



Written Testimony of Todd A. Cox

Associate Director-Counsel

NAACP Legal Defense and Educational Fund, Inc.

Submitted to the

**United States Senate Committee on the Judiciary,
Subcommittee on the Constitution**

In connection with its May 19, 2026 hearing entitled

**“Enforcing *Callais*: Implementing the Supreme Court’s
Command Against Racial Gerrymandering”**

I. INTRODUCTION

Chairman Schmitt, Ranking Member Welch, and members of the Committee:

My name is Todd A. Cox, and I am Associate Director-Counsel of the Legal Defense Fund (“LDF”). Thank you for the opportunity to testify today regarding the impact of the Supreme Court’s recent *Louisiana v. Callais* decision and the urgent need for congressional action to protect and secure the fundamental freedom to vote.¹ My testimony is informed by LDF’s extensive experience litigating under the Voting Rights Act and other key federal voting rights protections, as well as our on-the-ground election protection work in multiple states.

It is fitting we meet today as the Nation looks forward to celebrating 250 years of independence. The question we face at this consequential moment is whether the arc of our history will continue to bend towards justice, as Martin Luther King, Jr. called us to believe and pursue, or whether that arc will turn back upon itself, returning us to a time in the United States when democratic representation and political power were synonymous with white supremacy and racial hierarchy.

This hearing is about more than a single Supreme Court case; it is about the type of country we aspire to become for our next 250 years, and what role each of us will play in charting a path to this destination. As LDF’s America 250 website notes, “[t]he question before us isn’t whether America will change — it will, and it must. The question is whether we who love the promise of this country enough to admit its profound failings will guide that change toward a more perfect union.”²

Every day, Black Americans feel the sting of racism in our lives. This is a present reality, not a relic of the past. It profoundly shapes the landscape of opportunity, including access to fair representation and political power. Yet without evidence, the Roberts Court attempts to wish it away, and pretend we are a nation that has already achieved our highest ideals.

Louisiana v. Callais was a disastrous, disingenuous, and intentionally confusing decision that gutted Section 2 of the Voting Rights Act (“VRA”).³ In jurisdictions where lawmakers point to partisanship as a justification for electoral maps, *Callais* has made it extremely difficult, if not impossible, for Black voters and other voters of color to utilize the most effective federal law protections against racial discrimination for congressional, state legislative, and local elections. Justice

¹ *Louisiana v. Callais*, No. 24-109, 2026 WL 1153054 (U.S. Apr. 29, 2026), *judgment entered*, No. 24-109, 2026 WL 1209010 (U.S. May 4, 2026).

² LDF, *The Next 250*, <https://www.naacpldf.org/america-250/> (last visited May 18, 2026).

³ 52 U.S.C. § 10301.

Alito's muddled opinion will spur a flurry of litigation due to uncertainty about how the ruling applies beyond its narrow context.

Callais completes the Supreme Court's three-part evisceration of the VRA over the past decade plus: *Shelby County v. Holder* struck at the heart of the landmark law by immobilizing the preclearance protection in 2013;⁴ *Brnovich v. DNC* undercut voters' ability to challenge discriminatory barriers to the ballot in 2021;⁵ and now *Louisiana v. Callais*, like *Brnovich*, authored by Justice Alito, in 2026 has the potential to end the law's protections against racial vote dilution.⁶

The decision's immediate impact has been devastating for Black representation across the South and chaotic for voters. States have moved quickly to redraw maps to eliminate districts that, for decades, provided fair opportunities for Black voters to elect candidates of choice in the name of partisan gains—exactly as Justice Alito's opinion invites them to do.⁷ By releasing the decision in the middle of election season, and then expediting the transmission of its judgment to the District Court, the Court has ignored normal procedure and its long-professed principle of avoiding voter confusion through late-game changes. Instead, the Court has unleashed states to do maximum damage to Black representation for the 2026 elections.⁸ After the present retrenchment, we'll see a wave of litigation, as those seeking to bend our arc back away from fair representation look to capitalize on the Court's rhetoric. The impact will be felt well beyond Congress; it will reach into state legislatures and local communities across the United States.

Though this moment is dire, there is a path forward to expand our multiracial democracy rather than witness it die on our watch. That path starts in this room: Congress must act, as it has done in the past, to respond to the Court's error and its overreach to ensure that Congress fulfills its constitutional responsibility to protect the right to vote. States must step up to protect their own voters from discrimination. And the people must fight back, with mass mobilizations and at the ballot box—as they've already begun to do.

⁴ *Shelby Cnty., Ala. v. Holder*, 570 U.S. 529, 536 (2013).

⁵ *Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647 (2021).

⁶ *Callais*, 2026 WL 1153054.

⁷ Sam Levine, *US Southern States Rush to Redraw Electoral Maps to Dilute Black Voting Power*, THE GUARDIAN (May 14, 2026), <https://www.theguardian.com/us-news/2026/may/14/southern-states-redistricting-electoral-maps-black-voting-power>.

⁸ *Callais v. Louisiana*, No. 25A1197, 2026 WL 1209010 (May 4, 2026) (mem.); *Allen v. Milligan*, No. 25A1231, 2026 WL 1335484 (May 11, 2026).

A. Statement of Purpose

My testimony today has three main goals. First, I seek to inform this Committee and the public about the *Callais* decision—both its impact and its status as an exercise in raw political power, not sound legal analysis. With respect to its impact, we must both be clear-eyed about its consequences and not over-read the decision as a mandate or permission slip to undercut fair representation for Black voters. Second, I aim to chart a path forward, including by charging this Congress to take seriously its mandate under the U.S. Constitution to secure meaningful access to the ballot for all eligible Americans, regardless of race.

My third goal, and perhaps the most important, is to frame this moment in the context of American history and raise the central question this Committee should be debating today: As we mark 250 years since the Declaration of Independence, and after the Supreme Court has once again undercut Congress's strongest action to implement the vision of equality in the Reconstruction Amendments, will we retrench and rewind history, returning to a time when political power and racial hierarchy were one and the same? Or will we push forward to continue and expand our experiment to achieve the truly inclusive multiracial democracy that the U.S. can and must become? What will the next 250 years look like, and what role will everyone in this room play in forging this path?

