No. 24-1260

In the Supreme Court of the United States

MICHAEL WATSON, MISSISSIPPI SECRETARY OF STATE,
PETITIONER

v.

REPUBLICAN NATIONAL COMMITTEE, ET AL.

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

BRIEF FOR THE UNITED STATES
AS AMICUS CURIAE SUPPORTING RESPONDENTS

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QUESTION PRESENTED

Whether the federal statutes that designate a single "election day" for federal elections prohibit States from counting voters' ballots that are received after that day.

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INTEREST OF THE UNITED STATES

Federal law designates a single day for federal elections. 2 U.S.C. 1, 7; 3 U.S.C. 1, 21(1). The United States has a substantial interest in ensuring that this deadline is followed in contests for federal office, and that States thus do not count ballots received after that day in those races. The United States also has a broader interest in safeguarding the integrity of federal elections, which is undermined by state laws that continue to count mail-in ballots received days or weeks after election day. Exec. Order No. 14,248, 90 Fed. Reg. 14,005 (Mar. 8, 2025).

INTRODUCTION

Elections have consequences. They also have a definition. And from the dawn of America, election day has meant the day the ballot box closes—and when election officials must be in receipt of all ballots. Mississippi's law is thus preempted: Under the election-day statutes, a State cannot count ballots in federal elections that it receives days or weeks after the federal election day.

The statutory text reflects common sense. Federal law sets "the day for the election." 2 U.S.C. 7; see 2 U.S.C. 1; 3 U.S.C. 1. When enacted, the plain meaning of those words imposed a ballot-receipt deadline. "Election day" was the day all voting needed to be completed; and the act of voting was not complete until a ballot had been officially received. Voting, in this Court's words, is a "combined action[]" that requires not only a private choice, but also receipt by a public officer. *Foster* v. *Love*, 522 U.S. 67, 71 (1997). That combined action has to be "done on federal election day," not after. *Id.* at 72.

History offers powerful confirmation. During the Civil War—America's first foray into absentee voting—every State provided that soldier-ballots must have been received by officials on election day. Even as rebellion raged, States made herculean efforts that accounted for this requirement, from erecting election districts in the field, to furloughing active-duty soldiers so they could vote at home. That is not a Nation that saw "election day" as indifferent to the timing of ballot-receipt. And as petitioner admits, that policy held constant through the last election-day statute's passage.

Petitioner defends Mississippi's law only by whittling almost all content from the election-day statutes. In his view, "election day" is just the deadline for voters to make a "final choice," however defined under state

law. But petitioner does not offer a single contemporary source indicating a "vote" could become "final" through anything less than official receipt. And if "election day" does not require day-of receipt, it is hard to see why States placed that heavy practical burden on soldiers during the Civil War. To boot, petitioner's choice-alone theory is irreconcilable with modern early-voting laws. Whatever "election" means, federal law is express it must occur "on" a single day: If "the election" occurs whenever voters make their final choice, early voting would stretch the contest beyond "the day" set by law; but early voting does not present that problem if "the election" is the day when the ballot box closes and officials must be in receipt of all timely votes.

The leading argument in defense of petitioner's position has little to do with the text of the election-day statutes, their history, or this Court's precedent. Rather, petitioner's defenders contend that, decades after the last election-day law was passed, Congress enacted two statutes aimed toward extending the voting period for overseas servicemembers—and in so doing, provided that their ballots should be counted so long as they were timely under state law, even if that deadline was after the federal election day. But those narrow exceptions do not redefine the general rule. Those statutes relaxed the federal deadline for a cabined class of voters; they did not silently scrap the election-day laws' baseline, the content of which was fixed decades earlier.

Finally, petitioner's reading ignores the statutes' animating context, and subverts their objectives of preventing fraud and promoting confidence in elections. If a State has total discretion to decide what it means to "cast" a ballot (Pet. Br. 25), then nothing stops a State from letting voters hand in their ballots days or weeks

after election day (so long as they attest to having filled them out before), or hand off their ballots to any private party (so long as they are en route to officials). But the principal purpose of these laws was to combat fraud, at a time when absentee ballots were seen with suspicion and ballot-box-stuffing was rampant. It would have been unthinkable to Congress that "thousands of absentee ballots [could] flow in after election day" and "flip the results of an election." *Democratic National Committee* v. *Wisconsin State Legislature*, 141 S. Ct. 28, 33 (2020) (Kavanaugh, J., concurring in denial of application to vacate stay). Then as now, ensuring all ballot boxes close on the same day eliminates incentives and opportunities for fraudulent abuse; leaving them open conflicts not only with the ordinary meaning of "election day," but also with the very integrity of the election.

STATEMENT

1. The Constitution allows States to set the time, place, and manner of elections, but gives Congress the power to "pre-empt state legislative choices" in favor of uniform federal rules. *Foster* v. *Love*, 522 U.S. 67, 69 (1997); see U.S. Const. Art. I, § 4, Cl. 1; Art. II, § 1, Cl. 4. Congress has exercised that authority to designate a single "federal election day." *Foster*, 552 U.S. at 69-70.

The first of these laws concerned presidential electors. Originally, Congress required that electors "for the election of a President and Vice President" "be appointed in each state" within a "thirty-four" day period. Act of Mar. 1, 1792, ch. 8, § 1, 1 Stat. 239. But in 1845, Congress set a "uniform time for holding elections for electors of President and Vice President." Act of Jan. 23, 1845, ch. 1, 5 Stat. 721 (emphasis omitted). That "election day" "on" which the electors "shall be appointed"

is the "Tuesday next after the first Monday in November, in every fourth year." 3 U.S.C. 1, 21(1).

After the Civil War, Congress decided that elections for the House—which then took place on different dates and often over multiple days—should follow suit. *Voting Integrity Project, Inc.* v. *Keisling*, 259 F.3d 1169, 1171, 1173-1174 (9th Cir. 2001), cert. denied 122 S. Ct. 1536 (2002). Congress provided that "the day for the election" of congressmen would be the same day as presidential electors (but at two-year intervals). Act of Feb. 2, 1872, ch. 11, § 3, 17 Stat. 28; accord 2 U.S.C. 7. And after the Seventeenth Amendment's adoption, Congress assigned Senate elections to the same day as the others. Act of June 4, 1914, ch. 103, 38 Stat. 384; see 2 U.S.C. 1 (aligning with the "regular election").

