

Good morning, Chairman Cohen, Ranking Member Johnson, and members of the Committee. My name is Samuel Spital, and I am the Director of Litigation at the NAACP Legal Defense and Educational Fund, Inc. (“LDF”). Thank you for inviting me to testify today. Since its founding in 1940 by Thurgood Marshall, LDF has been a leader in the struggle to secure and protect voting rights for Black voters and other voters of color.

Today, our nation is at a crucial juncture in that struggle, and we are here in no small part because of two recent Supreme Court decisions weakening the Voting Rights Act. For decades, the VRA was considered the most transformative of the civil rights statutes passed in the 1960s. It has been aptly called the “the crown jewel” of the Civil Rights Movement.

At the “heart” of the Voting Rights Act for over 40 years was the preclearance mechanism, which required jurisdictions with particular histories of voting discrimination to submit changes to their voting laws and practices to the Department of Justice or a federal court to ensure that those changes did not discriminate against voters of color. Preclearance was a critical tool for preventing voting discrimination *before* elections took place, and for ending the pattern of states circumventing judicial decrees favorable to Black voters with new discriminatory measures.

Then, in 2013, a sharply divided Supreme Court decided *Shelby County v. Holder*, which rendered preclearance inoperative. In response to *Shelby County*, the states formerly covered by Section 5 unleashed a wave of new discriminatory voting laws, and they have continued to do so to this day. But, as devastating as the *Shelby County* decision has been, the Court made clear that Congress may restore preclearance by identifying jurisdictions where current conditions show a need for that remedy. After all, the Fourteenth and Fifteenth Amendments make clear that it is for Congress, not the Supreme Court, to determine in the first

instance what measures are necessary to enforce the right to vote free from racial discrimination.

LDF has testified on multiple occasions to our experiences monitoring elections and litigating against discriminatory practices since *Shelby County*. While LDF and other civil rights organizations have successfully responded to some of these new discriminatory measures with litigation, litigation is not sufficient to address the persistent and adaptive nature of discrimination against Black voters at both the State and local level.

It is therefore essential that Congress restore Section 5 consistent with the Court's guidance in *Shelby County*. H.R.4, as passed by the House during the 116th Congress, would do precisely that. Its geographic coverage mechanism identifies States and political subdivisions where current conditions show a pattern of continuing discrimination against voters of color, thereby demonstrating the need for preclearance.

Congress must also address the Supreme Court's recent decision in *Brnovich v. DNC*, which curtailed the nationwide ban on voting discrimination found in Section 2 of the VRA. The *Brnovich* decision is divorced from the plain text of Section 2 and inconsistent with Congress's clear and broad purpose in enacting the law. Unless Congress responds by restoring the original intent of Section 2, *Brnovich* will embolden States and localities to impose new voting restrictions that abridge the right to vote for Black voters and other voters of color.

Just as Congress in 1982 overrode the Supreme Court's cramped interpretation of Section 2 in *City of Mobile v. Bolden*, today Congress must override the *Brnovich* decision and restore the full power of the Voting Rights Act.

In 1965, Congress passed the Voting Rights Act in response to the heroism of John Lewis, Amelia Boynton Robinson, Fannie Lou Hamer, and the many other Black organizers and activists who risked, and in some cases lost, their lives to secure the right to vote for all Americans, and to make real the promise of a multi-racial democracy that had been

denied for a century. Their accomplishments were remarkable. But today those accomplishments—and American democracy itself—are in grave danger. This Congress must honor the legacy of these extraordinary Americans, and safeguard our democracy, by establishing a new preclearance framework and restoring Section 2's prohibition on all forms of voting discrimination that abridge or deny the right to vote based on race.

Thank you. I look forward to your questions.