B. LDF and Our Work

Founded in 1940 under the leadership of Thurgood Marshall, LDF is America's premier legal organization fighting for racial justice. Through litigation, advocacy, and public education, LDF seeks structural changes to expand democracy, eliminate discrimination, and achieve racial justice in a society that fulfills the promise of equality for all Americans. LDF was launched at a time when the nation's aspirations for equality and due process of law were stifled by widespread state-sponsored racial inequality. From that era to the present, LDF's mission has been transformative—to achieve racial justice, equality, and an inclusive society, using the power of law, narrative, research, and people to defend and advance the full dignity and citizenship of Black people in America.

Since its founding, LDF has been a leader in the fight to secure, protect, and advance the voting rights of Black voters and other communities of color.⁹ LDF's founder Thurgood Marshall litigated LDF's watershed victory in *Brown v. Board of Education*,¹⁰ which set in motion the end of legal segregation in this country and transformed the direction of American democracy in the 20th century. But Marshall

⁹ LDF has been an entirely separate organization from the NAACP since 1957.

¹⁰ *Brown v. Bd. of Educ. of Topeka*, 347 U.S. 483, 493 (1954).

referred to *Smith v. Allwright*,¹¹ the 1944 case ending whites-only primary elections, as his most consequential case. He believed that the right to vote, and the opportunity to access political power, was critical to fulfilling the guarantee of full citizenship promised to Black people in the 14th and 15th Amendments to the U.S. Constitution.

LDF has prioritized its work protecting the right of Black citizens to vote for more than 85 years—representing Dr. Martin Luther King Jr. and the marchers in Selma, Alabama in 1965, advancing the passage of the Voting Rights Act, litigating seminal cases interpreting its scope, and working in communities across the South to strengthen and protect the ability of Black people to participate in a political process free from discrimination. LDF attorneys litigated and presented oral arguments at the U.S. Supreme Court in *Thornburg v. Gingles*,¹² *Easley v. Cromartie*,¹³ and *Shelby County v. Holder*.¹⁴ Since 2023, LDF attorneys have presented oral arguments every term of the past four on three other major voting rights cases: *Allen v. Milligan*,¹⁵ *Alexander v. South Carolina State Conference of the NAACP*,¹⁶ and *Louisiana v. Callais*.¹⁷

In addition to a robust voting rights litigation docket, LDF has been active in protecting voting rights on the ground in the context of ongoing elections. LDF is a founding member of the non-partisan civil rights Election Protection Hotline (1-866-OUR-VOTE). In addition, LDF has monitored elections for more than a decade through our Black Voters on the Rise (BVOTR) initiative, a year-round effort, which places LDF staff and volunteers on the ground for primary and general elections to conduct non-partisan election protection, poll monitoring, and to support Black political participation in targeted jurisdictions—primarily in the South. During primary and general elections over the last several years, LDF has had staff on the ground in seven states (Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, and Texas) and engaged in monitoring various media platforms for misinformation, disinformation, or intimidation related to elections.

¹¹ *Smith v. Allwright*, 321 U.S. 649 (1944).

¹² *Thornburg v. Gingles*, 478 U.S. 30 (1986).

¹³ *Easley v. Cromartie*, 532 U.S. 234 (2001).

¹⁴ *Shelby Cnty., Ala.*, 570 U.S. at 529.

¹⁵ *Allen v. Milligan*, 599 U.S. 1 (2023).

¹⁶ *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1 (2024).

¹⁷ *Callais*, 2026 WL 1153054.

II. AMERICA AT 250: RECONSTRUCTION OR REDEMPTION?

It is important to begin today's conversation by ensuring we are addressing the right question. Despite its title, this hearing is not about one decision but a more fundamental question: As we mark the 250th anniversary of the Declaration of Independence, will we live out our promise as a multiracial democracy, or retrench to the Jim Crow era?

Thomas Jefferson and his fellow revolutionaries wrote in the Declaration of Independence "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." But every middle school student knows that when those words were written in 1776 American democracy did not include everyone.¹⁸ Black people were bound in slavery, women could not vote or hold property, and Native Americans were being expelled from their homelands. Even today, any dispassionate and responsible observer can see that our substantial progress since then is still woefully incomplete.

It took a Civil War to begin the process of bringing Black Americans into the polity as equal citizens. Following the war, the states ratified the Reconstruction Amendments, in what historian Eric Foner called America's "Second Founding."¹⁹ The 13th Amendment finally banned slavery nationwide.²⁰ But this was not sufficient. The 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.²¹ The 14th and 15th Amendments were enacted with an explicit purpose: end racial hierarchy and create a multiracial democracy.²²

The Reconstruction Amendments did not succeed on their own. Following a brief period in which Black citizens achieved a measure of representation in the South,

¹⁸ The Declaration of Independence ¶ 2 (U.S. 1776). In recent years a truthful teaching of this history has come under attack, and LDF has been forced to work actively in several states to prevent the teaching of revisionist history that attempts to sanitize or excise the most troubling and racist aspects of our past. LDF, *In Defense of Truth*, <https://www.naacpldf.org/truth/> (last visited May 18, 2026).

¹⁹ Eric Foner, *The Second Founding: How the Civil War and Reconstruction Remade the Constitution* (2019).

²⁰ U.S. Const. amend. XIII § 1.

²¹ See generally Foner, *supra* note 18 (arguing the Thirteenth, Fourteenth, and Fifteenth Amendments constituted the "second founding" of America by upholding the Nation's claim that all men are created equal).

