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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]

JUSTICE GORSUCH delivered the opinion of the Court.

Native American Tribes possess "inherent sovereign authority over their members and territories." *Oklahoma Tax Comm'n* v. *Citizen Band Potawatomi Tribe of Okla.*, 498 U. S. 505, 509 (1991). Under our Constitution, treaties, and laws, Congress too bears vital responsibilities in the field of tribal affairs. See, *e.g.*, *United States* v. *Lara*, 541 U. S. 193, 200 (2004). From time to time, Congress has exercised its authority to allow state law to apply on tribal lands where it otherwise would not. See *Santa Clara Pueblo* v. *Martinez*, 436 U. S. 49, 60 (1978); *Bryan* v. *Itasca County*, 426 U. S. 373, 392 (1976); *Rice* v. *Olson*, 324 U. S. 786, 789 (1945). In this case, Texas contends that Congress expressly ordained that all of its gaming laws should be treated as surrogate federal law enforceable on the Ysleta del Sur Pueblo Reservation. In the end, however, we find no evidence Congress endowed state law with anything like the power Texas claims.

I

A

The Ysleta del Sur Pueblo is one of three federally recognized Indian Tribes in Texas. Its reservation lies near El Paso, and the Tribe today includes over 4,000 enrolled members. See About Us, Ysleta del Sur Pueblo (June 2022), https://www.ysletadelsurpueblo.org/about-us. The Tribe traces its roots back to the 1680 Pueblo Revolt against the Spanish in New Mexico. In the revolt's aftermath, the Spanish retreated from Santa Fe to El Paso, and a large number of Ysleta Pueblo Indians accompanied them. S. Rep. No. 100–90, p. 6 (1987) (Senate Report); W. Timmons, El Paso 18 (1990) (Timmons). Soon, tribal members built the Ysleta Mission, the oldest church in Texas, and in 1751 Spain granted 23,000 acres to the Tribe for its homeland. See Senate Report 6–7; Timmons 36.

Things changed for the Tribe after Texas gained statehood in 1845. The State disregarded Spain's land grant and began incorporating a town on tribal lands and issuing land patents to non-Indians. Senate Report 6–7. Over the years that followed, the Tribe repeatedly lost lands "without recompense." Timmons 181. Yet some tribal members remained on parts of their homeland, "determin[ed] to preserve [their] language, customs, and traditions." *Ibid.* In the late 1890s, the Tribe adopted a constitution to ensure "the survival of [its] ancient tribal organization." *Ibid.* After years of struggle, the Tribe also won formal recognition from Texas in 1967 and Congress the following year. *Id.*, at 260–261. In its 1968 legislation, Congress assigned its trust responsibilities for the Tribe to Texas. 82 Stat. 93. That trust relationship was important, as it ensured the Tribe would retain the remaining 100 acres of land it possessed and gain access to certain tribal funding programs. See Timmons 261; see also R. Chambers, Judicial Enforcement of the Federal Trust Responsibility to Indians, 27

Stan. L. Rev. 1213, 1233–1234 (1975) (discussing trust obligations).

This arrangement persisted until 1983. That year, Texas renounced its trust responsibilities, asserting that they were inconsistent with the State's Constitution. See 2019 WL 639971, *1 (WD Tex., Feb. 14, 2019). The Tribe responded to this development by seeking new congressional legislation to reestablish its trust relationship with the federal government. But that effort quickly became bogged down in a dispute. Of all things, it concerned bingo. Texas, it seems, worried that allowing tribal gaming would have a detrimental effect on "existing charitable bingo operations in the State of Texas." App. to Pet. for Cert. 121. And because Texas judged that its laws would be inapplicable on tribal lands without federal approval, the State opposed any new federal trust legislation unless it included a special provision permitting it to apply its own gaming laws on the Tribe's lands. See *ibid*.

B

Years of negotiations ensued. But one development during this period turned out to have particular salience even though it did not immediately concern either the Tribe or Texas. In February 1987, this Court issued *California* v. *Cabazon Band of Mission Indians*, 480 U. S. 202. In it, the Court addressed Public Law 280, a statute Congress had adopted in 1953 to allow a handful of States to enforce some of their criminal—but not certain of their civil—laws on particular tribal lands. See *Bryan*, 426 U. S., at 383–385. Seeking to apply that statutory direction in the context of Indian gaming, the Court held that, if a state law *prohibits* a particular game, it falls within Public Law 280's grant of criminal jurisdiction and a State may enforce its ban on tribal lands. *Cabazon*, 480 U. S., at 209–210. But if state laws merely *regulate* a game's availability, the Court ruled, Public Law 280 does not permit a State to enforce its rules

on tribal lands. See *id.*, at 210–211.

