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Questions for the Record
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QUESTIONS FROM SENATOR BOOKER

1. **The Supreme Court’s 6-3 decision in *Louisiana v. Callais* clears the way for states to engage in the discriminatory practice of vote dilution—the very practice Section 2 of the Voting Rights Act of 1965 (“VRA”) was designed to remedy. The ruling now requires people who claim a map is racially discriminatory to prove discriminatory intent, a far higher bar than the prior standard, which evaluated the discriminatory effect of the maps themselves. Given that shift:**
 - a. **What does the shift from discriminatory effect to discriminatory intent mean, as a practical matter, for Black voters’ ability to challenge racially gerrymandered maps?**

As noted in my written testimony and detailed in my response to Senator Welch’s first Question, this shift in evidentiary burden will make it extremely difficult for Black voters to secure relief, even when facing egregious discrimination. We know all too well that in America today those who oppose racial justice rarely come right out and say it plainly. As Justice Kagan explained in her *Callais* dissent, Congress rejected the intent standard in 1982 precisely because it imposed “an inordinately difficult burden for plaintiffs” (quoting the 1982 Senate Report) to prove what any fair-minded person would recognize as racial discrimination.¹

At the Legal Defense Fund our clients have felt this impact immediately. The Supreme Court has already rejected a district court’s finding of intentional discrimination in our *Allen v. Milligan* case.² LDF is also litigating against Tennessee’s decision to roll back the clock on voting rights by chopping up Memphis—the largest majority-Black city in the country—and dismantling a compact congressional district that had allowed Black voters a say in who represents them for decades.³ That Tennessee district was never drawn explicitly to comply with Section 2—because it simply appeared when other traditional districting principles were pursued—but it is a district that should be and, prior to *Callais*, would be required by Section 2 if the state went out of its way to dismantle it, as it did the moment the Supreme Court gave it the green light. And on June 24, a Mississippi district court rejected a racial vote dilution claim against DeSoto County for failing to meet *Callais*’s standard despite the fact that none of the county’s 25 offices are held by

¹ *Louisiana v. Callais*, 146 S. Ct. 1131 (2026) (Kagan, J., dissenting).

² *Allen v. Milligan*, 146 S. Ct. 1377 (2026) (Sotomayor, J., dissenting, joined by Kagan and Jackson, JJ.).

³ Press Release, NAACP Legal Def. Fund, LDF Joins Lawsuit Challenging Discriminatory Tennessee Congressional Map (June 9, 2026), <https://www.naacpldf.org/press-release/ldf-joins-lawsuit-challenging-discriminatory-tennessee-congressional-map/>.

a Black person and not a single Black person has been elected to these offices in 20 years, in a county that is now more than one-third Black.⁴

b. One political analysis found that a Deep South white voter in 2026 will have a 71 percent chance that the candidate they support for the House will win and represent them in Washington but for Black voters in those states, that chance falls to 25 percent. How has *Callais* imbalanced voting power so dramatically?

Callais has imbalanced voting power for the U.S. House of Representatives dramatically⁵ because the ruling deprives Black communities of the most significant legal tool to prevent states from drawing congressional districts that dilute their collective power. The Voting Rights Act was considered the “crown jewel” of the Civil Rights Movement because it was the most effective law in history for transforming representation and political power, especially in the South. The *Callais* decision completes the Supreme Court’s three-part evisceration of the VRA within 15 years. And *Callais* is the decision most squarely focused on the weight or power of a person’s vote.

As the VRA made discriminatory barriers to the ballot such as literary tests and poll taxes illegal and related restrictions more difficult to sustain, state and local power structures adapted and focused on crafting discriminatory election methods and district maps to dilute the power of Black voters’ participation.⁶ Since the 1980s when Congress amended the VRA to embrace an results test for vote dilution,⁷ overturning *Mobile v. Bolden*,⁸ and the Supreme Court laid out a framework for adjudicating vote dilution cases in *Thornburg v. Gingles*,⁹ Section 2 has served as an important tool for Black voters and other voters of color to vindicate their right to an equally weighted vote. Despite expense and burden, Plaintiffs have succeeded in more than 170 vote dilution cases since 1982.¹⁰ *Callais* has fundamentally undercut this protection; and the entirely predictable result is a return to a time when entrenched power and racial hierarchy are deeply intertwined.

⁴ *Harris v. DeSoto Cnty.*, No. 3:24-cv-00289-GHD, 2026 WL 1816145 (N.D. Miss. June 24, 2026); *see also Harris v. DeSoto County: Combating a Racially Discriminatory Voting Map in Mississippi*, NAACP Legal Def. Fund, <https://www.naacpldf.org/case-issue/harris-v-desoto-county/> (last visited July 1, 2026).

⁵ Michael Podhorzer & Anat Shenker-Orsorio, *All Roads Lead to the South*, Weekend Reading (May 15, 2026), <https://weekendreading.net/p/all-roads-lead-to-the-south>.

⁶ *Callais*, 146 S. Ct. at 1176 (Kagan, J., dissenting).

⁷ Voting Right Act Amendments of 1982, Pub. L. No. 97-205, 96 Stat. 131 (1992); Senate Report Voting Rights Act Amendments of 1982, S. Rep. 97-417, 1982 U.S.C.C.A.N. 177.

⁸ *City of Mobile v. Bolden*, 446 U.S. 55 (1980).

⁹ *Thornburg v. Gingles*, 478 U.S. 30 (1986).

¹⁰ Mich. L. Voting Rights Initiative, *The Evolution of Section 2: Numbers and Trends*, U. Mich. L. Sch., <https://voting.law.umich.edu/findings/> (finding Plaintiffs succeeded in 50% of 341 vote dilution cases with published decisions) (last visited July 1, 2026).

c. **What effect will *Callais* have on other minority groups (e.g., Asian Americans, Latinos, Native Americans) or in other majority-minorities districts? What about those groups with language minority status?**

Although *Callais* directly addressed the power of Black voters in the congressional districting context, the ruling has far-reaching implications. By gutting the VRA's racial vote dilution protections, the ruling affects elections at every level of government. *Callais* will undercut fair representation in state legislatures, county commissions, city councils, and school boards across the nation. The ruling makes it more difficult for any voters to protect themselves against discrimination regardless of their race—so it affects Latine, Asian-American, and Native American voters just as much as Black voters, as well as language-minority voters who qualify as a protected class under the VRA.