²² *Id.*; W. E. B. Du Bois, *Black Reconstruction in America* 376–78 (1935).

there was severe backlash and retrenchment into an era known as Redemption.²³ Facilitated by the Compromise of 1877,²⁴ which ended federal enforcement of civil rights in the South, and the Supreme Court's determination in the 1857 *Dred Scott* case that Black Americans "had no rights which the white man was bound to respect"²⁵ and later in 1876 that the 14th Amendment's protections did not apply to private actors,²⁶ Reconstruction-era gains in both political and social equality were quickly erased.²⁷ The resulting "Jim Crow" era of state-enforced racial hierarchy, symbolized by 1896's *Plessy v. Ferguson* blessing the "separate but equal" doctrine, endured through the first half of the 20th Century.²⁸

Leaders in the Civil Rights Movement knew that, as the Supreme Court has said, the right to vote is "preservative of all other rights."²⁹ In 1957, as the courts struggled to implement the *Brown v. Board* decision, Martin Luther King Jr. said that "our most urgent request to the president of the United States and every member of Congress is to give us the right to vote."³⁰ He continued:

Give us the ballot, and we will no longer have to worry the federal government about our basic rights. Give us the ballot, and we will no longer plead to the federal government for passage of an anti-lynching law; we will by the power of our vote write the law on the statute books of the South and bring an end to the dastardly acts of the hooded perpetrators of violence. Give us the ballot, and we will transform the salient misdeeds of bloodthirsty mobs into the calculated good deeds of orderly citizens. Give us the ballot, and we will fill our legislative halls with men of goodwill and send to the sacred halls of Congress men who will not sign a "Southern Manifesto" because of their devotion to the manifesto of justice. Give us the ballot, and we will place judges on the

²³ Equal Just. Initiative, *Reconstruction in America: Racial Violence After the Civil War, 1865-1876* ch. 5 (2020).

²⁴ *Id.*

²⁵ *Dred Scott v. Sandford*, 60 U.S. 393 (1857).

²⁶ *United States v. Cruikshank*, 92 U.S. 542 (1876).

²⁷ Sixteen Black men served in Congress during Reconstruction, and more than 600 were elected to state legislatures in the South. Equal Just. Initiative, *supra* note 22, at ch. 2. "From 1885 to 1908, all 11 former Confederate states rewrote their constitutions to restrict voting rights using poll taxes, literacy tests, and felon disenfranchisement." *Id.*

²⁸ *Plessy v. Ferguson*, 163 U.S. 537 (1896).

²⁹ *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

³⁰ Martin Luther King Jr., Address Delivered at the Prayer Pilgrimage for Freedom: Give Us the Ballot (May 17, 1957), <https://kinginstitute.stanford.edu/king-papers/documents/give-us-ballot-address-delivered-prayer-pilgrimage-freedom>.

benches of the South who will do justly and love mercy, and we will place at the head of the southern states governors who will, who have felt not only the tang of the human, but the glow of the Divine. Give us the ballot, and we will quietly and nonviolently, without rancor or bitterness, implement the Supreme Court's decision of May seventeenth, 1954.³¹

After civil rights heroes such as John Lewis marched and bled on the Edmund Pettis Bridge on Bloody Sunday, Congress finally enacted the Voting Rights Act of 1965.³² Before then, Congress had attempted to protect the right to vote, and mostly failed.³³ The VRA, by contrast, was transformative. A Congressional Research Service report states:

The impact of the VRA was immediate and dramatic Nearly 1 million black voters were registered within four years of passage, including over 50% of the black voting age population in every southern state. Furthermore, the number of black elected officials in the South more than doubled, from 72 to 159, after the 1966 elections.³⁴

For this reason, the VRA is justly known as the crown jewel of the Civil Rights Movement. Finally, the vision of the Reconstruction Amendments was brought to life, and a true multiracial democracy was born.

Yet even these early successes were incomplete. 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.³⁵ After the Supreme Court undercut the VRA's protections against racial vote dilution by requiring a demonstration of discriminatory intent in 1980,³⁶ Congress responded swiftly and powerfully by amending the VRA in 1982 to explicitly reject the intent standard and

³¹ *Id.*

³² LDF, *The Voting Rights Act of 1965: Reflecting on the Road to the VRA 60 Years After Its Passage*, <https://www.naacpldf.org/voting-rights-act-history-timeline/> (last visited May 18, 2026).

³³ See, e.g., Civil Rights Act of 1957, Pub. L. No. 85-315, 71 Stat. 634; Civil Rights Act of 1960, Pub. L. No. 86-449, 74 Stat. 86; Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241.

³⁴ Kevin J. Coleman, CONG. RSCH. SERV., R43626, *The Voting Rights Act of 1965: Background and Overview* 12 (2015).

³⁵ *Callais*, 2026 WL 1153054, at *23 (Kagan, J., dissenting).

³⁶ *City of Mobile v. Bolden*, 446 U.S. 55 (1980).

embrace a results test.³⁷ The historic level of diversity in the 119th Congress is part of the updated VRA's legacy—a legacy now at risk.³⁸

Through its decisions undercutting the VRA over the past decade plus, the Supreme Court has recast the Reconstruction Amendments as the Redemption Amendments, using them to preserve rather than combat racial hierarchy. The premise of the *Callais* decision—and apparently this hearing—is to weaponize the 14th and 15th Amendments for the opposite purpose of their original intent.

As lawyers and lawmakers, it is easy to become consumed by legal doctrine. The true question we must address here today is about what the next 60 or 250 years of American democracy will look like. Will we continue the slow, aching, nonlinear path towards inclusive, multiracial democracy—the pathway the Voting Rights Act finally set us upon a mere 61 years ago? Or will photos of Congress, state legislatures, and city councils in 2050 look like those in 1850?

III. THE *CALLAIS* DECISION: DISASTROUS AND DISINGENUOUS

On April 29, 2026, the Supreme Court decided *Louisiana v. Callais*. While technically a racial gerrymandering case, the Court had ordered re-argument and gone out of its way to call into question the constitutionality of the Voting Rights Act.³⁹ The resulting decision was both destructive and disingenuous, stripping the VRA of its vitality while claiming to uphold it.

A. What the *Callais* Court Decided—and Did Not

The *Callais* decision contained three holdings—two of which we contest for both their illogic and defiance of precedent. First, compliance with the Voting Rights Act is a compelling state interest.⁴⁰ Second, the Voting Rights Act must be stripped of its teeth in order to comport with this Supreme Court's interpretation of Congress's authority to enforce the 15th Amendment to the U.S. Constitution.⁴¹ Third, the

³⁷ *Callais*, 2026 WL 1153054, at *25–26 (Kagan, J., dissenting).

³⁸ 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/>.

³⁹ *Callais*, 2026 WL 1153054, at *9.

