because it "expressly granted the Tribe federal recognition and chose not to apply

[2] The Court argues that we omit "essential details" from our account of the tribal resolution—namely, the fact that *California* v. *Cabazon Band of Mission Indians*, 480 U. S. 202 (1987), was decided after the resolution's enactment but before passage of the Restoration Act. *Ante*, at 18. The Court says it is "plausible" this led to a better deal for the Tribe. *Ibid.* But §107(a) does not mention *Cabazon Band*. Instead, its express terms say the provision was "enacted in accordance with the tribe's request" in the resolution. 101 Stat. 668–669. The resolution is therefore the essential reference point.

Texas gaming regulations as surrogate federal law on tribal land." *Ante*, at 17. Texas, the Court suggests, should be happy to have gotten what had never been in question from the beginning—a ban on games fully barred by the State. That was its "half a loaf." *Ibid.*

In making this claim, the Court relies on cherry-picked excerpts from the resolution's preamble. But the text of §107(a) of the Restoration Act rules out the Court's analysis. Section 107(a) expressly states that the provision was "enacted in accordance with the tribe's *request* in Tribal Resolution No. T.C.–02–86." 101 Stat. 668–669 (emphasis added). As noted, the resolution contains only one single "request[]"—that Congress ban on tribal lands "*all* gaming, gambling, lottery, or bingo, as defined by the laws and administrative regulations of the State of Texas." App. to Pet. for Cert. 123 (emphasis added). The resolution's preamble makes up no part of this "request," so the Court's reliance on it is misplaced. "Or to put the point differently, operative provisions should be given effect as operative provisions, and prologues as prologues." *District of Columbia* v. *Heller*, 554 U. S. 570, 578, n. 3 (2008).[3]

In sum, §107(a) of the Restoration Act is best read to mean that all of Texas's gaming laws apply on the Tribe's reservation.

B

The Court rejects this straightforward interpretation of

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[3] The Court accuses the dissent of "reshap[ing] the tribal resolution to its liking" by focusing on the Tribe's request in the resolution. *Ante*, at 18, n. 4. The reason we focus on the "request" in the tribal resolution is because that is precisely what Congress directed us to do. See 101 Stat. 668–669. Of course, as this opinion elsewhere makes clear, the resolution's preamble is emphatic in expressing the Tribe's intent to prohibit all gaming activities and its willingness to compromise on the application of state gaming law in order to secure federal trust status. See *supra*, at 3.

the statute for one main reason: It adopts the Tribe's argument that the use of the word "prohibited" in §107(a) implicitly incorporates the jurisdictional framework of Public Law 280 and *Cabazon Band*.

1

There are a number of reasons to be skeptical of this approach. *First*, Congress knew how to incorporate the Public Law 280 framework where it wished to do so. We know that because that is precisely what Congress did in §105(f) of the Restoration Act. There is little reason to think that Congress would have done so elsewhere in the very same Act with nothing more than a wink and a nudge.

*Second*, there is no evidence that Congress intended to use the word "prohibited" in §107(a) as a term of art. The word "prohibit" appears thousands of times in the U. S. Code. See Brief for Respondent 24, n. 6. The fact that our decision in *Cabazon Band* used this generic term to describe the bounds of Public Law 280 is hardly enough to turn it into a term of art with a more particularized meaning.

*Third*, the text of §107(a) of the Restoration Act bears little resemblance to the statutory language of Public Law 280. Compare 18 U. S. C. §1162 and 28 U. S. C. §1360 (setting forth provisions of Public Law 280) with §107 of the Restoration Act. Thus, this is not a situation where a more recent enactment carries with it the "old soil" of a predecessor statute or rule. See F. Frankfurter, Some Reflections on the Reading of Statutes, 47 Colum. L. Rev. 527, 537 (1947).