The ruling should *not* affect voters who are currently in opportunity districts drawn in compliance with traditional districting criteria where race was not the predominant driver of the district's design, regardless of whether these districts were drawn explicitly to comply with the Voting Rights Act. Notably, the Court's ruling did not engineer a shift in racial gerrymandering law. That area of law was established by the Supreme Court in the mid-1990s beginning with *Shaw v. Reno*,¹¹ and *Callais* did not purport to modify it. *Callais* does not call into question the constitutionality of majority-minority districts or other districts that give voters of color an opportunity to elect candidates of choice. Nevertheless, as the example of Tennessee shows us, *Callais* has opened the door to hostile governments and private bad actors who may use *Callais* to argue in favor of dismantling even those opportunity districts that comply with the Fourteenth Amendment.

d. **How does the loss of Section 2 as an enforcement mechanism interact with the Court's prior decision in *Shelby County v. Holder* gutting Section 5? What about Section 3?**

Callais completes the Supreme Court's three-part desecration of the Voting Rights Act which began in 2013 with the *Shelby County* decision.¹² Congress intended Section 5, Section 2, and Section 3 to work in tandem. Section 5's preclearance protection worked to prevent discrimination before it occurred in the highest-risk places with a track record of discriminatory voting laws and practices;¹³ Section 2 provided voters with a tool to redress discrimination after the fact wherever it undermines electoral opportunity;¹⁴ and Section 3 enabled courts to apply a version of the preclearance protection to jurisdictions that violated the U.S. Constitution's prohibition on intentional discrimination.¹⁵

When the Court immobilized the preclearance protection in *Shelby County* by striking down its associated geographic coverage framework, Justice Roberts noted specifically that the decision “in no way affects the permanent, nationwide ban on racial discrimination found in §

¹¹ *Shaw v. Reno*, 509 U.S. 630 (1993).

¹² *Shelby County v. Holder*, 570 U.S. 529 (2013).

¹³ 52 U.S.C. §§ 10303(b), 10304.

¹⁴ *Id.* § 10301.

¹⁵ *Id.* § 10302

2.”¹⁶ Less than 15 years later, the Roberts Court has now gutted those protections—first in *Brnovich v. DNC*¹⁷ and now in *Callais*. Section 3 remains in place and should be unaffected by *Callais* since it already required a finding of intentional discrimination; but this provision has been used sparingly and cannot carry the full burden of the robust suite of protections Congress provided in 1965 and updated and expanded since.

In three cases over the span of 14 years the Court has stripped the teeth out of the single most effective law Congress ever passed to implement the promise of the Reconstruction Amendments. And the Court appears to have done this not because these provisions of the VRA were unnecessary, but because they were working. The Court weaponizes the progress the VRA has engendered against the very source of that progress, repeating the error that Justice Ginsburg so poignantly described in the *Shelby County* case: “throwing away your umbrella in a rainstorm because you are not getting wet.”¹⁸

2. Justice Elena Kagan’s dissent described the majority’s decision as rendering Section 2 “all but a dead letter.”

a. This suggests that challenges based on discriminatory intent will be too difficult to bring or will be unsuccessful. Do you believe petitioners can successfully bring a case under Section 2 after this decision?

The Legal Defense Fund will continue to use all tools at our disposal to protect Black voters in court, and this will likely include future Section 2 challenges. Many election methods and policies are tainted by intentional discrimination, as a three-judge panel found in our *Milligan* case.¹⁹ And as Mr. Greim testified, the *Callais* ruling does not precisely require that voters prove discriminatory intent as is required in a constitutional claim; but rather must put forth evidence that sustains “a strong inference that intentional discrimination occurred.”²⁰

Nonetheless, Justice Kagan’s assessment has merit. As she detailed in her dissent, Congress forcefully rejected the intent standard in its 1982 amendments to the VRA because intentional discrimination is easy to hide and is difficult to prove, meaning that this elevated evidentiary standard is guaranteed to leave much (if not most) discrimination, intentional and otherwise, unaddressed.²¹

Unlike in the previous century, in our modern era politicians rarely state their discriminatory purpose out loud; it is easily masked behind other pretextual justifications. Legislative privilege protections, which the courts have elevated beyond their historical role, make it increasingly difficult for litigants to pierce the veil of self-serving public statements to assess true motivations.²² And the super-presumption of legislative good faith that the Court has made

¹⁶ *Shelby Cnty.*, 570 U.S. at 557.

¹⁷ *Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647 (2021).

¹⁸ *Shelby Cnty.*, 570 U.S. at 590 (Ginsburg, J., dissenting).

¹⁹ *Allen v. Milligan*, No. 25A1231, 2026 WL 1335484 (U.S. May 11, 2026).

²⁰ *Callais*, 146 S. Ct. at 1156.

²¹ *Id.* at 1176 (Kagan, J., dissenting).

²² *Pernell v. Fla. Bd. of Governors of the State Univ.*, 84 F.4th 1339 (11th Cir. 2023).

increasingly difficult, if not impossible, to rebut means that even transparently pretextual justifications for racially discriminatory laws can serve to shield them from meaningful scrutiny.²³ For example, in the *Allen v. Milligan* case, the district court found direct evidence that Alabama Legislature had expressly set out to protect the “French and Spanish Colonial Heritage” of a predominately White community and had used racial targets to keep the Black population in a congressional district low enough to prevent the election of a Black person.²⁴ But the Supreme Court’s stay decision did not even engage with this overt evidence of discrimination.²⁵ And the *Callais* opinion itself makes it harder to establish intent by requiring plaintiffs to first credit all of a jurisdiction’s stated objectives, and also to meet a “special burden” to disentangle racism and racially polarized voting from partisanship which is often analytically difficult to accomplish.²⁶

b. Beyond partisan gerrymandering, what are other bases on which states could redraw maps that would also have a discriminatory impact even where the stated intent was not the dilution of the Black vote or other minority group vote?

Justice Alito’s opinion requires a plaintiff to “carry its disentanglement burden by offering an alternative map that achieves all the State’s objectives—including partisan advantage and any of the State’s other political goals—at least as well as the State’s map.”²⁷ This requirement provides a blueprint for states to immunize discriminatory maps from challenge under Section 2.

Respecting certain geographic barriers, including natural and jurisdictional, for example, can be weaponized to mask discrimination. For example, Alabama adopted the goal of keeping its two gulf coast counties together in a single district, when it knew that doing so would preclude the creation of a second Black-opportunity district, and the evidence strongly suggested that was the intended effect. It remains to be seen what other objectives states might proffer; but the Court’s directive to grant legislators a presumption of good faith²⁸ and reluctance to allow voters to pierce through assertions of legislative privilege²⁹ will make it difficult to rebut pretextual justifications that mask racial discrimination, just as Congress predicted when it repudiated the intent standard in 1982.

The Court’s redefinition of incumbency protection—which the Court defines as not merely avoiding incumbent parings but ensuring incumbents can win reelection— as a “neutral” principle is perhaps the most disingenuous. Prior to *Callais*, a Section 2 plaintiff had to show that there was an alternative map in which minority voters’ preferred candidates could win. Requiring that map to protect incumbents who are, by definition, not minority voters’ candidates of choice, makes it impossible for a plaintiff to meet its burden. To illustrate the devastating real-world impact of this requirement in communities with shifting demographics, imagine a city with a five-member council and a 90% White population where voting is racially polarized and where all five districts are electing White-preferred candidates. Now imagine that over two decades,

²³ *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1 (2024).