2. In 2020, Mississippi changed its election laws so that select ballots received after election day would still be counted in federal elections. 2020 Miss. Laws 1411. The State allowed certain voters to vote absentee, including by mail. Miss. Code Ann. §§ 23-15-713 (West Supp. 2020), 23-15-673 (2018), 23-15-637(3) (West Supp. 2020). Such mail-in ballots "must be postmarked on or before the date of the election." *Id.* § 23-15-637(1)(a) (West Supp. 2020). Mississippi considers such ballots "timely cast" so long as they are "received by the registrar no more than five business days after the election." *Id.* § 23-15-637(1) and (2) (West Supp. 2020).

3. In 2024, the Republican National Committee led a lawsuit challenging Mississippi's absentee-ballot law as preempted by the federal election-day statutes.

a. The district court awarded summary judgment to defendants. Pet. App. 59a-85a. The court reasoned the election-day laws require only that voters' "*final selection*" be made by that day. *Id.* at 78a. Mississippi could

thus receive ballots after election day, so long as those ballots were submitted by election day, as defined under the State's law. *Id.* at 78a-79a; see *id.* at 82a.

b. The court of appeals unanimously reversed. Pet. App. 1a-26a. The court held that text and history dictate that a ballot is only "cast" when it has been "received" by election officials. *Id.* at 10a; see *id.* at 8a-18a. In other words, "Election Day" is the day when "the proverbial ballot box is closed," and thus when officials must be in "custody" of every ballot. *Id.* at 10a. Because Mississippi's law kept the ballot box open for five extra days, it was "preempted." *Id.* at 26a.

c. The court of appeals denied rehearing en banc by a 10-5 vote. Pet. App. 33a-58a. Judge Oldham, the author of the panel opinion, concurred, joined by three judges; Judge Graves dissented, joined by four judges. *Id.* at 33a-56a.

SUMMARY OF ARGUMENT

The federal election-day statutes designate a single day when ballot boxes generally must close, and when election officials thus must be in receipt of every vote.

A. Federal law fixes "the day" on which "the election" must occur for federal offices. When enacted, the ordinary meaning of those words was that all votes must have been received on election day to count. That is so because on election day, voting needed to be complete; and it was well settled that the act of voting was complete only when a ballot was received by officials. That combined action—receipt of a private choice by a public officer—had to be perfected "on" election day, not after.

Petitioner's position—that "election" means only the "final choice" of voters, as defined by state law—has no basis in that term's ordinary meaning at the time these laws were enacted. And in granting total discretion to

States over what it means to "cast" a ballot, petitioner's reading would permit state laws that no enacting Congress would tolerate. Nor would petitioner, for that matter, who suggests various atextual limits to avoid such results. Moreover, petitioner's reading would invalidate early voting, because it would stretch "the election" for days beyond "the day" on which it must occur.

B. This Court's sole precedent analyzing the federal election-day laws confirms "election day" is the day all ballots must have been received. As this Court explained, "the election" refers to "the combined actions of voters and officials meant to make a final selection of an officeholder." *Foster* v. *Love*, 522 U.S. 67, 71 (1997). The quintessential "combined action" is the official receiving the ballot from the voter. It thus cannot be "done" after the "federal election day." *Id.* at 72.

Against *Foster*, petitioner relies almost exclusively on *Republican National Committee* v. *Democratic National Committee*, 589 U.S. 423 (2020) (per curiam). But *RNC* involved a primary; did not even cite the election-day laws; and did not speak to their meaning.

C. History too reveals a clear connection between "election day" and ballot-receipt. No State allowed post-election-day receipt when the first election-day law was enacted. And that practice remained remarkably consistent through the Civil War—despite powerful incentives to abandon it—and through the enactment of the second and third election-day statutes that followed.

Petitioner agrees with all of this. Vet Voice argues Congress blessed post-election-day receipt when it enacted two laws decades later about overseas-absentee voting. That is wrong: Those laws permit narrow exceptions for a defined class of voters; they did not upset the baseline rule for domestic ballots in federal races.

D. The statutes' animating context underscores their plain meaning. These laws were enacted to stop fraud and promote confidence in federal elections—at a time of widespread ballot-stuffing and deep distrust of mail-in ballots. There is no doubt that the prospect of having thousands of absentee ballots pour in for days or weeks after election day would have been unfathomable to the enacting Congresses. Rather, then as now, closing the ballot box on election day is a powerful safeguard against late-breaking foul play. Petitioner's contrary reading would sap much of the force from these anti-fraud laws, and invite what Congress sought to stop.

ARGUMENT

STATES GENERALLY MUST BE IN RECEIPT OF ALL VOTES IN FEDERAL ELECTIONS ON "ELECTION DAY"

A. Text

The election-day laws designate "the day" for "the election." Because those laws were enacted pursuant to the Electors and Elections Clauses—which afford Congress "none other than the power to pre-empt"—this Court must give their text its "fairest reading," without any thumb on the scale against preemption. *Arizona* v. *Tribal Council of Arizona, Inc.*, 570 U.S. 1, 14-15 (2013).

Best read, "the day" for "the election" means the day the ballot boxes must close, and officials must be in receipt of all ballots. Petitioner's reading (at 26)—that the "election" occurs once voters make their "final choice," even if not transmitted to officials—conflicts with the word's plain meaning and its surrounding text.

1. The federal election-day statutes set "the day for the election" for federal offices. 2 U.S.C. 7; see 2 U.S.C. 1; 3 U.S.C. 1, 21(1). When those laws were each enacted,

the words "the day" for "the election" conveyed that all ballots must have been cast *and* received by that day.

Dictionaries drew a firm link between "election day" and ballot-receipt. An "election" meant "[v]oting and taking the votes of citizens." 1 *Anderson's Law Dictionary* 394 (1st ed. 1889). And critically, the "act of voting was not complete until the ballot was deposited in the box"—*i.e.*, received. 10 *The American and English Encyclopedia of Law* 850 (2d ed. 1899). Receipt is what gave effect to an elector's choice: "[V]oting by ballot" signified "a mode of designating an elector's choice * * * by the deposit of a ticket * * * in a receptacle provided for the purpose." *Anderson's*, *supra*, at 104; see 8 *Judicial and Statutory Definitions of Words and Phrases* 7361 (1904) ("[v]oting by ballot is depositing in a box provided for that purpose" the marked ballot). "[E]lection day" was thus the "day on which the ballots are deposited." 15 *Cyclopedia of Law and Procedure* 400 (1905). Put differently, the "ordinary signification" of "election" was the combined "act of casting and receiving the ballots." 1 John Bouvier, *Bouvier's Law Dictionary and Concise Encyclopedia* 979 (8th ed. 1914).