⁴⁰ *Id.* at *4 (“These and other problems convinced us that the time had come to resolve whether compliance with the Voting Rights Act can indeed provide a compelling reason for race-based districting. We now answer that question: Compliance with § 2, *as properly construed*, can provide such a reason.”).

⁴¹ *Id.* at *10–16.

Louisiana congressional district map challenged in the instant case was an unconstitutional racial gerrymander.⁴²

Most of the analysis in the opinion, and the substantial damage done to voting rights doctrine, is related to the second holding. The Court’s primary pathway for undercutting the VRA was to require that voters provide “objective evidence” that a challenged district map was created with discriminatory intent, or something very close, in order to establish liability under Section 2.⁴³ This elevated evidentiary burden cuts directly against Congress’s express purpose in amending the VRA in 1982 to overturn *Mobile v. Bolden* and embrace a results test. As Justice Kagan explained in her powerful *Callais* dissent:

The new Section 2 repudiated *Bolden*’s intent requirement and adopted *White*’s “results test.” *Brnovich*, 594 U. S., at 658; S. Rep. No. 97–417, p. 27 (1982) (Senate Report). An intent test, the Report stated, imposed “an inordinately difficult burden for plaintiffs.” *Id.*, at 36. Even when state actors had purposefully discriminated, they would likely be “ab[le] to offer a nonracial rationalization,” supported by “a false trail” of “official resolutions” and “other legislative history eschewing any racial motive.” *Id.*, at 37. The proof lay in what had happened after *Bolden*, when even suits involving “egregious” vote dilution had failed. Senate Report, at 37; see *id.*, at 26–27, 37–39. And in any event, the Report continued, the *Bolden* intent test “ask[ed] the wrong question.” Senate Report, at 36. The right question was instead the one *White*—and now the statute—asked: “whether minorities have equal access to the process of electing their representatives.” Senate Report, at 36.⁴⁴

After substituting its own judgment for Congress’s considered views (endorsed repeatedly by strong bipartisan majorities), the Court then set up a near-impossible test to prove a Section 2 violation, upending decades of precedent on how to adjudicate racial vote dilution cases (known as the *Gingles* framework⁴⁵) in the process.

⁴² *Id.* at *17 (“Under the updated *Gingles* framework, the facts of this suit easily require affirmance.”). This map, notably, was created by the Louisiana state legislature and was different from the remedial map preferred by the Plaintiffs.

⁴³ *Id.* at *12 (Section 2 “imposes liability only when the circumstances give rise to a strong inference that intentional discrimination has occurred”); *id.* at *18 (“And none of the historical evidence presented by plaintiffs came close to showing an objective likelihood that the State’s challenged map was the result of intentional racial discrimination.”).

⁴⁴ *Id.* at *25 (Kagan, J., dissenting).

⁴⁵ *Gingles*, 478 U.S. at 30.

Plaintiffs must first credit all of a jurisdiction's stated non-racial goals, including partisan gerrymandering and protecting incumbents, before they can show that a challenged district map violates Section 2.⁴⁶ Never mind that accounting for these goals may make it both legally and factually impossible to create fair opportunities for voters locked out of the process.⁴⁷ 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 no Black voters in the state can elect a candidate of choice, so what." We know all too well that in America today those who oppose racial justice rarely come right out and say it plainly. This decision permits the purported use of partisanship as a thin veil for racism.

For decades, politicians of both parties have used claims of partisanship to justify overt discrimination. In the 1980s, for example, Democrats in the Georgia Legislature openly declared that they were "not for drawing a nigger district and [] not for drawing a Republican district."⁴⁸ More recently, in 2004, a three-judge court found that Democrats in Massachusetts had intentionally discriminated against Black voters by manipulating district lines to make "white [Democratic] incumbents less vulnerable by keeping their districts as 'white' as possible."⁴⁹ And, in 2006, the U.S. Supreme Court found that the efforts of Republicans in the Texas Legislature to protect a Republican incumbent by undercutting the ability of Latinx voters to elect candidates of their choice "b[ore] the mark of intentional discrimination."⁵⁰

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*,⁵¹ 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. Unlike the unusual district at issue in *Callais*, such districts ordinarily are geographically compact and follow traditional redistricting principles. Moreover,

⁴⁶ *Callais*, 2026 WL 1153054, at *13 ("Properly understood, §2 thus does not intrude on States' prerogative to draw districts based on nonracial factors.").

⁴⁷ If voting patterns are racially polarized and no incumbents are currently preferred by a protected class then protecting incumbents will make it impossible for this class of voters to be able to elect a candidate of choice. If protected class voters happen to prefer candidates from a party different from the one in power, then partisan goals may completely lock these voters out of any chance to elect a candidate of choice.

⁴⁸ *Busbee v. Smith*, 549 F. Supp. 494, 512 (D.D.C. 1982) (three-judge court), *aff'd*, 459 U.S. 1166 (1983).

⁴⁹ *Black Pol. Task Force v. Galvin*, 300 F. Supp. 2d 291, 313–14 (D. Mass. 2004).

⁵⁰ *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 440 (2006).

⁵¹ *Shaw v. Reno*, 509 U.S. 630 (1993).

most of these districts have been in existence for multiple redistricting cycles, and are justified by goals like incumbency protection, which the *Callais* majority expressly described as a non-racial political goal, which means they would not be subject to heightened scrutiny.

B. The Court's Disingenuous Approach

Justice Alito's opinion for the Court claims to uphold the Voting Rights Act while in reality gutting it, making it nearly impossible to use to vindicate voting rights in practice. Justice Alito says the opinion answers two questions in the affirmative: whether the VRA can endure in the face of Justice Kavanaugh's question about its ongoing utility;⁵² and whether compliance with the VRA can serve as a compelling state interest.⁵³ Perhaps the six-justice majority was hoping that a casual observer might conclude the Court had done the nation the great service of assuring the ongoing vitality of one of its landmark laws.

The Court further suggests it is merely tweaking or updating the 40-year-old *Gingles* framework for adjudicating racial vote dilution cases.⁵⁴ In reality, the Court overhauls the framework so it becomes nearly impossible to use. To prove racial vote dilution under the *Gingles* framework, a voter alleging discrimination must meet three "preconditions" and then establish a discriminatory impact through an analysis of the "totality of the circumstances."⁵⁵ The Court made this much more difficult at every stage of the process.