²⁴ *Singleton v. Allen*, 782 F. Supp. 3d 1092, 1299 (N.D. Ala. 2025) (citations and internal quotations omitted).

²⁵ *Milligan*, 146 S. Ct. 1377 (2026) (per curiam) (granting stay).

²⁶ *Callais*, 146 S. Ct. at 1156-57.

²⁷ *Id.* at 1157.

²⁸ *Alexander*, 602 U.S. 1.

²⁹ *Tenney v. Brandhove*, 341 U.S. 367 (1951).

demographic change leads to the city having a 40% Latine population. Drawing districts after each decennial census that ensure electoral success for the five White-supported incumbents could lock out the growing Latine population, ensuring they can never elect any candidate of choice, let alone the two they might select under a fair system.

c. **Was the Court’s decision to make it effective immediately legally sound, or do you believe it was politically motivated? Could the conservative justices have been unaware that their decision would tilt the upcoming election in Republicans’ favor?**

As described in more detail in my answer to Senator Welch’s second Question, the Court’s decision to make its *Callais* ruling immediately effective was a departure from normal procedure based on a false premise (that LDF’s clients did not desire to seek rehearing) and hence was not legally sound. It is possible that one or more of the justices in the majority had partisan motivations. What is absolutely clear is that the Roberts Court has acted with more urgency to address and remedy purported “civil rights” claims brought by White plaintiffs than to remedy similar (and in many cases more thoroughly proven) instances of discrimination against Black voters.³⁰ This appears consistent with the Court’s broader agenda to turn back the clock and weaponize the Reconstruction Amendments against their original egalitarian intent, reconstituting them as Redemption Amendments that serve to embed rather than challenge racial hierarchy and white supremacy.

3. **After the Court’s decision in *Mobile v. Bolden*, holding that Section 2 prohibits only purposeful discrimination, Congress amended the VRA to expand Section 2 to explicitly ban any voting practice that had a discriminatory effect, a “results test,” regardless of intent. Should Congress similarly respond to the Supreme Court’s decision in *Callais* by amending the VRA and, if so, how?**

Yes, Congress must respond to meet its responsibility to effectively enforce the Reconstruction Amendments. While the Court has systematically destroyed the VRA within the past 15 years—first in *Shelby County*, then in *Brnovich*, and now in *Callais*—Congress has remained silent; and that must end now.

LDF is working closely with our partners in the voting rights community to develop a comprehensive legislative response to the Court’s latest assault on the Voting Rights Act. In the meantime, the starting point must be key legislation that has been pending before Congress for years, updated for the current moment.

The John Lewis Voting Rights Advancement Act aims to restore and expand preclearance and can breathe new life into Section 2 by rejecting *Brnovich* and responding to *Callais*.³¹ The Freedom to Vote Act contains critical minimum standards for elections across the country, including banning partisan gerrymandering for congressional districts which is especially critical since the *Callais* decision allows states and localities to hide behind partisan goals to defend

³⁰ *Merrill v. Milligan*, 142 S. Ct. 879 (2022) (mem.).

³¹ John Lewis Voting Rights Advancement Act, H.R. 14, 119th Cong. (2025).

racist maps.³² The Native American Voting Rights Act is a critical step to meeting our obligations to Native populations who are too often treated like second class citizens.³³ DC Statehood would finally end colony status in our nation’s capital for its large Black population.³⁴ This package can be updated in the wake of *Callais* to ensure that Congress protects voters to the maximum extent possible using its Elections Clause authority and its 14th and 15th Amendment enforcement powers.

But this moment requires more. Now is the time to think boldly about using every tool available to ensure that our 60-year experiment in multiracial democracy moves forward and expands, and does not end right here, right now on our watch. This means exploring moving beyond electing members of Congress and officials up and down the ballot exclusively through single-member, winner-take-all districts. We need to look at cumulative voting, limited voting, and a whole range of alternative voting systems so that people everywhere across the country can use a system designed to provide fair representation for their community. We must also be clear-eyed about the role the Roberts Court is playing to turn back the clock on decades of progress, which requires that we help ensure we restore Congress’ role as a co-equal branch of government, empowered with the ability to respond to these attempts to undermine voting rights and fight back when the Court, as Justice Kagan notes, “betrays Congress’s choice” and “overturn[s] Congress’s studied determination.”³⁵

4. Is vote dilution solely about African Americans’ ability to elect African American representatives, or is it about their power to choose representatives who best serve their interests and their communities?

As described in more detail in my response to Senator Welch’s fourth Question, the Voting Rights Act protects Black voters’ equal opportunity to elect candidates of their choice. Many times, Black voters will choose a Black candidate who shares their lived experience; other times a candidate of a different race will be a better fit. In the end, the VRA protects the ability of voters to elect their candidates of choice on an equal basis, ensuring that their choices are equally weighted.

5. You stated in your remarks and written testimony that in response to the Supreme Court’s decision in *Callais*, the American people mobilize and go to the polls.

a. Can grassroots mobilization counter the electoral advantage Republicans have drawn for themselves? Can voters make up the numbers to overcome the structural voting power imbalance Republicans have engineered?

We cannot litigate or organize our way out of structural disadvantages that push Black voters to the sidelines of our democracy or devalue the weight of our votes and voices. One hundred

³² Freedom to Vote Act, H.R. 11, 118th Cong. (2023).

³³ Native American Voting Rights Act, H.R. 1694, 116th Cong. (2019).

³⁴ Washington, D.C. Admission Act, H.R. 51, 119th Cong. (2025).

³⁵ *Callais*, 146 S. Ct. at 1176 (Kagan, J., dissenting).

percent Black turnout will not produce effective representation in districts drawn deliberately and precisely to undercut Black political power. We need Congress to step in to restore and strengthen key protections so that every eligible voter has an equal opportunity to participate effectively, regardless of race.

That said, grassroots mobilization is essential to both mitigate the immediate damage of the *Callais* decision and to bring us to a place where Congress is finally willing and able to act. The push to redraw congressional maps to undercut Black power that has played out immediately following *Callais* offers direct evidence. In both South Carolina and Georgia, legislative leaders sought to heed President Trump’s call to draw new congressional maps to undercut Black political power and tilt the playing field in the 2026 elections and beyond; and yet both states abandoned such efforts in the face of strong public opposition demonstrated through grassroots mobilization.³⁶

LDF celebrated the Georgia General Assembly adjourning its special session on June 23 without redrawing congressional maps with a statement that said in part: “LDF commends the thousands of voters who packed the Georgia Capitol, hosted regional activations, contacted their legislators, and responded to various calls to action to fight back against this effort to reduce Black political power. While several factors resulted in this outcome, the increased turnout in Georgia’s primary and runoff elections, and the overwhelming resistance to mid-decade redistricting from voters, were a driving force behind this victory for fair representation.”³⁷

Inherent in the display of mobilized grassroots power is the threat that Black voters, angered by imposition of discriminatory maps that weakened their voices, would turn out to vote in force. Legislative leaders backed down in part because this was the exact outcome they feared.

b. What other avenues exist for people to respond — at the local, state, and federal level?