Treatises confirmed this exact point. "Ordinarily a ballot cannot be counted as a vote until it has been deposited in the ballot box." 29 C.J.S. *Elections* 292 (1941). For that reason, the traditional rule was that "legal votes, duly offered, at the polls, but not actually deposited in the ballot-box, cannot be counted"—and even when the elector's right to vote was disputed, the voter must at least "offer" his vote to "the officer" for it to be counted. Halbert E. Paine, *A Treatise on the Law of Elections to Public Offices* §§ 516-517, at 435, 437 (1888); see George W. McCrary, *A Treatise on the American*

Law of Elections § 106 at 79-80 (1875) (vote's "legality" settled once it is "received" and "deposited").

State courts also consistently held that timely voting meant ballot-receipt on election day. At the time the election-day laws were passed, "authorities generally" agreed "the act of voting is not completed until the ballot is deposited in the ballot box," even if the voter "marked and transmitted his ballot before election day." *Goodell* v. *Judith Basin County*, 224 P. 1110, 1113 (Mont. 1924). The "expression 'vote by ballot' had a well-understood and universal meaning," which was the "deposit" of the ballot with officials. *State ex rel. Runge* v. *Anderson*, 76 N.W. 482, 484-485 (Wis. 1898). Only that combined action was understood to perfect a vote. *People ex rel. Twitchell* v. *Blodgett*, 13 Mich. 127, 143-144 (1865) ("[W]hen accepted, the vote is complete."). So if either part was absent—if the ballot had not been marked, or if it had not been received—the "act of voting [was] not complete." *Blackwell* v. *Thompson*, 2 Stew. & P. 348, 352 (Ala. 1832). That is why the "act of choosing," at the heart of the "meaning of the word election," entailed the collective "act of casting and receiving the ballots." *State* v. *Tucker*, 54 Ala. 205, 210 (1875); see *Steinwehr* v. *State*, 37 Tenn. (5 Sneed) 586, 589-590 (Tenn. 1858) (deeming only official-receipt necessary).

This is precisely how Congress understood the word "election" too. The whole "idea" for having one "election" day was so "the choice of electors" would be "perfected" on that day. Cong. Globe, 28th Cong., 2d Sess. 14 (1844) (Rep. Hale). As discussed above, votes were *perfected* with their *receipt*. Only "[t]he final deposit of a legal ballot in the box is the act of voting." *City of Inglewood* v. *Kew*, 132 P. 780, 783 (Cal. Ct. App. 1913).

Consistent with this settled meaning, Congress's act of setting a single "day" for the "election" meant "that no votes cast after that day should be received." Cong. Globe, 28th Cong., 2d Sess., at 15 (Rep. Chilton). And since "[n]othing short of the delivery of the ballot to the election officials for deposit in the ballot box constitutes casting the ballot," *Maddox* v. *Board of State Canvassers*, 149 P.2d 112, 115 (Mont. 1944), the election-day laws mean that a State must be in receipt of all ballots on election day for those ballots to be counted.[1]

This also explains the difference (see Pet. Br. 25) between ballot-receipt and ballot-counting. The "essential thing in every election" was the "deposit" of "ballots" by voters. *People ex rel. Le Roy* v. *Foley*, 43 N.E. 171, 172 (N.Y. 1896). By contrast, the "canvass of votes or statements is a ministerial act, following the election and evidence of the result." *Ibid.* Unlike ballot-receipt, ballot-counting does not make votes legally effective; it merely ascertains what those votes decided. Only the former must be completed on election day, because only the former controls if a vote has been "perfected" on time.

2. Petitioner's textual rejoinder rests (at 24-25) on dictionaries defining "election" as a "conclusive choice of an officer." From these, petitioner asserts (at 25) that all that is needed for an "election" to "occur[]" is for voters to have "cast their ballots—marked and submitted them to election officials as state law requires."

That is wrong. To start, while elections are no doubt times for "chusing," U.S. Const. Art. I, § 4, Cl. 1, they

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[1] Petitioner tries to dismiss (at 28) *Maddox* as a state-law decision. That misses the point: While state law provided the rule of decision there, the Montana Supreme Court's interpretation of what it meant to "cast" a ballot turned on the ordinary "meaning" of the "word," not some idiosyncrasy of Montana election law. 149 P.2d at 115.

are choices effectuated through *voting*. And what it meant for a vote to be conclusive was it had to be received by election officials. Petitioner offers no contemporary source indicating a voter could make his vote final through anything less than such receipt. In fact, petitioner concedes (at 9-10, 14) the opposite was the practical understanding for the first half of our history.

That practice reflects not just law but common sense. After all, if a "conclusive choice" is all that matters, a State could let voters hand in their ballots (as opposed to mail them) days or weeks after election day, so long as they attest they marked them on time. Or it could let a voter submit a new ballot after election day, if he attests that he mailed his original on time, but it was since lost or destroyed. Petitioner dismisses (at 40) such laws as "hypotheticals." But they are not very different from current state laws—five of which accept ballots 10 to 21 days after election day,[2] and eight of which do not require postmarks for late-arriving ballots.[3] And it is predictable that, if petitioner were to prevail here, some States would take that as a license to innovate. Moreover, while petitioner seems to accept that the hypothetical laws are problematic, he never explains how they fall outside his frontline definition of an "election."

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[2] Alaska Stat. Ann. § 15.20.081(e) (West 2021) (10 days); D.C. Code § 1-1001.05(a)(10B)(A) (2025) (10 days); Md. Code Regs. § 33.11.03.08(B)(4)(a) (2024) (10 days); 10 Ill. Comp. Stat. §§ 5/19-8(c), 5/18A-15(a) (2023) (14 days); Wash. Rev. Code Ann. § 29A.60.190 (West 2019) (21 days).

[3] Cal. Elec. Code § 3020(b)(2) (West 2022); D.C. Code § 1-1001.05(a)(10B)(A) (2025); 10 Ill. Comp. Stat. § 5/19-8(c) (2023); Md. Code Regs. § 33.11.03.08(B)(4)(b)(ii) (2024); Nev. Rev. Stat. Ann. § 293.269921.2 (West 2022); N.J. Stat. Ann. § 19:63-22(a) (West 2022); N.Y. Elec. Law § 8-412(1) (McKinney 2024); Or. Rev. Stat. Ann. § 253.070(4) (West 2022).