*Finally*, the language used in §107 does not signal an intent to adopt *Cabazon Band*'s unique dichotomy between laws that are "'criminal/prohibitory'" and those that are "'civil/regulatory.'" 480 U. S., at 209. The Tribe points to §107(a)'s use of the word "prohibited" and §107(b)'s reference to the State lacking "regulatory jurisdiction" on tribal lands to suggest that only Texas's gaming laws that are

"criminal/prohibitory" ought to apply. 101 Stat. 669. But §107(a) also says that both Texas's "civil *and* criminal penalties" apply when the Tribe engages in prohibited gaming activities. *Id.,* at 668 (emphasis added). And §107(a) was enacted "in accordance with" the Tribal Resolution, *id.,* at 668–669, which specifies that the Restoration Act outlaws "all gaming, gambling, lottery, or bingo, as defined by the laws and *administrative regulations* of the State of Texas," App. to Pet. for Cert. 123 (emphasis added). These express references to "civil" penalties and "administrative regulations" make it unlikely that Congress intended to implicitly incorporate only Texas's gaming laws that are criminal/prohibitory. To the extent Congress legislated with *Cabazon Band*'s dichotomy in mind, the crosscutting language that Congress used suggests it intended to incorporate both types of laws.

2

The foregoing is confirmed by the structure of the Restoration Act and its statutory history. As noted above, §105(f) incorporates the Public Law 280 framework. The Tribe does not dispute this. See Brief for Petitioners 26–27. Section 107(a) then provides a more specific rule for gaming activities. This is thus the common case where "[a] specific provision"—§107(a)—"controls [over] one of more general application." *Gozlon-Peretz* v. *United States*, 498 U. S. 395, 407 (1991).

The Tribe disagrees. It argues that while §105(f) of the Restoration Act incorporated Public Law 280's *Cabazon Band* framework, §107(a) did so as well. See Brief for Petitioners 26–28. But if §105(f)—and its incorporation of *Cabazon Band*—already applied to gaming activities that were generally prohibited in Texas, there would have been no need for Congress to enact the more specific rule of §107(a). The Tribe's proffered reading of the statute thus runs headlong into the canon against surplusage. See A. Scalia & B.

Garner, Reading Law 174 (2012) (no provision "should needlessly be given an interpretation that causes it to duplicate another provision or to have no consequence" (boldface deleted)).[4]

The Tribe's preferred interpretation is especially doubtful given the history of the Restoration Act. The key roadblock to the Tribe obtaining federal trust status was a concern that it would permit gambling. The Tribe obtained federal trust status only after striking a deal on this issue. See *Ysleta del Sur Pueblo*, 220 F. Supp. 2d, at 677. It would make little sense for Congress to have enacted §107(a)'s limitations on gaming merely to duplicate the rules already set forth in §105(f). And it would make even less sense for Congress to have done so while simultaneously indicating that it was enacting the gaming prohibition "in accordance with the tribe's request," §107(a), 101 Stat. 668–669, that it ban on tribal lands "*all* gaming, gambling, lottery, or bingo, as defined by the laws and administrative regulations of the State of Texas"—full stop, App. to Pet. for Cert. 123 (emphasis added).

What's more, the Tribe's interpretation of §107—embraced by the Court today—leads to a bizarre result: Violations of Texas's criminal gaming prohibitions receive *more* lenient treatment than all other violations of Texas's criminal laws. Under §105(f), Texas may directly enforce in state court all of its laws that are "criminal/prohibitory." But under §107(c), Texas may enforce its gaming laws only through federal-court injunctions. This diminished enforcement authority would make sense if the full breadth of

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[4] In response, the Court focuses on the different treatment of Texas's gaming laws under §§107(b) and (c). See *ante*, at 12, n. 1. But the Court does not dispute that under its reading of the Restoration Act, §107(a) readopted the substantive *Cabazon Band* standard already required by §105(f), even though §105(f) comes just a few sentences earlier in the statute and uses distinct language not present in §107(a) to expressly adopt the Public Law 280 framework.

Texas's gaming prohibitions applied on tribal lands. But in a universe where §107(a) bars no conduct beyond what §105(f) already prohibits, it would make little sense for Texas to have *less* enforcement authority over gaming when that was the only sticking point prior to passage of the Restoration Act. This is a sure-fire sign that something has gone badly awry in the Court's interpretation of §107.