At the federal level, people can urge their Members of Congress to pass the John R. Lewis Voting Rights Advancement Act and other legislation mentioned in my response to Question 3 above.

At the state level, people can urge their legislators to enact a State Voting Rights Act,³⁸ which can take the best parts of the federal VRA, strengthen and streamline these protections, and codify them at the state level.

³⁶ Jane C. Timm, *South Carolina’s Trump-Backed Redistricting Push Fails in the State Senate Amid GOP Opposition*, NBC News (May 26, 2026), <https://www.nbcnews.com/politics/2026-election/south-carolinas-redistricting-effort-fails-state-senate-gop-opposition-rcna346962>; Bill Barrow, *Georgia Republican Legislative Leaders Reject Governor’s Call for 2028 Redistricting*, AP News (June 17, 2026), <https://apnews.com/article/redistricting-georgia-trump-gerrymander-31f6b532e057174e68be183a9d850ec5>.

³⁷ Press Release, NAACP Legal Def. Fund, Black Leaders and Coalitions in Georgia Lead Successful Effort to End Special Session Without Harmful Redistricting Legislation (June 24, 2026), <https://www.naacpldf.org/press-release/black-leaders-and-coalitions-in-georgia-lead-successful-effort-to-end-special-session-without-harmful-redistricting-legislation/>.

³⁸ NAACP Legal Def. Fund, *State Voting Rights Acts: Protecting Voting Rights and Democracy*, <https://www.naacpldf.org/state-voting-rights-acts/> (last visited July 1, 2026).

At the local level people can run for office, become a poll worker, help with election protection through LDF's Black Voters on the Rise program³⁹ or the national 866-OUR-VOTE hotline, or join a membership organization to stay informed and plugged in to opportunities to engage with issues of concern.

³⁹ NAACP Legal Def. Fund, *Voting Rights 2026*, <https://voting.naacpldf.org/> (last visited July 1, 2026).

Senator Peter Welch
Senate Judiciary Committee
Subcommittee on the Constitution
Written Questions for Todd A. Cox
Hearing on “Enforcing Callais: Implementing the Supreme Court’s Command Against
Racial Gerrymandering”
Tuesday, May 19, 2026

1. In the wake of the Supreme Court’s decision in *Louisiana v. Callais*, what challenges will voters face in challenging racially discriminatory maps?

For decades, Section 2 of the Voting Rights Act has been a robust tool for Black voters and other voters of color to use to protect themselves from racial vote dilution. As recently as 2023, the Supreme Court reaffirmed Section 2’s vitality.¹ *Louisiana v. Callais*² severely weakened this protection, preserving it on paper but making it extremely difficult for voters to use in practice. In taking this drastic step, the Court wishes away concrete evidence of the ongoing effects of racism in elections and in daily life, pretending we are a nation that has already reached its highest ideals.³ Yet while we have made progress as a nation, race and racialized politics remains a powerful force in our elections. In my written testimony I provided concrete examples of the ongoing discrimination courts have documented currently—not decades in the past.

Despite the fact that Black people in the U.S. experience the sting of racism every day in our lives, and that this profoundly shapes the landscape of opportunity, including electoral opportunity, the Court has introduced significant new barriers to proving and remedying voting discrimination. Voters must now establish not just that a districting map has the discriminatory effect of weakening or drowning out their voices; but also a “strong inference” that the map was created with discriminatory intent. In order to do so, voters must attempt to establish racial discrimination without being conscious of race; disentangle race and politics in manner that is often difficult; credit all of a jurisdiction’s stated objectives; and present evidence of recent, not just historical, intentional discrimination.

Prior to *Callais*, the standard for establishing a racial vote dilution violation under the *Thornburg v. Gingles*⁴ framework was already rigorous and challenging for voters to meet. First, voters had to meet three “preconditions” that together established a) that voting preferences in the jurisdiction break down along racial lines, known as racially polarized voting; b) that the majority racial group “usually defeat[s]” the minority group such that minority representation is impaired; and c) there is a fairer way to draw district maps such that minority votes could achieve better representation.⁵ Subsequent cases made each of these preconditions more difficult to meet, ensuring that a remedy would only be available where racial politics was having a

¹ *Allen v. Milligan*, 599 U.S. 1, 1 (2023).

² *Louisiana v. Callais*, 146 S. Ct. 1131, 1131 (2026).

³ *Id.* at 11587-58.

⁴ *Thornburg v. Gingles*, 478 U.S. 30, 50 (1986).

⁵ *Id.* at 50-51.

deleterious effect on minority electoral opportunity.⁶ After satisfying these preconditions, voters then needed to present robust evidence to establish that the challenged map was discriminatory through a “totality of circumstances” analysis.⁷

Proving racial vote dilution under this framework was burdensome and expensive, typically requiring several expert witnesses.⁸ Litigation often dragged on for years, meaning that elections took place under discriminatory maps before cases were resolved.⁹ Due to these challenges, the lack of resources available to minority communities to vindicate their rights, and uneven enforcement by the Department of Justice, many discriminatory district maps or methods of election are already unredressed under current law.¹⁰ Yet, claims were viable and some succeeded—contributing to a Congress where more voters of color than ever were able to elect candidates of choice, and increasing diversity of representation at the state and local levels as well.¹¹

Callais has introduced new barriers that will ensure that many discriminatory maps remain in place. Although the Court claimed to merely “update the [Gingles] framework so it aligns with the statutory text and reflects important developments’ over the past 40 years[,]”¹² Justice Alito’s opinion in fact upends decades of case law to make proving racial vote dilution extremely difficult.

First, *Callais* newly requires any illustrative map serving as a benchmark to demonstrate a fairer alternative (Gingles prong #1) to be drawn race-blind.¹³ This requires Plaintiffs and courts to attempt to address racial discrimination without looking at race, which undercuts the entire project of the Voting Rights Act.