Recognizing the problem, petitioner declares (at 25) the "plain-text" of the election-day laws also requires a ballot to be "marked and submitted" by election day. But that is completely atextual on petitioner's view: If the "plain meaning" of "election" is a voter's "conclusive choice" (at 24), there is no reason a ballot must be submitted before election day any more than it must be received. A voter can make a final choice without either.

Plus, even as petitioner insists ballot-submission is required, he severs that concept from its historical mooring of official receipt. In its place, petitioner just announces (at 25) that "submitted" means whatever "state law" says. Petitioner makes this argument because he must: Under Mississippi's law, a voter does not even need to give his ballot to someone who works for the State (or any government) on "election day." Miss. Code Ann. § 23-15-637(1)(a) (West Supp. 2024) (allowing mail by "common carrier[s]" like "FedEx"). But here too, petitioner offers no contemporary source asserting that States had complete discretion under the election-day-laws to brand a vote as timely no matter where it goes—whether the hands of a private party (like FedEx) or a separate sovereign (as with USPS).

And here too, petitioner's view would allow for state laws Congress never would have tolerated in 1845, 1872, or 1914. Perhaps most glaring, there is no principled difference between FedEx and any other private party. There is thus no reason why, on petitioner's reading, a State could not let voters "submit" mail-in ballots to family members, community organizers, or even party officials—just so long as they were brought to election officials later. But that strains "the day" for "the election" beyond all plausible meaning. If the election-day Congresses were asked whether dropping a ballot in a bag

held by a party apparatchik could count as timely voting under federal law, the answer would be obvious.

Petitioner suggests (at 27) mail is different because the voter has surrendered control over the ballot. But as the court of appeals explained, voters are able to "recall" mail once sent—including ballots. Pet. App. 12a. Petitioner dismisses (at 41) this as impractical. But any practical barriers are dwindling, as more States adopt later received-by deadlines (and allow private carriers to carry ballots). P. 12 nn.2-3, *supra*. Regardless, such practical barriers are doubly irrelevant in distinguishing the mail from other ballot-delivery services: It may also be impractical to get ballots back from ballot-harvesters, and any difficulty in exercising continued control over the ballot does not negate the right to control until the ballots are received by election officials. Vet Voice emphasizes (at 30) a voter cannot "change their vote" after election day, even if they recall the ballot. But a canceled vote affects an election as much as a cast one. So long as voters retain the ability to cancel their votes, it is impossible to say the "election" is over.

Nor is the "mailbox rule" relevant. DNC Br. 10. Where Congress wants to adopt that rule, it does so expressly. See, *e.g.*, 26 U.S.C. 7502(a) (tax day). And the federal election-day laws would be an especially poor context to infer that rule's applicability, as there was no pedigree to such a rule in elections. See *Burroughs* v. *Lyles*, 181 S.W.2d 570, 573 (Tex. 1944) (registration sent on due-date was late because it arrived after that day).

3. Petitioner's view of "election," once plugged back into the rest of the text, would also outlaw early voting.

The election-day laws fix "the day for the election" (for Congress) and the "election day" "on" which electors shall be appointed (for President). 2 U.S.C. 7, 1;

3 U.S.C. 1, 21(1). Thus, whatever "election" means, it must happen "on" a single "day"—"the day for the election." If petitioner were correct (at 23) that "[a]n 'election' is the conclusive choice" made by voters "when they * * * mark and submit [their ballots]," then early voting would plainly be barred by the federal election-day statutes. *That* "election" would happen over multiple days, stretching well before "the day" "on" which it must occur. Such a problem does not exist if "election day" is understood as the day on which the ballot box closes and officials must be in receipt of every ballot.

B. Precedent

1. This Court's sole decision on the federal election-day statutes confirms what their plain text compels.

In *Foster* v. *Love*, 522 U.S. 67 (1997), this Court reviewed a state law that allowed congressional races to conclude in October if the candidate won a majority in the "open primary" that month. *Id.* at 70. This Court held the law preempted, reasoning that the election-day statutes barred a State from "consummat[ing]" a congressional race "before the federal election day, with no act in law or in fact to take place on the date chosen by Congress." *Id.* at 72 & n.4. In so doing, *Foster* drew two conclusions that bear heavily on this case.

First, the Court held that "[w]hen the federal statutes speak of 'the election,'" they "plainly refer to the combined actions of voters and officials meant to make a final selection of an officeholder." 522 U.S. at 71. As detailed above, the *key* "combined action" is the receipt of the ballot by the official from the voter. That is why courts referred to the "casting and receiving" of ballots together, *Norman* v. *Thompson*, 72 S.W. 62, 63 (Tex. 1903), or even read "cast" to necessarily include receipt, *Maddox*, 149 P.2d at 115. And it is why courts held that

"voting" was not complete until a ballot was "receive[d]" by "[e]lection-officers." *A.T. & Santa Fe R.R.* v. *Commissioner of Jefferson County*, 17 Kan. 29, 38-39 (1876).

Second, while disclaiming the need to supply a comprehensive "definition[]" of "election," the Court made clear that its core aspects are "acts a State must cause to be done on federal election day (and not before it)." 522 U.S. at 71-72. That confirms why early voting would be outlawed if "election" means nothing more than "choice": *Those* "acts," unlike the closing of the ballot box, would occur well "before" the "federal election day"; indeed, if everyone voted early, the election would be *over* before that day, contrary to *Foster*. *Id.* at 72.

2. Petitioner has no answer to *Foster*. At most, he repeats (at 27, 40) that the only "combined action[]" required for an "election" is for voters to have "marked and submitted their ballots" as the "state law requires."

This suffers from multiple infirmities. It cannot explain early voting. And it does nothing to distance petitioner's view from the hypothetical laws discussed earlier. Petitioner's reading of "combined action" also falters on its own: Filling out an absentee ballot at home and handing it to FedEx is not a "combined action" *with the government* in any intuitive sense. A "combined action" is one done together—*e.g.*, the handoff of the ballot to the official (either personally or via a third-party).