The Court then turned to apply this prohibitory/regulatory distinction to California's bingo laws. Much like Texas today, California in 1987 permitted bingo in various circumstances (including for charitable purposes), but treated deviations from its rules as criminal violations. See *id.*, at 205, 208–209. Because California allowed *some* bingo to be played, the Court reasoned, the State "regulate[d] rather than prohibit[ed]" the game. *Id.*, at 211. From this, it followed that Public Law 280 did not authorize the State to apply its own bingo laws on tribal lands. *Id.*, at 210–211. In reaching this conclusion, the Court rejected California's suggestion that its laws were prohibitory rather than regulatory because they were enforceable by criminal sanctions, explaining that "an otherwise regulatory law" is not enforceable under Public Law 280 merely because a State labels it "criminal." *Id.*, at 211. "Otherwise," the Court explained, Public Law 280's "distinction" between criminal and civil laws "could easily be avoided." *Ibid.*

It appears the Court's decision helped catalyze new legislation. After *Cabazon*, "congressional efforts to pass [Indian gaming] legislation . . . that had been ongoing since 1983 gained momentum, with Indian tribes' position strengthened." W. Wood, The (Potential) Legal History of Indian Gaming, 63 Ariz. L. Rev. 969, 1027, and n. 353 (2021) (Wood). In fact, just six months after the decision, in August 1987, Congress finally adopted the Ysleta del Sur and Alabama and Coushatta Indian Tribes of Texas Restoration Act, 101 Stat. 666 (Restoration Act). In that law, Congress restored the Tribe's federal trust status. And to resolve Texas's gaming objections, Congress seemingly drew straight from *Cabazon*, employing its distinction between prohibited and regulated gaming activity. The Restoration Act "prohibited" as a matter of federal law "[a]ll gaming activities which are prohibited by the laws of the State of Texas." 101 Stat. 668. But the Act also provided

that it should not be "construed as a grant of civil or criminal regulatory jurisdiction to the State of Texas." *Id.*, at 669.

That was not all Congress did. Because *Cabazon* left certain States unable to apply their gaming regulations on Indian reservations, some feared the Court's decision opened the door to a significant amount of new and unregulated gaming on tribal lands. See R. Anderson, S. Krakoff, & B. Berger, American Indian Law: Cases and Commentary 479–480 (4th ed. 2020) (Anderson). In 1988, Congress sought to fill that perceived void by adopting its own comprehensive national legislation: the Indian Gaming Regulatory Act (IGRA), 102 Stat. 2467, 25 U. S. C. § 2701 *et seq.*; Anderson 479–482. IGRA established rules for three separate classes of games. Relevant here, the law permitted Tribes to offer so-called class II games—like bingo—in States that "permi[t] such gaming for any purpose by any person, organization or entity." § 2710(b)(1)(A). Meanwhile, the statute allowed Tribes to offer class III games—like blackjack and baccarat—but only pursuant to tribal/state compacts. § 2703(8); Anderson 480. To ensure compliance with the statute's terms, IGRA created the National Indian Gaming Commission. § 2704(a).

C

In the 1990s, the Tribe sought to negotiate a compact with Texas to offer class III games pursuant to IGRA. But Texas refused to come to the table. It argued that the Restoration Act displaced IGRA and required the Tribe to follow all of the State's gaming laws on tribal lands.

That dispute quickly found its way to court. Initially, a federal district court granted summary judgment for the Tribe, holding that Texas violated IGRA by failing to negotiate in good faith. On appeal, however, the Fifth Circuit reversed. That court held that the Restoration Act's directions superseded IGRA's and guaranteed that all of "Texas'

gaming laws and regulations" would "operate as surrogate federal law on the Tribe's reservation." *Ysleta del Sur Pueblo* v. *Texas*, 36 F. 3d 1325, 1326, 1334 (1994) (*Ysleta I*).