Despite its logical infirmities, at least one federal court has already employed this aspect of *Callais* in destructive fashion. In DeSoto County, Mississippi not a single Black person has been elected to the Board of Supervisors or any of four other governmental bodies elected from the same districts in the past 20 years, despite a Black population that now exceeds one-third of county residents because the Board drew the map with a specific goal to maintain the Black population below a specific threshold.¹⁴ Yet in *Harris v. DeSoto County* a federal district court denied a Section 2 VRA challenge on June 24, 2026, citing *Callais*’s new requirement to produce an illustrative map without using race as redistricting criterion.¹⁵

⁶ *Bartlett v. Strickland*, 556 U.S. 1, 12 (2009); *Perez v. Abbott*, 253 F. Supp. 3d 864 (2017).

⁷ *Gingles*, 478 U.S. at 35.

⁸ Leah Aden, *The Cost (in Time, Money, and Burden) of Section 2 of the Voting Rights Act Litigation*, NAACP Legal Def. Fund (Sept. 2021), <https://www.naacpldf.org/wp-content/uploads/Section-2-costs-9.19.21-Final.pdf>.

⁹ *Milligan*, 599 U.S. at 15.

¹⁰ See, e.g., Sonali Seth & Sara Loving, *Local Lockout in Georgia*, Brennan Ctr. for Just. (Nov. 28, 2023), <https://www.brennancenter.org/our-work/research-reports/local-lockout-georgia>.

¹¹ Katherine Schaeffer, *119th Congress Brings New Growth in Racial, Ethnic Diversity to Capitol Hill*, Pew Rsch. Ctr. (Jan. 21, 2025), <https://www.pewresearch.org/short-reads/2025/01/21/119th-congress-brings-new-growth-in-racial-ethnic-diversity-to-capitol-hill/>.

¹² *Callais*, 146 S. Ct. at 1157.

¹³ *Id.* at 1159.

¹⁴ NAACP Legal Def. Fund, *Federal Court Uses Callais Ruling to Uphold Discriminatory DeSoto County Districting Plan* (June 25, 2026), <https://www.naacpldf.org/wp-content/uploads/DeSoto-Ruling-Statement.pdf>.

¹⁵ *Harris v. DeSoto Cnty.*, No. 3:24-cv-00289-GHD, 2026 WL 1816145, at *6 (N.D. Miss. June 24, 2026).

Second, *Callais* requires that voters control for partisanship when establishing the presence of “racially polarized voting,” or RPV, (Gingles second and third prongs). This makes it difficult to prove RPV in practice in places—like the South—where race and partisanship are deeply intertwined.

Third, Plaintiffs must credit all of a jurisdiction’s stated non-racial goals, including partisan gerrymandering and protecting incumbents, when drawing an alternative districting plan. But accounting for these goals may make it both legally and factually impossible to create fair opportunities for voters locked out of the process. Louisiana (or any other state or local jurisdiction) can now simply assert, “we are not drawing a racially discriminatory map, we just want to create a map that favors one party over another and if that happens to mean that Black voters in the state are locked out of political power, so what.” If a legislature has the purportedly non-racial goal of protecting all incumbents and ensuring that they all win by 15 percentage points, even where they are not the candidate of choice of Black voters, it by definition will be impossible for a plaintiff to show that an alternative map that allows Black voters to elect their candidates of choice.

Finally, the Court increased the burdens on voters in the “totality of circumstances” analysis by devaluing certain factors that tie the present reality to a history of discrimination in the jurisdiction.¹⁶

Taken together, these changes will make it much more challenging for voters facing even egregious discrimination to prove this in court and secure a viable remedy.

2. On May 4, 2026, the Supreme Court granted a request to immediately finalize its opinion in *Louisiana v. Callais*. In dissent, Justice Ketanji Brown Jackson said the Court’s decision displayed “a strong political undercurrent.”

a. Please explain what you think she meant by this statement.

Justice Jackson was likely referring to the fact that the Supreme Court departed from its normal procedure and ignored a long-professed principle that federal courts should avoid interfering in ongoing elections, and effectively required Louisiana to change its congressional map after voting in the primary had already begun. This forced the State to develop a new map on an extremely tight timeline to avoid further disruption to the 2026 midterm elections.

Typically, the Court waits 32 days to send a certified copy of any judgment to the lower court in order to give the losing party the opportunity to file a petition for rehearing.¹⁷ In *Callais*, the majority bypassed this procedure and granted a petition to certify the judgement immediately.¹⁸ This certification was based in part on a false premise. Justices Alito, Thomas, and Gorsuch

¹⁶ *Callais*, 146 S. Ct. at 1141 (“Discrimination that occurred some time ago, as well as present-day disparities that are characterized as the ongoing “effects of societal discrimination,” are entitled to much less weight.”).

¹⁷ *Id.* at 1111.

¹⁸ *Id.*

wrote that “[t]he principal reason for the 32-day default rule is to give a losing party time to prepare a petition for rehearing. But here, the Robinson appellees have not expressed an intent to file such a petition, much less set out any ground on which a petition might be based.”¹⁹ Yet the purpose of the rule is also to allow the losing party to consider whether a petition for rehearing is warranted, and LDF attorneys expressed a desire to do exactly that.²⁰

Next, as Justice Jackson pointed out, the Court ignored “the so-called *Purcell* principle, which we invoked only five months ago to chide a federal district court for ‘improperly insert[ing] itself into an active primary campaign.’”²¹ *Purcell* counsels against courts ordering changes to election procedures late in an election cycle when such changes could cause voter confusion.²² Yet *Callais* is another example of how the Court appears to apply this guidance unevenly at best, and in service of racial discrimination or partisan goals at worst.

In *Allen v. Milligan*, the Court invoked *Purcell* to require Black voters to vote in the 2022 election under a congressional map²³ that a unanimous lower court had found to be discriminatory in a decision issued in January of that year—several months before primary elections.²⁴ Yet in *Callais*, the Court departed from that principle to invalidate Louisiana’s map despite the fact that its ruling came just 18 days prior to a scheduled congressional primary election, after absentee ballots had already been cast and just days before early voting began.²⁵

Put plainly, when Black voters or other voters of color face acknowledged discrimination, the Roberts Court appears to feel little urgency, invoking the need for smooth election administration even without strong evidence it is in jeopardy to require elections to take place under discriminatory conditions, thereby devaluing the fundamental right to vote, which is “preservative of all other rights.”²⁶ Yet when White voters claim discrimination, the Roberts Court sees a problem that must be fixed right away, despite strong evidence that rushing towards a remedy will cause genuine chaos.

b. How does a politicized Supreme Court undermine American democracy?

Courts play a critical role in American democracy, as the key situs for balancing the general principle of majoritarian rule against the essential need to protect individual rights, especially for those whose group identities place them within a minority population vulnerable to having their voices ignored or drowned out in the political process.²⁷ Yet, as Professor Bickel famously noted, courts have neither the sword nor the purse to enforce their decisions.²⁸ Rather they depend entirely upon the public’s acceptance of the legitimacy of their authority.

¹⁹ *Id.* at 2.