Moreover, history forecloses petitioner's claim that "combined action" means simply using the ballot. As petitioner elsewhere acknowledges (at 13), for most of the 19th century, "voters prepared their own paper ballots" or used ones "prepared by parties." See *Burson* v. *Freeman*, 504 U.S. 191, 200 (1992) (plurality opinion). But the "meaning of election" has held constant since the Founding. *Newberry* v. *United States*, 256 U.S. 232,

250 (1921). Thus, then as now, it cannot be that ballot-use is the "combined action[]" at the core of "the election." *Foster*, 522 U.S. at 71. Rather, then as now, what matters is official receipt of the ballot—*that* is what cannot be "done" after the "federal election day." *Id.* at 72.

3. The primary precedent invoked by petitioner (at 27-28, 37, 42) is the order granting a stay in *Republican National Committee* v. *Democratic National Committee*, 589 U.S. 423 (2020) (per curiam). The single sentence cited cannot bear the weight placed on it.

To start, *RNC* involved a primary election, and thus did not even mention the federal election-day statutes. Nor did the Court offer any definition of "election" (let alone one different from *Foster*). Instead, the Court merely made the sensible observation that "[e]xtending the date by which ballots may be cast by voters—not just received by the municipal clerks but cast by voters—for an additional six days after the scheduled election day fundamentally alters the nature of the election." *RNC*, 589 U.S. at 424; see *id.* at 425-426 (similar).

Petitioner reads this remark (at 25) to endorse the inverse—that changes to a receipt-deadline would *not* "fundamentally alter[]" the "nature of the election." That is illogical. Recognizing that additional *voting*-days are a bigger deal than additional *receipt*-days hardly implies the latter do not alter the nature of the election at all. See Pet. App. 24a. And *RNC* made explicit that it was not addressing the issue. See 589 U.S. at 426 ("stress[ing]" the "narrow" issue addressed).

Petitioner also invokes (at 29-30) three state-court cases. None helps. Each asked whether the state constitution permitted a soldier to vote outside his home district. None involved a law extending the ballot-receipt deadline past election day (Part C.1, *infra*). And

none adopted a different definition of "election" that broke from the established view (Part A.1, *supra*).

Vet Voice cites (at 26-27) two additional state-court cases. But the New Hampshire case did not involve a post-election-day deadline at all—as Vet Voice concedes (at 27 n.6)—and for that matter, expressed skepticism that votes for the House could be "cast" any other way than in-person "on" election day. *In re Opinion of the Justices*, 113 A. 293, 299 (N.H. 1921). The Kansas case quotes from an outlier law (Part C.2, *infra*) that allowed post-election-day receipt, but the court does not analyze that aspect of the law at all. *Burke* v. *State Board of Canvassers*, 107 P.2d 773, 775-776, 778 (Kan. 1940).

C. History

History offers powerful confirmation that "the day" for "the election" means the day that ballot boxes close. Indeed, from the first election-day statute through the last, States consistently provided that ballots must have been received by officials on election day—including during the Civil War. Nor does modern practice change the picture. While Congress has twice fashioned a narrow exception to the federal deadline for overseas ballots, it has never disrupted the rule long-governing domestic ballots. That new tail cannot wag this old dog.

1. Practice Surrounding the Election-Day Statutes

a. Absentee voting was unknown in England and virtually nonexistent in America for our first 70-plus years. See Floyd R. Mechem, *A Treatise on the Law of Public Offices and Officers* § 187, at 116 (1890). Come the first election-day statute, "election day" was necessarily the day when all "ballots must be *received*." Pet. App. 14a.

That understanding held constant through the Civil War, when certain States sought to change their voting

laws so that soldiers away fighting for the Republic would not lose their voice in its future. Josiah Henry Benton, *Voting in the Field: A Forgotten Chapter of the Civil War* 4 (1915) (Benton). Even then, States provided that any absentee soldier-ballots must have been received "on" election day. Pet. App. 16a.

Most analogous to today's mail-in ballots, some States adopted "proxy voting," where a soldier would "prepare his ballot in the field and send it to some one, as his proxy, to cast into the ballot box in his voting precinct at home." Benton 15. But this new method operated under old rules: A soldier's "ballot was not *cast* until it was deposited in the ballot box by the inspectors of the township at home." Benton 91. That is, a soldier did not "vote[] until [his] ballot has been carried to his election district in [the] State, and [was] there *received* and *deposited* in the proper place." Benton 149. It was not enough that a soldier rendered a "final choice" (Pet. Br. 24) by election day, or even "marked and submitted" (Pet. Br. 25) a ballot by that day. Instead, every proxy-voting State required that ballots have been *received* on election day to count. See Benton 15; Pet. App. 16a.

Other States undertook massive efforts to bring "the ballot box to the soldier in the field." Benton 15. Importantly, these field-voting States were careful to deputize "officers or soldiers to act in an election *as* constables, supervisors, etc., as the laws of the State might designate." Benton 17. This meant that elections in the field would be like "elections at home," and a soldier could timely "cast his ballot" in a proper "voting precinct"—where it would be received by a state election official on the day of the election. Benton 15, 17.

For instance, in Kansas, the Governor had a designee deliver "poll books" to the field; required the

selection of "three judges and two clerks to hold the election"; had the judges and clerks "take an oath to properly conduct the election according to the statute"; and then had them supervise an elaborate process that culminated in "the ballot [being] deposited in the ballot box." Benton 115-116. Likewise, in Maine, military officials were "made 'supervisors' of elections" and were "sworn to support the Constitution of the United States and the State of Maine, and to faithfully and impartially perform their duties" administering the election—at which point those officers would "prepare a ballot box" for "receiving" ballots from the qualified soldiers. Benton 122-123. Indeed, for Union and Confederacy alike, the general practice was to deputize their military officials, swear them in, and have them conduct an election consistent with how it would have been done at home.[4]

These intensive efforts would have made little sense if the timing of ballot-receipt did not matter. Contrary to petitioner's speculation (at 33), it would have been possible for officials at home to decide a soldier's "qualifications" before counting his vote. Instead, these measures were necessary for there to be "real voting in the field," Benton 317, and for the "act of voting" to be actually completed on election day, Benton 15.

b. Petitioner does not dispute that every Civil War-era absentee-ballot law required that soldier-ballots have been received by officials on election day. Pet. Br.