The Tribal Resolution confirms this point. The House of Representatives passed H. R. 1344 in December 1985. That version of the bill already contained the pertinent language applying Public Law 280 to the Tribe. See H. R. 1344, §105(f), 99th Cong., 1st Sess., 6. Under that regime, the Tribe would have had the same authority that other tribes had under Public Law 280 to offer games not altogether banned by a State. But H. R. 1344 stalled in the Senate, and the Tribe adopted its resolution. The resolution made clear that the Tribe was offering a concession that would limit its ability to offer gambling to a greater extent than under H. R. 1344 and its existing incorporation of Public Law 280. That is why the Tribe objected that it was being unfairly "singl[ed] out . . . for treatment different than that accorded other Tribes in this country." App. to Pet. for Cert. 123.

Still, the Tribe wanted—and needed—federal trust status, more than gambling. In fact, the Tribe asserted in the preamble to the resolution that it had "no interest in conducting high stakes bingo or other gambling operations" and remained "firm in its commitment to prohibit outright any gambling or bingo in any form on its reservation." *Id.*, at 121, 123. Given its interest in federal trust status and its lack of interest in gaming, the Tribe requested that Congress "amend" H. R. 1344 to add language banning "all gaming, gambling, lottery, or bingo" on its reservation. *Ibid.* Since the then-existing text of H. R. 1344 already made Public Law 280 applicable to the Tribe, it is plain that the proposed addition in §107 was designed to go further.

The Court's construction of §107—as merely extending the Public Law 280 framework to gaming on Pueblo lands, and then watering down that framework through §107(c)'s limitation on remedies—is untenable.

3

The Tribe insists that a contrary interpretation of §107(a) would render §§107(b) and (c) meaningless, or would at least result in undue tension between those provisions and subsection (a). See, *e.g.*, Brief for Petitioners 30–31. I disagree.

The Tribe focuses primarily on §107(b). That provision states, "Nothing in this section shall be construed as a grant of civil or criminal regulatory jurisdiction to the State of Texas." 101 Stat. 669. The Tribe and Court contend that this reservation of authority shows that Congress intended to adopt the *Cabazon Band* framework. *Ante*, at 9–10. But if §107(a) simply adopted *Cabazon Band*, why would there have been any need to say so again in §107(b)? Section 107(b) only makes sense if §107(a) raised questions about how far Texas's authority reached *beyond* the limits of *Cabazon Band*. Section 107(b) simply but importantly clarifies that §107(a) adopts *only* Texas's substantive gaming laws and associated penalties. What §107(a) cannot be construed to do—according to §107(b)—is to authorize Texas to exercise the regulatory authority of administrative agencies or other enforcers of state law directly against the Tribe. Thus, Texas correctly explains that its Lottery Commission could not exercise "jurisdiction on the Tribe's reservation." Brief for Respondent 38. Likewise, its "local district attorneys" could not bring "criminal enforcement actions against the Pueblo in state court for violations of what has been adopted as federal law." *Id.*, at 38–39. Yet as §107(a) demands, the substance of the State's laws prohibiting certain gaming activities would remain enforceable in full.

The next section, §107(c), explains how: The State could enforce its laws by "bringing an action in the courts of the United States to enjoin violations of the provisions of this section." 101 Stat. 669.

* * *

The Ysleta del Sur Pueblo Tribe needed federal trust status to secure its future. Texas objected that granting this status might bring with it casino-style gaming. Categorically denying any interest in gaming, the Tribe requested that the pending bill conferring federal trust status be amended to prohibit on the reservation all gambling as defined by Texas law. The Tribe did so even though it acknowledged this would result in it being treated differently from other tribes. The proposal removed the State's objection and Congress passed the bill granting federal trust status to the Tribe, while—in §107(a)—specifically prohibiting on the reservation gaming activities barred under Texas law. At the same time, in §107(b), Congress protected the Tribe's interests by banning direct state enforcement on the reservation. Under §107(c), Texas would instead have to proceed in federal court. This was a careful balance struck by Congress.

The Court today throws out that balance, treating gaming on this reservation as if it were just like any other Public Law 280 reservation. I respectfully dissent.

## APPENDIX

Motion for Summary Judgt., Exh. A, in No. 3:17–cv–179 (WD Tex., Nov. 11, 2018), ECF Doc. 146–1, p. 1.