The first precondition requires voters to demonstrate it is possible to facilitate fairer representation, setting a benchmark that answers the question "diluted compared to what." The *Callais* Court narrowed the possibilities for this benchmark dramatically through two important changes. First the Court has newly required that this benchmark be constructed without reference to race at all: voters must attempt to solve racial discrimination without acknowledging race.⁵⁶ Second, as noted above, plaintiffs must credit all of a jurisdiction's stated political

⁵² *Callais*, 2026 WL 1153054, at *16 ("First, we left open whether 'race-based redistricting' under §2, even if permissible when the Voting Rights Act was enacted in 1982, could 'extend indefinitely into the future' despite significant changes in relevant conditions. 599 U. S., at 45 (Kavanaugh, J., concurring in part); see *Shelby County*, 570 U. S., at 557 (requiring assessment of the constitutionality of the Voting Rights Act in light of current conditions).").

⁵³ *Id.* at *1–2.

⁵⁴ *Id.* at *14 ("This interpretation of §2 does not require abandonment of the *Gingles* framework. We need only update the framework so it aligns with the statutory text and reflects important developments since we decided *Gingles* 40 years ago.").

⁵⁵ *Id.* at *15–16.

⁵⁶ *Id.* at *15 ("First, in drawing illustrative maps, plaintiffs cannot use race as a districting criterion.").

goals; so they must produce an illustrative district map that would serve these goals at least as well as the challenged map but also improve their own representation.⁵⁷

This is nearly impossible. For example, in a state with four congressional districts and a 25 percent Black population that is concentrated in a particular region, it is easy to draw at least one majority-Black district. Today, however, under *Callais*, the plaintiffs also must account for a legislature’s partisan or political goals. Thus, if a legislature determines that any map must protect all incumbents and ensure that they all win by 15 percentage points, it will often be impossible for a plaintiff to draw a map that both satisfies those goals *and* creates a new majority-Black district that increases electoral opportunity.

Next, related to the second and third “preconditions,” the Court puts a new burden on plaintiffs to control for partisanship in determining whether voting preferences break down along racial lines (known as “racially polarized voting” or “RPV”).⁵⁸ This makes it difficult to prove RPV in practice in places—like the South—where race and partisanship are deeply intertwined. It also ignores evidence from Louisiana that white voters, regardless of political party, often refuse to support Black candidates.⁵⁹ As election law scholar Justin Levitt notes, “*Callais* gives enormous statutory license to states to supersize their partisan gerrymandering, racial considerations be damned.”⁶⁰

Finally, the Court increased the burdens on voters in the “totality of circumstances” analysis by devaluing certain factors that establish a history of discrimination in the jurisdiction.⁶¹

⁵⁷ *Id.* (“Second, illustrative maps must meet all the State’s legitimate districting objectives, including traditional districting criteria and the State’s specified political goals.”).

⁵⁸ *Id.* (“To satisfy the second and third preconditions—politically cohesive voting by the minority and racial-bloc voting by the majority—the plaintiffs must provide an analysis that controls for party affiliation.”).

⁵⁹ *Nairne v. Ardoin*, 715 F. Supp. 3d 808, 870–71 (M.D. La. 2024).

⁶⁰ Justin Levitt, *The OLC Opinion on the Voter Fiel Demands*, ELECTION LAW BLOG (May 14, 2026, 4:08 PM), <https://electionlawblog.org/?author=4>. In a separate interview Levitt noted “If there were a party called the Klan party, right now, it would trigger an awful lot of nonwhite opposition based on the party’s platform. But this opinion says, you have to set the party’s platform entirely aside to figure out if there’s been any damage based on race. So the more you can tie the two together, the more insulated you are. That means the most racist partisan gerrymandering is going to be the most immune from a VRA challenge.” Ash Bolts & Daniel Nichanian, *The Court Interred the Voting Rights Act Without the Dignity of a Funeral*, BOLTS, (May 5, 2026), <https://boltsmag.org/scotus-callais-voting-rights-act-ask-bolts/>.

⁶¹ *Callais*, 2024 WL 1153054, at *16 (“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.”).

The reasons the Court provides for these profound changes to voting rights doctrine are further evidence that the *Callais* decision is driven by hostility to voting rights rather than dispassionate legal analysis. 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.”⁶² And it does so by using misleading and cherrypicked numbers—painting a picture of racial disparities in voter turnout vanishing across the South, when in fact these disparities have been rising, in especially disturbing fashion in jurisdictions formerly covered by the preclearance protection.⁶³

The *Callais* majority’s view that the Voting Rights Act has ended racial discrimination and placed Black voters on an equal footing with white voters or white communities more generally does not survive even the barest scrutiny. The ongoing disparities in access to political power described above lead to severe challenges in people’s lives, including for LDF’s clients.

For example, the 2025 findings of the three-judge district court in *Allen v. Milligan* include the following:

Black residents of Uniontown, in Perry County, fought a decision by the state to allow 4 million tons of potentially toxic coal ash to be transferred from the site of a coal-fired electrical plant accident in Tennessee to a landfill in the town, and the Black residents met resistance from the state's Department of Environmental Management. . . . [The Alabama Department of Environmental Management and Attorney General have consistently [been] opposed to remov[ing] and replac[ing] soil laden with toxic materials from airborne and waterborne pollution emanating from nearby factories” in the 35th Avenue area in North Birmingham, which the Environmental Protection Agency has deemed a priority for cleanup.⁶⁴

Black communities in the Black Belt continue to struggle in primitive conditions and suffer unusual health difficulties and lack of even the most basic services. . . . [T]he 2019 United Nations report that found that extreme poverty conditions in

⁶² *Shelby Cnty.*, 570 U.S. at 590 (Ginsburg, J., dissenting).