²⁰ Robinson Appellants’ Resp. to Appellees’ Appl. for Issuance of Op. & J. Forthwith, *Callais v. Louisiana*, No. 25A1197 (U.S. Apr. 30, 2026); Robinson Appellants’ Mot. to Recall J., *Louisiana v. Callais*, Nos. 24-109, 24-110 (U.S. May 5, 2026).

²¹ *Callais*, 146 S. Ct. at 1114 (Jackson, J., dissenting).

²² *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam).

²³ *Milligan*, 599 U.S. at 41.

²⁴ *Singleton v. Merrill*, 582 F. Supp. 3d 924 (N.D. Ala. 2022) (per curiam).

²⁵ Nat’l Conf. of State Legislatures, *2026 State Primary Election Dates*, <https://www.ncsl.org/elections-and-campaigns/2026-state-primary-election-dates> (updated May 27, 2026).

²⁶ *Yick Wo v. Hopkins*, 118 U.S. 356 (1886).

²⁷ *United States v. Carolene Prods. Co.*, 304 U.S. 144, 152 n.4 (1938).

²⁸ Alexander M. Bickel, *The Least Dangerous Branch: The Supreme Court at the Bar of Politics* (2d ed. 1986).

The perceived legitimacy of the courts is especially important right now when the Executive branch is actively working to concentrate power and threaten the rule of law. With Congress unable or unwilling to push back, federal courts must serve as the only check to Executive power. Yet when confidence in the judiciary is low, the courts cannot perform that role. Low public confidence in the courts risks emboldening the Executive to ignore or defy their rulings, as the President has already done in the immigration context.²⁹ And public confidence in the Supreme Court is at a record low.³⁰

In addition, the Roberts Court is undermining democracy in another fundamental way. We face a Supreme Court that is hostile to voting rights; intent on turning the Reconstruction Amendments into the Redemption Amendments—to render them a shield protecting white supremacy and enabling racial discrimination rather than combatting them—taking us back to the 1800s. It is a Court openly standing in the way of building the inclusive, multiracial democracy that the U.S. can and must become and willing to upend tradition, precedent, and procedure along the way. This all requires that we help ensure we restore Congress’ role as a co-equal branch of government, empowered with the ability to respond to these attempts to undermine voting rights and fight back when the Court, as Justice Kagan notes, “betrays Congress’s choice” and “overturn[s] Congress’s studied determination.”³¹

3. You testified that election monitors from the NAACP Legal Defense and Education Fund and partner organizations have found that voters are experiencing long lines and confusion about the election. Please explain how voters are being impacted in states that have chosen to conduct redistricting after the *Callais* decision.

States that have chosen to conduct redistricting in the wake of *Callais* have largely imposed rushed changes on their electorates in the name of returning as quickly as possible to discriminatory practices that were outlawed prior to the decision. The immediate impact has been voter confusion and at times chaotic election administration. The longer-term impact is to undercut fair representation for Black voters. Just a few examples are listed below.

In Louisiana, *Callais* kicked off a series of developments that led to chaos and extensive voter confusion. On April 30, the day after the decision, Governor Jeff Landry suspended the Louisiana’s May 16 congressional election so that the state could quickly redistrict to eliminate one of the two districts that provided an opportunity for Black voters to elect candidates of choice.³² Primaries for other offices took place as scheduled but were marred by voter confusion and ballot issues.³³ Louisiana had already mailed ballots for U.S House races to overseas and military voters on April 1, and to other voters on April 26, so some voters had already returned

²⁹ *Trump v. JGG*, 604 US 670 (2025).

³⁰ Lawrence Hurley, *Poll: Confidence in the Supreme Court Drops to a Record Low*, NBC News (Mar. 11, 2026, 5:00 AM EDT), <https://www.nbcnews.com/politics/supreme-court/poll-confidence-supreme-court-drops-record-low-rcna262459>.

³¹ *Callais*, 146 S. Ct. at 1176 (Kagan, J., dissenting).

³² Office of Governor Jeff Landry, *Governor Jeff Landry Suspends Only U.S. House Primary Elections Following Supreme Court Ruling* (Apr. 30, 2026), <https://gov.louisiana.gov/news/5093>.

³³ Tyler Bridges, *Louisiana’s New Closed Primary Elections Cause Confusion*, The Advocate (May 16, 2026), https://www.theadvocate.com/baton_rouge/news/politics/louisiana-elections-voter-confusion-closed-primaries/article_e20411d1-cc89-59b1-badc-11649f1c1fe1.html.

their completed ballots by the time *Callais* was decided and the congressional primary was suspended.³⁴ By election day the Secretary of State reported that nearly 179,000 primary ballots had been cast, including approximately 53,000 absentee ballots returned by mail, all of which included U.S. House races for which votes would not be counted.³⁵ Voters at early voting sites discovered House races crossed out on their ballots in ballpoint pen, with poll workers providing conflicting guidance.³⁶ Voters were confused and concerned whether their entire ballot will not be counted.³⁷ This year's voter turnout across Louisiana remained alarmingly low, with only 20% of registered voters participating in recent elections, and many residents saying they feel disconnected from the process.³⁸

In Alabama, successive orders by the Supreme Court enabled the state to revert to using its 2023 congressional map containing only one opportunity district for Black voters, notwithstanding a three-judge court's finding that the state, unaffected by the *Callias decision*, intentionally discriminated against Black voters under the 2023 map.³⁹ This change occurred after absentee voting in the primary election already occurred, causing confusion about whether cast ballots would be counted, which candidates voters would ultimately select from, and when a new congressional primary would occur.⁴⁰ A special primary election for Alabama's 1st, 2nd, 6th, and 7th congressional districts is scheduled for Tuesday August 11, with no runoff elections.⁴¹ The last-minute change also created a truncated candidate qualifying period, for these contests, scheduled from Wednesday, May 20, to Friday, May 22.⁴²

In Tennessee, Governor Bill Lee called a special session on May 1, and by May 7 the legislature had repealed a half century old law prohibiting mid-decade redistricting, passed new

³⁴ *Louisiana v. Callais*, 146 S. Ct. 1111, 1113–1115 (mem.) (2026) (Jackson, J., dissenting); see also Deon Guillory, Supreme Court Expedites Louisiana Redistricting Ruling Amid Election Chaos, WAFB9 (May 5, 2026), <https://www.wafb.com/2026/05/05/supreme-court-expedites-louisiana-redistricting-ruling-amid-election-chaos/>.

³⁵ See David A. Lieb et al., *Voter Confusion and Headaches for Election Officials Follow Hasty GOP Push to Redraw U.S. House Seats*, Phila. Inquirer (May 11, 2026), <https://www.inquirer.com/politics/election/redistricting-house-seats-louisiana-alabama-tennessee-mississippi-trump-election-officials-disenfranchise-20260511.html>.