A quarter century of confusion and litigation followed. Repeatedly, the Tribe sought to conduct gaming operations within the confines of *Ysleta I* at its Speaking Rock Entertainment Center, which houses restaurants, bars, and concert venues. Repeatedly, Texas argued that the Tribe's activities exceeded the Fifth Circuit's mandate. Faced with these disputes, lower courts experimented with a variety of approaches: enjoining all on-reservation gaming, instructing the Tribe to seek licenses from Texas regulators, and even requiring the Tribe to obtain preapproval from a federal court before offering any new gaming operations. One court described this process as having "transformed [it] into a quasi-regulatory body overseeing and monitoring the minutiae of the [Tribe's] gaming-related conduct." *Texas* v. *Ysleta del Sur Pueblo*, 2016 WL 3039991, *19 (WD Tex., May 27, 2016).

D

The current case represents just the latest in this long line. In 2016, the Tribe began offering bingo. On its view, it was free to offer at least this game because IGRA treats bingo as a class II game for which no state permission is required so long as the State permits the game to be played on some terms by some persons. See 25 U. S. C. § 2710(b)(1)(A). Citing IGRA, the Tribe did not just offer the sort of bingo played in church halls across the country. It also offered "electronic bingo," a game in which patrons sit at "machines [that] look similar to a traditional slot machine." 2019 WL 639971, *5 (internal quotation marks omitted). Unlike typical slot machines, however, "the underlying game is run using historical bingo draws." *Ibid.*

The State responded by seeking to shut down all of the Tribe's bingo operations. Whatever IGRA may allow, Texas

argued, the Fifth Circuit was clear in *Ysleta I* that the Restoration Act forbids the Tribe from defying any of the State's gaming regulations. And, Texas stressed, under its laws bingo remains permissible today only for charitable purposes and only subject to a broad array of regulations.

Finding itself bound by *Ysleta I*, the District Court sided with Texas and enjoined the Tribe's bingo operations. But the court also chose to stay its injunction pending appeal. The court did so because it thought that either the Fifth Circuit or this Court might wish to reconsider *Ysleta I*. See 2019 WL 5589051, *1 (WD Tex., Mar. 28, 2019). After all, the Restoration Act effectively federalizes only those state laws that *prohibit* gaming activities. The statute expressly states that nothing in it may be read as authorizing Texas to enforce criminal or civil *regulations* on tribal lands. And when it comes to bingo, the State permits at least some forms of the game subject to regulation. In the District Court's judgment, "the Tribe [had] a sufficient likelihood of success on the merits" under the terms of the Restoration Act "to support a stay." *Ibid*. The District Court further found that, without a stay, the injury to the Tribe would be "truly irreparable." *Id*., at *2. Speaking Rock's revenues account for 60 percent of the Tribe's operating budget, which supports "significant educational, governmental, and charitable initiatives." *Ibid*; Brief for Petitioners 17. And when Speaking Rock closed due to one of the many previous disputes, tribal unemployment rose from 3 to 28 percent. See *id*., at 18.

On appeal, the Fifth Circuit "re-reaffirm[ed]" *Ysleta I* and held that the decision "resolve[d] this dispute." 955 F. 3d 408, 414, 417 (2020). *Ysleta I* expressly held that all of "Texas' gaming laws and regulations . . . operate as surrogate federal law on the Tribe's reservation." 955 F. 3d, at 414 (emphasis deleted). And because the Tribe's bingo operations did not conform to the State's bingo regulations, the court held, they were impermissible. *Ibid*.

After the Tribe filed a petition for certiorari, this Court called for the views of the Solicitor General. The United States argued that the Fifth Circuit's understanding of the Restoration Act took a wrong turn in *Ysleta I* and urged us to correct the error. See Brief for United States as *Amicus Curiae* on Pet. for Cert. 1. Ultimately, we agreed to take up this case to consider that question. 595 U. S. ___ (2021).

II

A

Before us, the parties offer two very different accounts of the Restoration Act. The State, in its only argument in support of regulatory jurisdiction over the Tribe's gaming activities, reads the Act as effectively subjecting the Tribe to the entire body of Texas gaming laws and regulations, just as the Fifth Circuit held in *Ysleta I*. The Tribe understands the Act to bar it from offering only those gaming activities the State fully prohibits. Consistent with *Cabazon*, the Tribe submits, if Texas merely regulates a game like bingo, it may offer that game—and it may do so subject only to the limits found in federal law and its own law, not state law.