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[4] See generally Benton 30-31 (North Carolina), 32-33 (Tennessee), 33-34 (Virginia), 34-35 (Alabama), 36 (Georgia), 36-38 (South Carolina), 39 (Florida), 43 (Missouri), 49-50 (Iowa), 54, 63-64 (Wisconsin), 71-72 (Minnesota), 74 (Ohio), 87-88 (Vermont), 100-101 (Michigan), 106 (Kentucky), 129 (California), 156 (New York), 171-172 (Nevada), 180 (Connecticut), 186-187 (Rhode Island), 201-203 (Pennsylvania), 217-218 (New Hampshire), 239-240 (Maryland).

11-12. His only rejoinder (at 33, 43) is that this was purely a policy choice. But where uniform practice followed a law's ordinary meaning, the more natural explanation is that the law's import was plain to all. What's more, if an "election" did not dictate ballot-receipt timing, it is strange *no* State loosened the rules for soldiers in the field—including proxy-voting States, which easily could have deemed soldier-ballots timely by their postmark. Cf. James W. Milgram, *Federal Civil War Postal History* 281-283 (2007) (describing soldier-ballots). Likewise, if this were all a matter of flexible policy, it is hard to see why, as noted, some States opted to furlough *active-duty soldiers* so that they could vote at home *on* election day. See Benton 226-227, 291.

Vet Voice claims (at 34-35) that, in three States that allowed soldiers to submit their ballots in the field on election day, those ballots were only received by proper election officials at home (necessarily later). This would not be very helpful even if right: At least 20 States adopted absentee voting during the Civil War (see p. 20 & n.4, *supra*; Pet. Br. 10); if at most three States loosened the election-day rule amidst the breakdown of all domestic order, that would only confirm the strength of the practice going the other direction. Cf. *New York State Rifle & Pistol Ass'n* v. *Bruen*, 597 U.S. 1, 70 (2022).

At any rate, Vet Voice is wrong. Under Pennsylvania's soldier-voting law, deputized "judges and clerks" were required to "take an oath or affirmation" before "any votes shall be received," and were tasked with receiving each ballot, inspecting the voter's qualifications, and (if qualified) placing it "in the box" for ballots. 1864 Pa. Laws 1848; see Benton 202. Similarly, Rhode Island empowered "commanding" officers to receive and

"certif[y]" ballots from soldiers. 1864 R.I. Acts & Resolves 4; see William P. Hopkins, *The Seventh Regiment Rhode Island Volunteers in the Civil War* 227 (1903) (describing "varied" "[p]olls" within camps). And Nevada charged the "three highest officers in command" with receiving and tallying ballots, so that soldier-votes "shall be considered" effectively cast at home on the election day. 1866 Nev. Stat. 215; see Benton 171.

Without support, Vet Voice claims (at 35) these military officers were not effectively deputized as "real election officials." Vet Voice seems to take issue with the relative lack of formality that some States used in placing this mantle on their officers. But what matters is not *how* "the laws of the State might [have] designate[d]" them; what matters is each State affirmatively *took* legislative action to do so. Benton 17. And in each example, the State provided (in some form or another) for the "appointment" of military officials to administer elections—a power they otherwise lacked, and a power they were given so they could *receive* ballots. *Ibid.*

c. After the Civil War, absentee-ballot laws "disappeared" and the practice broadly fell into disuse until a "reform period" began in 1911. John C. Fortier & Norman J. Ornstein, *The Absentee Ballot and the Secret Ballot: Challenges for Election Reform*, 36 U. MICH. J. L. REFORM 483, 501 (2003) (Fortier & Ornstein). Neither petitioner nor Vet Voice identifies any state-absentee law that allowed for post-election-day receipt before 1914, when the last election-day law was enacted.

Vet Voice observes (at 35-36) certain States allowed absentee voting "elsewhere within the State on election day." But that is irrelevant. It does not matter *where* a ballot is received by a State's election officials; what matters is *when* it has been received. As for the latter,

the historical record is overwhelming that the deadline was "on election day"—when the ballot box closed.

2. Practice Following the Election-Day Statutes

a. Absentee-voting laws spread "rapidly" across the Nation during the first World War and continued apace in the years leading up to the second. P. O. Ray, *Absent-Voting Laws*, 18 Am. Pol. Sci. Rev. 296, 321 (1924); see Fortier & Ornstein 504-506. By 1938, at least 44 States had enacted some form of absentee voting. Paul G. Steinbicker, *Absentee Voting in the United States*, 32 Am. Pol. Sci. Rev. 898, 898-899 (1938) (Steinbicker).

Still, "*even* during the height of war-time exigency," Pet. App. 16a, the "usual requirement" remained that ballots must be "received on or before the day of election," Steinbicker 906. And as late as 1977, only two States still allowed post-election-day receipt. Pet. App. 17a. Indeed, petitioner concedes (at 10, 14) that widespread post-election-day receipt is an exclusively modern phenomenon. It is thus neither "longstanding" nor "consistent"; it is the sort of post-enactment practice that more often marks a departure from a law's original meaning than a delayed elucidation of it. *United States* v. *Rahimi*, 602 U.S. 680, 724 (2024) (Kavanaugh, J., concurring); see *Coney Island Auto Parts Unlimited, Inc.* v. *Burton*, No. 24-808, slip op. 5 (Jan. 20, 2026) ("'[T]ext and structure' take priority over historical practice.").

b. Vet Voice relies heavily (at 38-46) on the fact Congress passed two statutes during the 20th century that incorporated state-law ballot-receipt deadlines for certain voters overseas: the 1942 Soldier's Vote Act (SVA), ch. 561, 56 Stat. 753 (50 U.S.C. 301 *et seq.*), and the 1986 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), Pub. L. No. 99-410, 100 Stat. 924 (52 U.S.C. 20301 *et seq.*). Vet Voice is right that a small minority

of States allowed post-election-day receipt during World War II, and a slightly larger minority allowed such receipt by the 1980s. See Vet Voice Br. 41-42, 45-46. But Vet Voice is wrong about the import of the two federal laws. Neither upends the deadline generally imposed by the election-day statutes. Rather, they mark "narrow" exceptions that authorize post-election-day receipt for a tailored "class[] of voters." Pet. App. 33a.