⁶³ Sam Levine, et al., *Samuel Alito’s Voting Rights Act Ruling Cited Misleading Data from DoJ*, THE GUARDIAN, May 8, 2026, <https://www.theguardian.com/us-news/2026/may/08/supreme-court-voting-rights-act-misleading-data-doj>; Kevin Morris and Coryn Grange, Growing Racial Disparities in Voter Turnout, 2008-2022, THE BRENNAN CENTER, March 2, 2024, <https://www.brennancenter.org/our-work/research-reports/growing-racial-disparities-voter-turnout-2008-2022>; Kevin T. Miller & Michael G. Miller, *Did Shelby County v. Holder Increase the Racial Turnout Gap?*, U. CHIC. PRESS J. (2025), <https://www.journals.uchicago.edu/doi/10.1086/739960>

⁶⁴ *Singleton v. Allen*, 782 F. Supp. 3d 1092, 1299 (N.D. Ala. 2025) (citations and internal quotations omitted).

the Black Belt were “very uncommon in the First World,” reported that Black residents “lacked proper sewage and drinking water systems and had unreliable electricity,” and described instances in which whole households fell ill with infections contracted from drinking water contaminated with raw sewage. See *id.* . . . [F]or 2020–21, the bottom 6 percent of the state's schools, labeled as “failing” under Alabama law, were majority Black, most overwhelmingly so and in or around Birmingham, Montgomery, and Mobile, or in the Black Belt.⁶⁵

[I]t seems near-obvious to us that Black Alabamians’ lower educational attainment and higher rates of illiteracy are directly traceable to segregated public schools and dilapidated schools in predominantly Black areas. Likewise, it seems near-obvious to us that communities with lower educational attainment are at greater risk for widespread unemployment and poverty than communities with higher educational attainment.⁶⁶

Findings from cases addressing voting discrimination in local government further underscore the ongoing exclusion of people of color from fair representation. In *Patino v. City of Pasadena*, for example, the court found that:

[T]he Neighborhood Grants Program issued checks for \$99,532 to South Pasadena [predominantly Anglo] associations from November 4 to 8, 2013, just before the election, while distributing \$776.23 to North Pasadena [predominantly non-Anglo] associations. These were the only Neighborhood Grants Program checks issued in the twelve months before the 2013 City Council election.

The timing of the issuance of the Neighborhood Grants Program checks, and the fact that almost all went to predominately Anglo South Pasadena, support the finding and conclusion that the City Council and City discriminate against North Pasadena in ways that reinforce the inequitable distribution of resources and that are politically advantageous to the Mayor and his Council allies. . . . The Neighborhood Network Program sends most of its funding to South Pasadena projects, despite greater need in the north part of town.⁶⁷

And evidence from a February 2026 trial involving local elections in DeSoto County, Mississippi, where no Black person has ever been elected to the Board of Supervisors, showed that County government allocated \$78,221,009 to the County’s majority-White areas, and less than one-tenth that amount, \$7,561,541, to its majority-Black areas. In other words, Black people now represent 36% of DeSoto

⁶⁵ *Id.* at 1186 (citations and internal quotations omitted).

⁶⁶ *Id.* at 1300.

⁶⁷ *Patino v. City of Pasadena*, 230 F. Supp. 3d 667, 716–17 (S.D. Tex 2017).

County's population, but the County has invested just 8.8% of its allocations to localities in the areas where they live.⁶⁸

The *Callais* majority's apparent view that the Voting Rights Act has already eliminated meaningful racial discrimination in representation simply does not accord with reality.

The Court's treatment of its own 2023 decision in *Allen v. Milligan* further highlights its flexible approach to principle and precedent in pursuit of its anti-democratic ends.⁶⁹ Just three years ago, the *Milligan* Court upheld the constitutionality of the Voting Rights Act and left the *Gingles* framework virtually unscathed, in a decision that surprised many Roberts Court observers.⁷⁰ Justice Alito takes pains to present *Callais* as consistent with this recent precedent.⁷¹ Yet if *Callais* doesn't overturn *Milligan*, it certainly flies in the face of its central meaning. *Milligan* preserved the VRA as a vital tool for addressing discriminatory district maps that weaken or silence Black voters' voices. *Callais* has severely undercut those same protections.

Post-*Callais*, the Supreme Court has returned to the *Milligan* case, clearing a path for Alabama to attempt roll back the hard-won district map providing Black voters with an opportunity to elect a second candidate of choice.⁷² The Court opened this door in spite of the fact that, after a trial in 2025, the three-judge court in *Milligan* found that the 2023 map enacted by the Alabama Legislature was the product of intentional discrimination and therefore unconstitutional under the Fourteenth and Fifteenth Amendments, which means the 2023 map remains illegal separate and apart from any impact *Callais* has on the VRA analysis.⁷³ And the Supreme Court acted in spite of its "*Purcell* principle," which cautions against changes too close to upcoming elections.⁷⁴ Alabama's primary elections are taking

⁶⁸ Plaintiffs' Opening Brief in Response to *Louisiana v. Callais*, *Harris v. DeSoto Cnty., Miss.*, No. 3:24-cv-00289-GHD-RP (N.D. Miss. May 13, 2026), at 21–22, Dkt. No. 479.

⁶⁹ *Allen v. Milligan*, 599 U.S. 1 (2023).

⁷⁰ *Id.*

⁷¹ *Callais*, 2024 WL 1153054, at *16 ("Nothing in *Allen* dictates a result that differs from the one we reach today.").

⁷² *Allen v. Caster*, Nos. 25-243, 25-273, and 25-274, 2026 WL 1282800 (May 11, 2026).

⁷³ *Singleton v. Allen*, 782 F. Supp. 3d 1092, 1116-19 (N.D. Ala. 2025) (three-judge court) (describing it as "obvious" that the Legislature engaged in intentional racial discrimination in the 2023 mapmaking process).

⁷⁴ *Purcell v. Gonzalez*, 549 U.S. 1 (2006).

place today, as we speak.⁷⁵ Ironically, the Court used *Purcell* to deny Black voters the ability to elect a second candidate of choice in the 2022 congressional elections. According to Justice Kavanaugh, the district court's 2022 order had come too late to offer relief because that order was issued seven weeks *before* early voting began in the primary and a full nine months before the general election.⁷⁶ Yet, the Court's 2026 remand of *Milligan* came four weeks *after* early voting had begun.