To resolve the parties' disagreement, we turn to § 107 of the Restoration Act, where Congress directly addressed gaming on the Tribe's lands and said this:

"**SEC. 107. GAMING ACTIVITIES**.

(a) IN GENERAL.—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.

(b) NO STATE REGULATORY JURISDICTION.—Nothing in this

section shall be construed as a grant of civil or criminal regulatory jurisdiction to the State of Texas.

(c) JURISDICTION OVER ENFORCEMENT AGAINST MEMBERS.— [T]he courts of the United States shall have exclusive jurisdiction over any offense in violation of subsection (a) that is committed by the tribe . . . ." 101 Stat. 668–669.

Perhaps the most striking feature about this language is its dichotomy between prohibition and regulation. On the one hand, subsection (a) says that gaming activities *prohibited* by state law are also prohibited as a matter of federal law (using some variation of the word "prohibited" no fewer than three times). On the other hand, subsection (b) insists that the statute does not grant Texas civil or criminal *regulatory* jurisdiction with respect to matters covered by this "section," a section concerned exclusively with gaming. The implication that Congress drew from *Cabazon* and meant for us to apply its same prohibitory/regulatory framework here seems almost impossible to ignore. See Part II–B, *infra*.

But before getting to that, we start with a careful look at the statute's terms standing on their own. Often enough in ordinary speech, to *prohibit* something means to "forbid," "prevent," or "effectively stop" it, or "make [it] impossible." Webster's Third International Dictionary 1813 (1986) (Webster's Third); see 7 Oxford English Dictionary 596 (2d ed. 1989) (OED); Black's Law Dictionary 1212 (6th ed. 1990) (Black's). Meanwhile, to *regulate* something is usually understood to mean to "fix the time, amount, degree, or rate" of an activity "according to rule[s]." Webster's Third 1913; see 8 OED 524; Black's 1286. Frequently, then, the two words are "not synonymous." *Id.*, at 1212.

That fact presents Texas with a problem. The State concedes that its laws do not forbid, prevent, effectively stop, or make bingo impossible. Instead, the State admits that it

allows the game subject to fixed rules about the time, place, and manner in which it may be conducted. See Brief for Respondent 5. From this alone, it would seem to follow that Texas's laws fall on the regulatory rather than prohibitory side of the line—and thus may not be applied on tribal lands under the terms of subsection (b).

To be sure, Texas is not without a reply. It observes that in everyday speech someone could describe its laws as "prohibiting" bingo *unless* the State's time, place, and manner regulations are followed. After all, conducting bingo or any other game in defiance of state regulations can lead not just to a civil citation, but to a criminal prosecution too. See Tex. Occ. Code Ann. § 2001.551(c) (West 2019). In this sense, the State submits, it seeks to do exactly what subsection (a) allows—"prohibit" bingo that is not conducted for charitable purposes and compliant with all its state gaming regulations.

That much we find hard to see. Maybe in isolation or in another context, Texas's understanding of the word "prohibit" would make sense. But here it risks rendering the Restoration Act a jumble. No one questions that Texas "regulates" bingo by fixing the time, place, and manner in which the game may be conducted. The State submits only that, in some sense, its laws *also* "prohibit" bingo—when the game fails to comply with the State's time, place, and manner regulations. But on that reading, the law's dichotomy between prohibition and regulation collapses. Laws regulating gaming activities *become* laws prohibiting gaming activities. It's an interpretation that violates our usual rule against "ascribing to one word a meaning so broad" that it assumes the same meaning as another statutory term. *Gustafson* v. *Alloyd Co.*, 513 U. S. 561, 575 (1995). It's a view that defies our usual presumption that "differences in language like this convey differences in meaning." *Henson* v. *Santander Consumer USA Inc.*, 582 U. S. ___, ___ (2017) (slip op., at 6). And perhaps most tellingly, it is a

construction that renders state gaming regulations simultaneously both (permissible) prohibitions and (impermissible) regulations. Rather than supply coherent guidance, Texas's reading of the law renders it an indeterminate mess.