³⁶ See Acacia Squires et al., *Election Day Confusion in Louisiana After Voting Changes*, NPR (May 16, 2026), <https://www.npr.org/2026/05/16/nx-s1-5821163/election-day-confusion-in-louisiana-after-voting-changes>; Emily Feng, *Supreme Court Districting Ruling Creates Confusion in Louisiana Early Voting*, PBS NewsHour (May 8, 2026), <https://www.pbs.org/newshour/show/supreme-court-districting-ruling-creates-confusion-in-louisiana-early-voting>.

³⁷ Acacia Squires et al., *supra* note 36.

³⁸ Lexi Corum, *Taking a Closer Look at Voter Turnout Across Louisiana*, KTVE/KARD (June 29, 2026, at 8:13 CDT), <https://www.myarklami.com/news/taking-a-closer-look-at-voter-turnout-across-louisiana/>.

³⁹ *Allen v. Milligan*, No. 25A1231, 2026 WL 1335484 (U.S. May 11, 2026) (mem.), *subsequent order*, 146 S. Ct. 1377 (2026) (Sotomayor, J., dissenting, joined by Kagan and Jackson, JJ.).

⁴⁰ See Jen Rice, *Alabama Voters Navigate Primary Election Confusion After 11th-Hour Gerrymander*, Democracy Dkt. (May 18, 2026), <https://www.democracydocket.com/news-alerts/alabama-voters-navigate-primary-election-confusion-after-11th-hour-gerrymander/>.

⁴¹ *Id.*

⁴² Press Release, Office of Governor Kay Ivey, Governor Ivey Celebrates Major Court Victory in State's Redistricting Battle, Calls Special Election for Alabama Drawn Congressional Map (May 12, 2026), <https://governor.alabama.gov/newsroom/2026/05/governor-ivey-celebrates-major-court-victory-in-states-redistricting-battle-calls-special-election-for-alabama-drawn-congressional-map/>.

maps, and the governor had signed them into law.⁴³ The new map eliminated the state's only majority Black congressional district, by carving Memphis into three separate districts, each stretching hundreds of miles into rural central Tennessee, diluting the votes of Memphis's 63 percent Black population to near irrelevance.⁴⁴ In the leadup to the state's August 6th congressional primary, the harm to voters was immediate because lawmakers gave candidates just one week to qualify for new districts or withdraw from races in which they had been campaigning for months, with political parties given until May 17 to determine eligibility with no right to appeal, a departure from the standard election process.⁴⁵ Election administrators were directed to simultaneously reprogram election systems, retain poll workers, and potentially relocate polling places, so some voters' polling places could change without sufficient advance notice.⁴⁶

4. Mr. Chamberlain testified that considering race during redistricting is “offensive to everyone because it suggests that people would only vote for people of their own race.” Is the purpose of forming majority-minority districts to help elect more people of a minority background? Please explain.

Mr. Chamberlain is incorrect because he misunderstood or misrepresented a key concept in voting rights law: the right to elect candidates of choice who will be responsive to the minority community. The purpose of the Voting Right Act's protections against racial vote dilution is to ensure that every voter, regardless of their race, has an equal opportunity to be represented by a candidate of their choice.⁴⁷

To be sure, constituting a Congress and other elected bodies that look more like America, and hence are populated by people of diverse backgrounds and lived experiences, is an important benefit of enabling voters to have genuine choice, unfettered by racial discrimination. But the objective of the Voting Rights Act's protections against racial vote dilution is to ensure that all Black voters have the same opportunity as all other voters to elect candidates who truly and vigorously represent them and that the power of their votes is not drained due to racial discrimination.

The question of which candidates are preferred by which voters is essential to establishing whether “racially polarized voting” is prevalent in a particular jurisdiction, which is critical to proving a racial vote dilution claim under the Voting Rights Act. Preferences are ascertained not by making crude assumptions about the race of voters and candidates, but rather through a

⁴³ Sarah Fortinsky, *Tennessee Approves GOP-Friendly Redistricting Proposal, Drawing out Lone Democrat*, The Hill (May 7, 2026), <https://thehill.com/homenews/campaign/5868361-tennessee-approves-gop-house-map-redistricting-2026/>.

⁴⁴ *Id.*

⁴⁵ Fortinsky, *supra* note 43.

⁴⁶ *Id.*

⁴⁷ 52 U.S.C. § 10301(b) (“A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.”); *see also Gingles*, 478 U.S. 30.

rigorous statistical analysis of actual voting patterns. And in case after case, that analysis has shown that Black and White voters have starkly different candidate preferences in many places.

5. Senator Lee invoked the Supreme Court’s opinion in *Brown v. Board of Education* to argue that race can never be considered in drawing district lines. LDF’s founder Thurgood Marshall argued *Brown* before the Supreme Court.

a. Has Senator Lee characterized the holding of *Brown* accurately?

No, attempting to use *Brown* in service of weaponizing the Reconstruction Amendments against their original intent is simplistic, misguided, and frankly offensive.

b. What is the central holding of *Brown* and how would that apply in the context of voting rights and redistricting?

As noted in my written testimony, “[t]he purpose of the Reconstruction Amendments was not simply to end Black Americans’ status as human chattel but rather to make us full citizens with equal protection of the laws and the right to choose our own leaders. The 14th and 15th Amendments were enacted with an explicit purpose: end racial hierarchy and create a multiracial democracy.”⁴⁸

The *Brown v. Board* decision was a key example of the Supreme Court acting in service of this fundamental goal. *Brown* overturned the “separate but equal” doctrine established in *Plessy v. Ferguson*,⁴⁹ holding that racial segregation in public schools is unconstitutional under the Equal Protection Clause of the 14th Amendment.⁵⁰ This decision directly challenged racial hierarchy and helped make Black people full citizens who would (at least in theory) no longer suffer the indignity of being told where we cannot learn or the reality of attempting to do so in schools with a fraction of the resources provided to White students.

Brown does not support the nonsensical idea that the 14th Amendment requires courts to be race-blind in seeking to diagnose and solve racial discrimination. In fact, in order to enforce and monitor school desegregation, Courts, including the Supreme Court, have long taken a careful accounting of the racial demographics of public schools and ordered changes with the specific aim of changing those demographics.⁵¹ It is not possible to determine whether schools are segregated or to fix such a problem in a “race-blind” manner.

In her concurrence in this Term’s birthright citizenship case, Justice Jackson directly addressed the flawed notion that the 14th Amendment was race-blind or requires race-blind enforcement:

⁴⁸ Todd A. Cox, *Enforcing Callais: Implementing Supreme Court’s Command Against Racial Gerrymandering*: Hearing Before the Subcomm. on the Const. of the S. Comm. on the Judiciary, 119th Cong. 6 (2026) (written testimony of Todd A. Cox, Assoc. Dir.-Couns., NAACP Legal Def. & Educ. Fund, Inc.).