In the SVA, Congress initially set the deadline for federal "war ballot[s]" to be "the closing of the polls on the date of the holding of the election," § 9, 56 Stat. 756, but soon amended that deadline so that "any extension of time for the receipt of absentee ballots permitted by State laws shall apply to ballots cast under this title," Act of Apr. 1, 1944, ch. 150, § 311(b)(3), 58 Stat. 146. Likewise, in UOCAVA, Congress provided that absentee ballots of "uniformed services voters or overseas voters" must be counted so long as received by the state-law deadline designated for ballot-receipt. 52 U.S.C. 20303(b) and (d); see 52 U.S.C. 20304(b)(1) (directing officials to facilitate such ballots).

By their terms, neither statute says anything about the receipt of absentee ballots writ large. The SVA concerned (now defunct) "war ballots," and UOCAVA covers "uniformed services voters and overseas voters." Each addressed a specific issue—the difficulty in voting for certain Americans away from home—and did so in the specific fashion of extending for those voters the general deadline for ballot-receipt. Accordingly, contrary to Vet Voice's warnings of mass disruption (at 7 & n.3), UOCAVA-ballots may be received after the federal election day, so long as timely under relevant state law.[5]

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[5] Because UOCAVA carves out a class of voters from the federal election-day deadline, the district court was correct in *Harris* v.

Vet Voice argues (at 32) that in making use of these post-election-day deadlines for some ballots, Congress implicitly endorsed their lawfulness as to all ballots. That does not follow. States have always been free to set whatever deadlines they wish for absentee ballots involving *state* offices; and in UOCAVA (plus the SVA before), Congress incorporated those deadlines for a narrow class of federal voters, departing to that extent from the election-day laws' general rule. See *RadLAX Gateway Hotel, LLC* v. *Amalgamated Bank*, 566 U.S. 639, 645 (2012). For all other federal voters, neither UOCAVA nor the SVA "conflict[s]" with the election-day ballot-receipt deadline under the election-day statutes; accordingly, this Court must "give effect" to the "normal operations" of those "preexisting law[s]." *Epic Systems Corp.* v. *Lewis*, 584 U.S. 497, 510-511 (2018).

Vet Voice observes (at 42-44, 49-51) there is no legislative history indicating Congress saw state post-election-day deadlines as unlawful—and no further legislative action banning them, even as they have grown more popular. Yet that is a "'particularly dangerous' basis on which to rest an interpretation of an existing law a different and earlier Congress did adopt." *Bostock* v. *Clayton County*, 590 U.S. 644, 670 (2020). It is wrong to assume that in sanctioning a narrow application of a given practice, Congress was implicitly blessing all of it.

c. Indeed, especially so here, given that when Congress has considered *domestic* absentee voting for civilians, it has refused to extend the ballot-receipt deadline

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Florida Elections Canvassing Commission, 122 F. Supp. 2d 1317 (N.D. Fla. 2000), when it counted overseas military ballots that were timely under state law. *Id.* at 1323-1325. That is similarly why federal courts may enforce or order extensions of state-law ballot-receipt deadlines as to UOCAVA-ballots. Cf. Gov't C.A. Br. 30-32.

beyond "election day." Most relevant, when Congress amended the Voting Rights Act (VRA) in 1970 to establish national rules for absentee voting in presidential races, it specified that "such ballots" must be "returned" to the "appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election." 52 U.S.C. 10502(d). And Congress did so even though "aware several States permitted post-election day ballot receipt." Vet Voice Br. 43.[6]

Vet Voice responds (at 44) that the statute also says "[n]othing in this section shall prevent any State * * * from adopting less restrictive voting practices than those that are prescribed herein." 52 U.S.C. 10502(g). But that provision merely authorizes States to go above the floor "prescribed" *in Section 10502* for absentee balloting in presidential elections; it does not allow States to exceed ceilings imposed by *other provisions* of federal law. Nobody would claim Section 10502(g) empowers States to adopt the "less restrictive" practice of allowing ballots *to be cast* in federal elections weeks after election day. Section 10502(g) no more authorizes violations of the election-day laws' ballot-*receipt* deadline.

The Help America Vote Act of 2002 (HAVA), Pub. L. No. 107-252, 116 Stat. 1666 (52 U.S.C. 20901 *et seq.*), fits the same pattern. In providing for provisional ballots under certain circumstances, the Act provides that any such ballot must be "cast" by election day, by having the voter complete his ballot at a "polling place," and there

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[6] Vet Voice is wrong (at 40) to say the VRA's deadline would be "superfluous" if the election-day laws already required as much. Allowing for receipt "on" election day extended the deadline in States that required absentee-ballot receipt *before* then, which a number did at the time of the VRA amendments. See, *e.g.*, 116 Cong. Rec. 28,876 (1970) (cataloging States).

transfer it to an "election official." 52 U.S.C. 21082(a). While the State can decide later whether to count that ballot (if a voter is qualified), HAVA is designed so the provisional ballot is necessarily received by officials *on* election day—just as the election-day statutes require.[7]

D. Context

1. The federal election-day laws' animating context further confirms their plain meaning. When Congress enacted these statutes, its main "object" was to "prevent fraud," Cong. Globe 28th Cong., 1st Sess. 679 (1844) (Rep. Allen), and more broadly, "preserv[e] public confidence" in federal elections, Morley Br. 8. By those lights, it is unthinkable that the enacting Congresses would have read the election-day laws to permit the widespread practice of post-election-day ballot receipt—as petitioner insists they do. That is a "powerful indication" that petitioner's interpretation "has made a mess of the statute." *Hamdan* v. *Rumsfeld*, 548 U.S. 557, 669 (2006) (Scalia, J., dissenting).