The State's interpretation of subsection (a) presents another related problem. Suppose we could somehow overlook the indeterminacy its interpretation yields and adopt the State's view that it may "prohibit" bingo under subsection (a) not merely by outlawing bingo altogether but also by dictating the time, place, and manner in which it is played. On that account, subsection (b) would be left with no work to perform, its terms dead letters all. Yes, subsection (b) *says* that it does not federalize Texas's civil and criminal gaming regulations on tribal land. But, the State effectively suggests, we should turn a blind eye to all that. It's a result that defies yet another of our longstanding canons of statutory construction—this one, the rule that we must normally seek to construe Congress's work "so that effect is given to all provisions, so that no part will be inoperative or superfluous, void or insignificant." *Corley* v. *United States*, 556 U. S. 303, 314 (2009) (internal quotation marks omitted).

Seeking a way around these problems, Texas only stumbles on another. The State submits that subsection (b) performs real work even on its reading by denying its courts and gaming commission "jurisdiction" to punish violations of subsection (a) and sending disputes over "regulatory" violations to federal court instead. The dissent also embraces this approach. See *post*, at 14–15. But this understanding of subsection (b) only serves to render still *another* portion of the statute—subsection (c)—a nullity. Titled "Jurisdiction Over Enforcement Against Members," subsection (c) grants the federal courts "exclusive" jurisdiction over violations of subsection (a), and it also permits Texas to "brin[g]

an action in [federal court] to enjoin violations of [subsection (a)]." 101 Stat. 669. Put differently, subsection (c) already precludes state courts and state agencies from exercising jurisdiction over violations of subsection (a). To make any sense of the statute, subsection (b) must do something besides repeat that work.

Stepping back, a full look at the statute's structure suggests a set of simple and coherent commands. In subsection (a), Congress effectively federalized and applied to tribal lands those state laws that prohibit or absolutely ban a particular gaming activity. In subsection (b), Congress explained that it was *not* authorizing the application of Texas's gaming regulations on tribal lands. In subsection (c), Congress granted federal courts jurisdiction to entertain claims by Texas that the Tribe has violated subsection (a). Texas's competing interpretation of the law renders individual statutory terms duplicative and whole provisions without work to perform.[1]

B

Even if fair questions remain after a look at the ordinary

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[1] The dissent offers a surplusage argument of its own, arguing that the Court's reading of § 107 duplicates the work done by § 105(f). See *post*, at 12. That is mistaken. Section 105(f) does not specifically address tribal gaming, but instead broadly extends Public Law 280 and its associated jurisdictional rules to the Tribe's reservation. By contrast, § 107 speaks only and specifically to gaming. And while it does extend much of the Public Law 280 regime to tribal gaming, it also departs from that framework in at least two significant ways. First, § 107 incorporates Texas's criminal gaming prohibitions as surrogate *federal law*, while Public Law 280 allows particular States to apply their own laws directly to tribal lands. Second, it establishes unique jurisdictional rules for judicial review of alleged violations of Texas's gaming prohibitions. See *post*, at 13. Where Public Law 280 grants *state courts* jurisdiction over violations of state criminal prohibitory laws, subsection (c) grants *federal courts* exclusive jurisdiction over alleged violations of § 107, "[n]otwithstanding section 105(f)." There is no superfluity here.

meaning of the statutory terms before us, important contextual clues resolve them. Recall that Congress passed the Act just six months after this Court handed down *Cabazon*. See Part I–B, *supra*. In that decision, the Court interpreted Public Law 280 to mean that only "prohibitory" state gaming laws could be applied on the Indian lands in question, not state "regulatory" gaming laws. The Court then proceeded to hold that California bingo laws—laws materially identical to the Texas bingo laws before us today—fell on the regulatory side of the ledger. Just like Texas today, California heavily regulated bingo, allowing it only in certain circumstances (usually for charity). Just like Texas, California criminalized violations of its rules. Compare *Cabazon*, 480 U. S., at 205, with Tex. Occ. Code Ann. § 2001.551. Still, because California permitted some forms of bingo, the Court concluded that meant California did not prohibit, but only regulated, the game. *Cabazon*, 480 U. S., at 211.