⁴⁹ *Plessy v. Ferguson*, 163 U.S. 537 (1896).

⁵⁰ *Brown v. Bd. of Educ. of Topeka*, 347 U.S. 483, 493 (1954).

⁵¹ *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 22-25 (1971); *Green v. Cnty. Sch. Bd. of New Kent Cnty.*, 391 U.S. 430, 435-38 (1968); *Brown v. Bd. of Educ. of Topeka*, 349 U.S. 294, 299-301 (1955).

... the Fourteenth Amendment is not color-blind; rather, its core principle is that our Nation does not tolerate racial caste—i.e., the systemic subordination that many (even some who opposed slavery) had wished to perpetuate after the Civil War. So, the architects of the Second Founding did not think or pretend that race didn’t matter. Quite to the contrary, they understood that race made an enormous difference to the lived experiences of all concerned—and to the fate of our union. Indeed, it is for that very reason that a radical restructuring was required. The Citizenship Clause applies universally precisely because such universal application was necessary to achieve the Amendment’s own race-conscious remedial purposes.⁵²

Applying *Brown*’s central pro-equality, anti-hierarchy holding in the districting context starts by acknowledging the ongoing role that race plays in our society and in our elections. We cannot stop racial discrimination simply by pretending it doesn’t exist. Ignoring the discriminatory effect of districting decisions justified in the name of politics is akin to the disingenuous belief in “separate but equal,” ignoring the stark educational disparities that dishonorable doctrine allowed for 60 years. As Justice Brown noted in her powerful *Students Against Fair Admissions* dissent, “[o]ur country has never been colorblind. Given the lengthy history of state-sponsored race-based preferences in America, to say that anyone is now victimized if a college considers whether that legacy of discrimination has unequally advantaged its applicants fails to acknowledge the well-documented “intergenerational transmission of inequality” that still plagues our citizenry.”⁵³

Honoring *Brown* also requires recognizing that Congress has broad authority—and clear responsibility—to enforce the Reconstruction Amendments. This means that Congress may determine that prohibiting discriminatory results is necessary to enforce the 15th Amendment’s prohibition against intentional race-based discrimination in voting. It also means that the 14th Amendment’s Equal Protection Clause must be employed in service of equal opportunity, not weaponized against its original purpose and very people it was enacted to protect. The notion that the 14th Amendment prohibits consciousness of race to diagnose racial discrimination and design a remedy to fix it runs counter to *Brown*’s central holding.

Justices applying *Brown* to voting rights would honor and uphold the Voting Rights Act as perhaps the most important law ever enacted by Congress in service of the same goal as the *Brown* decision itself: eliminate racial hierarchy and promote equal opportunity. Such justices would respect Congress’s responsibility to enforce the Reconstruction Amendments in service of their core purpose, and overturn *Shelby County*, *Brnovich*, and *Callais*—restoring the VRA to its full power.

⁵² *Trump v. Barbara*, No. 25-365, slip op. at 17 (U.S. June 30, 2026) (Jackson, J., concurring).

⁵³ *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 278 (2023) (Jackson, J., dissenting).

6. Please describe how Congress can reassert its authority to enforce the Fourteenth and Fifteenth Amendments with regard to voting rights.

As the Supreme Court has systematically and strategically dismantled each key part of the VRA within 15 years, Congress has been silent. This cannot stand; it is long past time for Congress to respond.

As noted in my written testimony, LDF is working closely with our partners in the voting rights community to develop a comprehensive legislative response to the Court's latest assault on the Voting Rights Act. In the meantime, the starting point must be key legislation that has been pending before Congress for years, updated for the current moment.

The John Lewis Voting Rights Advancement Act aims to restore and expand preclearance and can breathe new life into Section 2 by rejecting *Brnovich* and responding to *Callais*.⁵⁴ The Freedom to Vote Act contains critical minimum standards for elections across the country, including banning partisan gerrymandering for congressional districts which is especially critical since the *Callais* decision enabled racist maps to hide behind partisan goals.⁵⁵ The Native American Voting Rights Act is a critical step to meeting our obligations to Native populations who are too often treated like second class citizens.⁵⁶ DC Statehood would finally end colony status in our nation's capital for its large Black population.⁵⁷ This package can be updated in the wake of *Callais* to ensure that Congress protects voters to the maximum extent possible using its Elections Clause authority and its 14th and 15th Amendment enforcement powers.

But this moment requires more. Now is the time to think boldly about using every tool available to ensure that our 60-year experiment in multiracial democracy moves forward and expands, and does not end right here, right now on our watch. This includes considering opening the door to a range of election systems beyond single member districts that can provide fairer representation for communities of color if paired with a strong commitment and plan to eliminate voter registration and participation gaps. For example, in Alabama, in the 1980s, LDF used methods like cumulative and limited voting to break the absolute power of the White majority in localities across the state in the *Dillard* cases.⁵⁸ We need to look at cumulative voting, limited voting, and a whole range of alternative voting systems so that people everywhere across the country can use a system designed to provide fair representation for their community.

We must also be clear-eyed about the role the Redemption Court under Chief Justice Roberts is playing to turn back the clock on decades of progress. As noted in my answer to Question 2b above, this Court is hostile to voting rights; intent on turning the Reconstruction Amendments into the Redemption Amendments and taking us back to the 1800s; openly standing in the way of building the inclusive, multiracial democracy that the U.S. can and must become; and willing to upend tradition, precedent, and procedure. This all requires that we help ensure we restore

⁵⁴ John Lewis Voting Rights Advancement Act, H.R. 14, 119th Cong. (2025).

⁵⁵ Freedom to Vote Act, H.R. 11, 118th Cong. (2023).

⁵⁶ Native American Voting Rights Act, H.R. 1694, 116th Cong. (2019).

⁵⁷ Washington D.C. Admissions Act, H.R. 51, 119th Cong. (2025).

⁵⁸ J. Gray & J.U. Blacksher, *The Dillard Cases and Grassroots Black Political Power*, 46 Cumberland L. Rev. 311, 323-24 & n.44 (2016); see also *Ala. State Conf. of the NAACP v. City of Pleasant Grove*, No. 18-cv-02056, 2019 WL 5172371, at *1 (N.D. Ala. Oct. 11, 2019) (adopting cumulative voting for local government to remedy alleged discrimination); *Dillard v. Chilton Cnty. Comm'n*, 615 F. Supp. 2d 1292, 1293 (M.D. Ala. 2009) (similar).

Congress' role as a co-equal branch of government, empowered with the ability to respond to these attempts to undermine voting rights and fight back when the Court, as Justice Kagan notes, "betrays Congress's choice" and "overturn[s] Congress's studied determination."⁵⁹

⁵⁹ *Callais*, 146 S. Ct., at 1177 (Kagan, J., dissenting).