IV. THE IMPACT: FAR REACHING AND YET UNCERTAIN

Callis' impact has been devastating, swift, and in concert with the expressed objectives of the Executive branch, undermining separation of powers. States across the South have moved aggressively to undercut fair representation for Black voters in the 2026 elections.⁷⁷ Although the focus to-date has been on congressional representation, the decision will undercut fair representation for, and in so doing transform the composition of, school boards, city councils, county commissions, and state legislatures everywhere.

In less than a month since decision day: Alabama has sought to revert to a map that eliminates a second opportunity district despite the 2023 *Milligan* decision;⁷⁸ Florida officials pointed to *Callis* to justify enacting an altered congressional map the same day as the decision, following a two-day special session;⁷⁹ Georgia Governor Brian Kemp called a special session for June 17 to redraw that state's congressional map;⁸⁰ Louisiana's primary was plunged into chaos as the state seeks to eliminate the majority-Black district created by the precursor litigation to

⁷⁵ See Ala. Sec'y State, *2026 Election Information*, <https://www.sos.alabama.gov/alabama-votes/voter/election-information/2026>.

⁷⁶ *Allen v. Caster*, Nos. 25-243, 25-273, and 25-274, 2026 WL 1282800 (May 11, 2026).

⁷⁷ Sam Levine, *U.S. Southern States Rush to Redraw Electoral Maps to Dilute Black Voting Power*, THE GUARDIAN, May 14, 2026, <https://www.theguardian.com/us-news/2026/may/14/southern-states-redistricting-electoral-maps-black-voting-power>.

⁷⁸ Amy Howe, *Court Clears Way for Alabama to Use Congressional Map Blocked By Lower Court as Discriminatory*, SCOTUSBLOG, MAY 11, 2026, <https://www.scotusblog.com/2026/05/court-clears-way-for-alabama-to-use-congressional-map-blocked-by-lower-court-as-racially-discrim/>.

⁷⁹ CBS News, *Florida's New Congressional Map Faces Court Challenge Over Alleged Partisan Gerrymandering*, May 15, 2026, <https://www.cbsnews.com/miami/news/florida-congressional-map-court-challenge-gerrymandering-lawsuit/>.

⁸⁰ Christopher Harris & Dan Raby, *Georgia Gov. Brian Kemp Calls Special Legislative Session to Redraw Congressional Map After Supreme Court Ruling*, CBS NEWS, May 13, 2026, <https://www.cbsnews.com/atlanta/news/brian-kemp-georgia-special-session-redistricting-supreme-court-ruling-2028-maps/>

Callais;⁸¹ Mississippi governor Tate Reeves canceled a special session planned among intense pressure to redraw the state's congressional map to eliminate the single Black-majority district in the state with the highest proportion of Black residents;⁸² South Carolina Governor Henry McMaster called a special session to attempt to eliminate the state's only majority-Black district which began on May 15;⁸³ and Tennessee eliminated its only majority-Black congressional seat.⁸⁴

After achieving record size in the 119th Congress, Congressional Black Caucus (CBC) Chair Yvette Clark has warned that up to a third of its membership is under threat in the wake of the *Callais* decision.⁸⁵ In addition, the rush to revive discriminatory maps has engendered the exact voter confusion the Court claims to abhor. In just one example, Louisiana's primary took place on Saturday, May 16th with low turnout attributed to widespread voter confusion.⁸⁶

⁸¹ PBS News, *Louisiana Senate Passes New U.S. House Map that Would Eliminate Majority-Black District*, May 14, 2026, <https://www.pbs.org/newshour/politics/louisiana-senate-passes-new-u-s-house-map-that-would-eliminate-majority-black-district>.

⁸² Shamira Muhammed, *Calls for Redistricting Continue Days After Governor Tate Reeves Cancels Special Legislative Session*, MPB NEWS, May 15, 2026, <https://www.mpbonline.org/blogs/news/calls-for-redistricting-continue-after-governor-tate-reeves-cancels-special-legislative-session/>.

⁸³ Jane C. Timm, *South Carolina Governor Calls for a Special Session on Redistricting*, NBC NEWS, May 14, 2026, <https://www.nbcnews.com/politics/2026-election/south-carolina-governor-mcmaster-calls-special-session-redistricting-rcna345104>.

⁸⁴ George Chidi, *Tennessee Republicans Redraw Maps to Erase Last Democratic, Black-Majority District*, THE GUARDIAN, May 7, 2026, <https://www.theguardian.com/us-news/2026/may/07/tennessee-congressional-map-redistricting>.

⁸⁵ Scott Wong and Melanie Zanona, *Democrats Warn a Third of the Congressional Black Caucus Could be Wiped Out by Redistricting Wars*, NBC NEWS, May 13, 2026, <https://www.nbcnews.com/politics/congress/congressional-black-caucus-supreme-court-redistricting-decision-rcna344565>, <https://www.nbcnews.com/politics/congress/congressional-black-caucus-supreme-court-redistricting-decision-rcna344565>.

⁸⁶ Drew Haskins, *Widespread Confusion Surrounds Louisiana's May 16 Election, Leaving Voters 'Frustrated'*, WWNO NEW ORLEANS PUBLIC RADIO, May 16, 2026, <https://www.wwno.org/politics/2026-05-16/widespread-confusion-surrounds-louisianas-may-16-election-leaving-voters-frustrated>; 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>; Tyler Bridges, *Louisiana's New Closed Party Primary Causes Confusion at the Polls on Election Day*, NOLA.com, May 16, 2026, https://www.nola.com/news/politics/louisiana-elections-voter-confusion-closed-primaries/article_e48b12d3-c665-425e-8992-d2733a4b87c1.html; Acacia Squires et al., *Election Day Confusion in Louisiana After Voting Changes*, KERA NEWS, May 16, 2026, <https://www.keranews.org/2026-05-16/election-day-confusion-in-louisiana-after-voting-changes>; Emily Cochrane, *Voters in Louisiana Head to the Polls, Uncertain but Determined*, N.Y. TIMES, May 16, 2026, <https://www.nytimes.com/2026/05/16/us/voters-louisiana-primary-gerrymander.html>.