For us, that clinches the case. This Court generally assumes that, when Congress enacts statutes, it is aware of this Court's relevant precedents. See *Ryan* v. *Valencia Gonzales*, 568 U. S. 57, 66 (2013). And at the time Congress adopted the Restoration Act, *Cabazon* was not only *a* relevant precedent concerning Indian gaming; it was *the* precedent. See Part I–B, *supra*. In *Cabazon*, the Court drew a sharp line between the terms prohibitory and regulatory and held that state bingo laws very much like the ones now before us qualified as regulatory rather than prohibitory in nature. We do not see how we might fairly read the terms of the Restoration Act except in the same light. After all, "[w]hen the words of the Court are used in a later statute governing the same subject matter, it is respectful of Congress and of the Court's own processes to give the words the same meaning in the absence of specific direction to the contrary." *Williams* v. *Taylor*, 529 U. S. 420, 434 (2000).

Even beyond that vital contextual clue lie others. In the

immediate aftermath of *Cabazon*, Congress adopted not just the Restoration Act; it also adopted other laws governing tribal gaming activities. In these laws, Congress again appeared to reference and employ *Cabazon*'s distinction between prohibition and regulation—and Congress did so in ways demonstrating that it clearly understood how to grant a State regulatory jurisdiction over a Tribe's gaming activities when it wished to do so. Cf. *Lagos* v. *United States*, 584 U. S. ___, ___–___ (2018) (slip op., at 6–7).

Consider two examples. On the same day it passed the Restoration Act, Congress adopted a statute involving the Wampanoag Tribe. But, contrary to its approach in the Restoration Act, Congress subjected that Tribe's lands to "those laws and regulations which *prohibit or regulate* the conduct of bingo or any other game of chance." Wampanoag Tribal Council of Gay Head, Inc., Indian Claims Settlement Act of 1987, § 9, 101 Stat. 709–710 (emphasis added). Shortly after the Restoration Act, Congress adopted another statute, this one governing the Catawba Tribe's gaming activities. In it, Congress provided that "all laws, ordinances, *and regulations of the State,* and its political subdivisions, *shall govern the regulation* of . . . gambling or wagering by the Tribe on and off the Reservation." Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993, § 14(b), 107 Stat. 1136 (emphasis added).

That Congress chose to use the language of *Cabazon* in different ways in three statutes closely related in time and subject matter seems to us too much to ignore. See *State Farm Fire & Casualty Co.* v. *United States ex rel. Rigsby*, 580 U. S. 26, 34 (2016) (explaining that when Congress "use[s] . . . explicit language in one provision," that "cautions against inferring the same limitation in another provision" (internal quotation marks omitted)). For two Tribes, Congress did more than just prohibit on tribal lands those gaming activities prohibited by state law. It said state regulations should apply as a matter of federal law

too. Yet for *this* Tribe Congress did something different. It did not subject the Tribe to all Texas laws that "prohibit or regulate" gaming. It did not subject the Tribe to all laws that "govern the regulation of gambling." Instead, Congress banned on tribal lands only those gaming activities "prohibited" by Texas, and it did not provide for state "regulatory jurisdiction" over tribal gaming.[2]

None of this is to say that the Tribe may offer any gaming activity on whatever terms it wishes. It is only to say that the Fifth Circuit and Texas have erred in their understanding of the Restoration Act. Under that law's terms, if a gaming activity is prohibited by Texas law it is also prohibited on tribal land as a matter of federal law. Other gaming activities are subject to tribal regulation and must conform with the terms and conditions set forth in federal law, including IGRA to the extent it is applicable. See Brief for United States as *Amicus Curiae* 31–33.[3]

III

A

By this point, only two arguments remain for us to consider. In the first, Texas and the dissent focus heavily on

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[2] The dissent speculates about ways Congress could have even more clearly communicated its intention to ban only those games prohibited by Texas. See *post*, at 8–9. But rather than compare the Restoration Act to hypothetical language Congress could have used, it seems more appropriate to compare the Act's terms to language Congress did use in closely related statutes addressing precisely the same subject, including in one passed the very same day as this Act. The dissent cannot and does not deny that Congress could have employed the language it used in the Wampanoag and Catawba statutes. That Congress took a different approach strongly suggests it had in mind a different set of rules for this Tribe.