Multiple types of fraud afflicted elections in the 19th century. *Burson*, 504 U.S. at 200-202. Most relevant, two strands involved ballot-box stuffing and mail-in-ballot manipulation. As for ballot-box stuffing, it was common for elections to be stretched out, so party bosses could add votes in one place to make up for losses

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[7] Vet Voice is wrong (at 50) to rely on the Electoral Count Reform and Presidential Transition Act of 2022, Pub. L. No. 117-328, Div. P, Tit. I, 136 Stat 5233. That Act neither substantively amended the relevant statutory text nor presumed the validity of state laws allowing post-election-day ballot-receipt in presidential elections. See § 1, 136 Stat. 5233-5234. Congress therefore did not address ballot-receipt at all—let alone generally sanction, explicitly or implicitly, state post-election-day deadlines for ballot-receipt. See *Rapanos* v. *United States*, 547 U.S. 715, 750-752 (2006) (plurality opinion).

elsewhere. H.R. Rep. No. 31, 40th Cong., 3d Sess. 49 (1869), at 47-50 (1869) (detailing canvassing "delay[s]"); see *id.* at 77-78 (proposing single election day as a "remedy" for ballot-box fraud); see also McCrary, *supra*, § 393 at 287 (describing "very frequent[]" practice of "tampering with the ballots after they are cast"); *Keisling*, 259 F.3d at 1172-1174 (9th Cir. 2001) (cataloging "great frauds" flagged by Congress that occurred when some States kept ballot box open longer than others). As for mail-in ballots, the Nation had grown especially concerned that the "proxies" first created during the Civil War were "readily and without the possibility of detection change[d]" to swing elections. *Frauds on Soldier Votes*, Rochester Daily Union & Advertiser, Nov. 1, 1864, at 3; see Oscar Osburn Winther, *The Soldier Vote in the Election of 1864*, 25 N.Y. Hist. 440, 449-454 (1944). Indeed, one of the biggest scandals of the time involved just that, to the tune of hundreds of ballots. Tracy Campbell, *Deliver the Vote: A History of Election Fraud, An American Political Tradition* 55-56 (2005); see Benton 168 (New York "proxy voting" law was "full of opportunities for mistake and for fraud").

If imposed at the time, petitioner's interpretation would have clearly created ample fodder for bad actors to continue to perpetrate those well-known types of fraud. Staggered ballot-box-closure deadlines across State lines would have created major incentives and opportunities for ballot-box stuffing. Such staggered deadlines would further have encouraged and enabled the "flagitious frauds from the transfer of votes from one State to another," as States closed their ballot boxes on different days. Cong. Globe, 28th Cong. 2d Sess., at 28 (Rep. Rhett). And similarly, keeping ballot boxes open for days or weeks on end would have increased the

incentives and opportunities for manipulation of mail-in votes—all while cloaked in a legitimacy that would otherwise elude late-discovered (yet dispositive) ballots.

Nor have those concerns about fraud become obsolete since. To this day, "chaos and suspicions of impropriety" typically follow when "thousands of absentee ballots flow in after election day" and "flip the results of an election." *Democratic National Committee* v. *Wisconsin State Legislature*, 141 S. Ct. 28, 33 (2020) (Kavanaugh, J., concurring in denial of application to vacate stay). "If the apparent winner the morning after the election ends up losing due to late-arriving ballots, charges of a rigged election could explode." Richard H. Pildes, *How to Accommodate a Massive Surge in Absentee Voting*, U. Chi. L. Rev. Online 45, 46 (2020). And those charges would not be unfounded. After all, "[f]raud is a real risk that accompanies mail-in voting." *Brnovich* v. *Democratic National Committee*, 594 U.S. 647, 686 (2021); accord *Crawford* v. *Marion County Election Board*, 553 U.S. 181, 195-196 (2008) (Stevens, J.); *Republican Party of Pennsylvania* v. *Degraffenreid*, 141 S. Ct. 732, 735-736 (2021) (Thomas, J., dissenting from the denial of certiorari). As in the nineteenth century, leaving the ballot box open after election day creates incentives and opportunities for bad actors to attempt to flip the outcomes of close elections through late-arriving mail-in ballots. And that is especially true in States that prolong when ballots may be received, and further do not even require a postmark for a ballot to be counted. P. 12, nn.2-3, *supra*. At minimum, those concerns risk undermining the very public confidence in election outcomes the enacting Congresses sought to safeguard. Cf. *Wisconsin*, 141 S. Ct. at 33 (Kavanaugh, J., concurring in denial of application to vacate stay).

In short, Congress passed the election-day laws to "remov[e] the possibility of introducing fraud to any great extent." Cong. Globe 28th Cong., 1st Sess., at 679 (Rep. Atherton); see Cong. Globe, 42d Cong., 2d Sess. 618 (1872) (Sen. Thurman). Then as now, that goal is furthered when all votes must be "perfected" on election day. Cong. Globe, 28th Cong., 2d Sess., at 14 (Rep. Hale). But it is very much not when States can receive ballots for days or weeks on end, even absent a timely postmark. Thus, only one reading achieves Congress's goal of ensuring "that no votes cast after [election] day should be received," Cong. Globe, 28th Cong., 2d Sess., at 15 (Rep. Chilton)—because the only way to ensure a vote is cast on time is for it to be received on time.

2. Petitioner insists (at 31) Congress was only worried about one type of fraud—voters moving across States to vote multiple times. But if Congress was worried about bad actors sending *men* to exploit open ballot boxes, it follows *a fortiori* it would have been concerned about the same thing by way of *mail*. Regardless, "statutory prohibitions often go beyond the principal evil to cover reasonably comparable evils," *Oncale* v. *Sundowner Offshore Services, Inc.*, 523 U.S. 75, 79 (1998), and the risk of fraud is at least "reasonably comparable" here.

Relatedly, Vet Voice is wrong (at 31) that a received-by deadline of election day would "disenfranchise[]" voters. "[T]hat is not what a reasonable election deadline does." *Wisconsin*, 141 S. Ct. at 35 (Kavanaugh, J., concurring in denial of application to vacate stay). An election cannot exist "without deadlines." *Id.* at 33. Every mail-in voter thus must account for delays to meet whatever deadline exists. Requiring a voter to account for that universal reality does not "'disenfranchise' anyone under any legitimate understanding of

that term." *Id.* at 35. And of course, a voter can always avoid the risks that accompany the privilege of absentee voting by simply choosing to "vote in person." *Id.* at 36.

All told, amidst "rampant" fraud and a corresponding trend of "stricter election laws," the election-day statutes emerged as an important election-integrity measure. Joseph P. Harris, *Election Administration in the United States* 319 (1934). In joining that trend, Congress did not leave open the prospect States could "extend the period" for accepting votes "by one day, five days, or 100 days." Pet. App. 26a. Instead, in setting a uniform "election day" for the Nation, Congress mandated what those words have always required: On election day, the ballot box must close, and every vote must have been received.

CONCLUSION

This Court should affirm the judgment below.[8]

Respectfully submitted.

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[8] In affirming, this Court should make clear Mississippi's law is not preempted as applied to UOCAVA-ballots, see pp. 24-25, *supra*, and that application should be preserved in "fashion[ing] appropriate relief," Pet. App. 24a-25a; see *id.* at 33a.