[3] In reaching this conclusion, we need not rely on the rule—long established by our precedents—that "statutes are to be construed liberally in favor of the Indians, with ambiguous provisions interpreted to their benefit." *Montana* v. *Blackfeet Tribe*, 471 U. S. 759, 766 (1985). On our view, Texas's interpretation fails even without recourse to that rule.

the final sentence in subsection (a). See *post*, at 9–10, 13. That sentence states that "[t]he provisions of this subsection are enacted in accordance with the tribe's request in Tribal Resolution No. T.C.–02–86." 101 Stat. 668–669. In the referenced 1986 resolution, the Tribe announced its opposition to Texas's legislative efforts to have all its gaming laws apply on tribal lands. Such a result, the resolution said, would represent "a substantial infringement upon the Tribe['s] power of self-government . . . [i]nconsistent with the central purposes of restoration of the federal trust relationship." App. to Pet. for Cert. 122. At the same time, to prevent extension of Texas law to its reservation and to avoid "jeopardiz[ing]" its request for renewed federal trust status, the Tribe (1) announced its own intention to prohibit gaming or bingo on its reservation, and (2) authorized its negotiators in Washington to accept federal legislation prohibiting gaming on tribal lands as an alternative to state regulation. *Id.*, at 123. Before us, Texas does not question that the Tribe was (and remains) free to change its own laws after adopting that resolution. But, the State says, the fact that Congress referenced the tribal resolution in subsection (a) suggests that the Restoration Act should be read "broadly" to allow Texas to apply its gaming regulations on tribal lands. Brief for Respondent 22.

It's an unsatisfying suggestion for at least a few reasons. In the first place, while subsection (a) explains that the Restoration Act was "enacted in accordance with" the Tribe's resolution, it does not purport to incorporate that resolution into federal law. Congress knows exactly how to adopt into federal law the terms of another writing or resolution when it wishes. It can and has said, for example, that a tribal law or resolution "shall have the same force and effect as if it were set out in full in this subchapter." 25 U. S. C. § 5396(b). But even Texas does not suggest that Congress went that far in the Restoration Act.

With that possibility shelved, it is hard to see what's left.

Texas suggests that Congress's reference to the tribal resolution at least augurs in favor of a "broa[d]" reading of subsection (a). Brief for Respondent 22; see also *post*, at 9–10. But saying that tells us nothing about how much broader the law should be read. And, as we have seen, the only "broader" reading of subsection (a) Texas offers faces its challenges— it requires us to believe that subsection (a) swallows subsection (b) whole, makes a nullity of subsection (c), and defies Congress's apparent adoption of *Cabazon*'s prohibitory/regulatory distinction.

There is still another and maybe more fundamental problem here. On our interpretation of the Restoration Act, Congress *did* legislate "in accordance with" the Tribe's resolution: It expressly granted the Tribe federal recognition and chose not to apply Texas gaming regulations as surrogate federal law on tribal land. Of course, Congress also sought to act in accordance with at least some of Texas's concerns by banning those games fully barred by Texas law. In the end, it seems each got half a loaf.

By contrast, adopting Texas's alternative interpretation of the Restoration Act would make a mockery of Congress's statement that it sought to act "in accordance with" the Tribe's resolution. On the State's view, *all* of its gaming regulations serve as surrogate federal law applicable on tribal lands. That's a result few would dare to describe as "accord[ing] with" the tribal resolution. In fact, it's an outcome more nearly the opposite of what the Tribe sought and closer to what it described as a "wholly unsatisfactory . . . infringement upon the Tribe['s] power of self government" and "[i]nconsistent with the central purposes of restoration of the federal trust relationship." App. to Pet. for Cert. 122.

To be sure and as Texas and the dissent both highlight, the statutory terms Congress finally settled on were in some respects more generous to the Tribe than those its resolution authorized tribal negotiators in Washington to accept. Rather than ban all gaming on tribal lands, Congress

banned only those games forbidden in Texas. But this development is hardly surprising either. The Tribe adopted its resolution in 1986 in connection with negotiations over a bill that eventually died in the Senate. See Brief for United States as *Amicus Curiae* 3–4, 30. As talks continued the following year, this Court issued *Cabazon*. And after that, as we have seen, Tribes across the country saw their negotiating "position strengthened." Wood 1027, and n. 353; see also Part I–B, *supra*. The dissent omits these essential details from its account of how the Restoration Act became law. See *post*, at 3. That omission leads the dissent to overlook one plausible explanation for why the Tribe got the deal it did. It may be that, thanks to *Cabazon*, the Tribe's representatives were able to persuade Congress to impose a less draconian ban—one that paralleled the terms this Court in *Cabazon* found applicable to many other Tribes under Public Law 280. Surely, too, as we have seen, if Congress had intended a more complete federal ban, it could have easily said so. Not by obliquely referencing a tribal resolution, but by saying so clearly, just as it did for both the Wampanoag and Catawba Tribes. See Part II–B, *supra*.[4]

B

In the end, Texas retreats to the usual redoubt of failing statutory interpretation arguments: an unadorned appeal to public policy. Echoing arguments voiced by the *Cabazon*

[4] The dissent tries to reshape the tribal resolution to its liking by distilling it down to a "single 'request[]'" to "ban on the reservation all gaming as defined by Texas." *Post*, at 3, 9. And it chides the Court for consulting "excerpts from the Resolution's preamble" that complicate the dissent's narrative. *Post*, at 10. But the *entire document* is an expression of the Tribe's views. If we are to rely on the resolution as a snapshot of the Tribe's position, it makes little sense to ignore much of it. In any event, courts regularly consult preambles and recitals even in statutes and contracts. See A. Scalia & B. Garner, Reading Law 217–220 (2012).

dissent, the State argues that attempts to distinguish between prohibition and regulation are sure to prove "unworkable." Brief for Respondent 29 (citing 480 U. S., at 224 (opinion of Stevens, J.)). Indeed, the State suggests that problems are likely to arise in this very case. Under our reading, Texas highlights, courts on remand might be called on to decide whether "electronic bingo" qualifies as "bingo" and thus a gaming activity merely regulated by Texas, or whether it constitutes an entirely different sort of gaming activity absolutely banned by Texas and thus forbidden as a matter of federal law. And, the State worries, any attempt to answer that question may require evidence, expert testimony, and further litigation.

We appreciate these concerns, but they do not persuade us. Most fundamentally, they are irrelevant. It is not our place to question whether Congress adopted the wisest or most workable policy, only to discern and apply the policy it did adopt. If Texas thinks good governance requires a different set of rules, its appeals are better directed to those who make the laws than those charged with following them.

Even on its own terms, we are not sure what to make of Texas's policy argument. We do not doubt that the Restoration Act's prohibitory/regulatory distinction can and will generate borderline cases. See F. Cohen, Handbook of Federal Indian Law 541–544 (N. Newton ed. 2012). It may even be that electronic bingo will prove such a case. But if applying the Act's terms poses challenges, that hardly makes it unique among federal statutes. Nor is the line the Restoration Act asks us to enforce quite as unusual as Texas suggests. Courts have applied the same prohibitory/regulatory framework elsewhere in this country under Public Law 280 for decades. See *id.*, at 541–547. IGRA, too, draws a similar line to assess the propriety of class II gaming on Indian reservations nationwide. See 25 U. S. C. § 2710(b)(1)(A); see also K. Washburn, Federal Law, State Policy, and Indian Gaming, 4 Nev. L. J. 285, 289–290 (2004). In fact, Texas

concedes that another Tribe within its borders—the Kickapoo Traditional Tribe of Texas—is already subject to IGRA and offers class II games. See Tr. of Oral Arg. 91; see also Brief for United States as *Amicus Curiae* 32. Why something like the *Cabazon* test can work for one Tribe in Texas but not another is not exactly obvious.

For that matter, Texas's alternative interpretation poses its own "workability" challenges. Under the State's reading, subsection (c) does not just charge federal courts with enforcing on tribal lands a federal law banning gaming activities also banned by state law. It also charges federal courts with enforcing the minutiae of state gaming regulations governing the conduct of permissible games—a role usually played by state gaming commissions or the National Indian Gaming Commission. It's a highly unusual role for federal courts to assume. But on Texas's view, it's a role federal courts *must* assume, as indeed they have sought to do since *Ysleta I*. And far from yielding an easily administrable regime, by almost anyone's account that project has engendered a quarter century of confusion and dispute. See Part I–C, *supra*.

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Texas contends that Congress in the Restoration Act has allowed all of its state gaming laws to act as surrogate federal law on tribal lands. The Fifth Circuit took the same view in *Ysleta I* and in the proceedings below. That understanding of the law is mistaken. The Restoration Act bans as a matter of federal law on tribal lands only those gaming activities also banned in Texas. To allow the Fifth Circuit to revise its precedent and reconsider this case in the correct light, its judgment is vacated, and the case is remanded for further proceedings consistent with this opinion.

So ordered.