While much of the public attention is on *Callais*' immediate impact on congressional district maps and how it has fueled the mid-decade redistricting wars, we cannot lose sight of a central truth: by undercutting the Voting Rights Act, *Callais* will ultimately erode representation for Black voters and other voters of color at every level of government—in state legislatures, county commissions, and city councils across the country. One report estimated that 140 Black or Latine majority state legislative districts could be eliminated in the South—a loss of approximately 40%.⁸⁷

Following the legislative attacks on fair districting from jurisdictions hostile to voting rights, we can expect a wave of litigation fueled by the desire to turn back the clock. The day after the *Callais* decision, Assistant Attorney General Harmeet Dhillon responded publicly to a letter from Senator Schmitt confirming the Department of Justice's intent to review districts "created, preserved, or defended under the old Section 2 regime and determine whether they survive *Callais*."⁸⁸

The most important victims of the Court's over-reach are not the elected officials who could lose their seats; but rather the Black voters and other voters of color who will be denied the opportunity for effective representation through a fair chance to elect candidates of their choice.

V. THE PATH FORWARD

The path forward towards inclusive, multiracial democracy has become more arduous in the wake of *Callais*; yet urgent and decisive action can overcome the Court's latest incursion against our rights and put us back on the right path. This moment calls on each of us to act, starting in this room.

A. Congress Must Act to Enforce the Constitution

As noted above, *Callais* completes the Supreme Court's three-part destruction of the VRA over the past decade plus. Congress has responded to a similar attack in the past, acting to restore the robust protections that the 15th Amendment to the Constitution requires and that Congress intended to create in 1965 and beyond.

⁸⁷ Fair Fight Action & Black Voters Matter, The Southern State Legislative Effect: Louisiana v. Callais: The Supreme Court Case That Could Decimate Fair Representation in State Legislatures 11 (2025), https://cdn.prod.website-files.com/664f769adc5cc1607d32b366/693c85542ed35aadd503882_REPORT_SCOTUS_VRA_2.0.pdf.

⁸⁸ Office of U.S. Senator Eric Schmitt, Press Release, *Following Schmitt's Request, DOJ Commits to Ending All Districts Drawn Based on Race*, May 1, 2026, <https://www.schmitt.senate.gov/media/press-releases/following-schmitts-request-doj-commits-to-ending-all-districts-drawn-based-on-race/>.

In 1982, Congress acted to overturn the 1980 Supreme Court case *Mobile v. Bolden*⁸⁹ by amending the VRA to clarify that it protects Black voters and other voters of color not only from laws enacted with explicit discriminatory intent, but also from laws or policies that create unequal opportunities for Black voters to participate – regardless of whether an elected official let slip that the legislative body was acting for explicitly racist reasons.⁹⁰ This is precisely the part of the VRA that the Supreme Court rewrote to drain its meaning in *Callais*.

The 1982 law restoring the VRA was signed by Ronald Reagan, and later reauthorized on a bipartisan basis in 2006—including unanimous support from every Senator who voted in the U.S. Senate.⁹¹ Congress knows how to act to correct the Supreme Court’s mistakes and overreaches when it comes to the fundamental right to vote. It knows how to assert itself in the conversation about what our Constitution requires when it says “The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude.”⁹²

But, since 2013, as the Court has systematically and strategically dismantled each key part of the VRA, Congress has been silent. This cannot stand. Congress must act now to respond forcefully to strengthen and restore the core protections against voting discrimination that birthed our multiracial democracy 60 years ago.

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*.⁹³ 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

⁸⁹ *City of Mobile v. Bolden*, 446 U.S. 55 (1980).

⁹⁰ Voting Right Act Amendments of 1982, PL 97–205, 96 Stat 131 (1992); Senate Report Voting Right Act Amendments of 1982, S. Rep. 97-417, 1982 U.S.C.C.A.N 177.

⁹¹ Voting Right Act Amendments of 1982, PL 97–205, 96 Stat 131 (1982); Voting Right Act Reauthorization, PL 109-246, 120 Stat 577 (2006).

⁹² U.S. Const. amend XIV.

⁹³ John Lewis Voting Rights Advancement Act, H.R. 14, 119th Cong. (2025).

racist maps.⁹⁴ 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.⁹⁵ DC Statehood would finally end colony status in our nation's capital for its large Black population.⁹⁶ 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.

All across America we choose our Members of Congress and state legislators in essentially the same way: we select a single winner in a single district. At the local level, elections are mostly structured the same way, or conducted as “at large” elections, where all voters across a city or county vote for all candidates. These systems have one thing in common: the winners take all, even if they have just a few more votes, and the losers are locked out of representation and power entirely.

These systems work well in some places; but as the Supreme Court undercuts our ability to enforce fair district maps we must expand our lens. There are other ways to choose our leaders and share power equitably across party, race, and geography. 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.⁹⁷ In cumulative voting, people receive as many votes as there are open seats in an at-large election and people can stack all their votes behind a single candidate or a couple that will represent their community—allowing Black voters who are 20-30% of a population to elect at least one representative on a city council or county commission. 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. We face a Supreme Court that is hostile to voting rights; intent on turning the Reconstruction Amendments into the

⁹⁴ Freedom to Vote Act, H.R. 11, 118th Cong. (2023).

⁹⁵ Native American Voting Rights Act, H.R. 1694, 116th Cong. (2019).

⁹⁶ Washington D.C. Admissions Act, H.R. 51, 119th Cong. (2025).

⁹⁷ J. Gray and 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).

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 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."⁹⁸

B. States Must Step Up to Protect Their Own Voters

Callais's gutting of the federal VRA has created a huge void in voting rights protections that states must step up to fill. Enacting or introducing a State Voting Rights Act ("State VRA") is one critical way for voters, advocates, and state leaders to respond directly to the *Callais* decision and advance and defend the rights of voters of color at the state and local levels in the face of the current assault on voting rights.

State VRAs take the best parts of the federal VRA, strengthen and streamline them, and codify them into state law.⁹⁹ They can provide a range of protections: prohibiting discriminatory barriers to the ballot and district maps, expanding access to bilingual ballots for eligible voters who don't speak English comfortably; and even bringing the preclearance protection, the heart of the Voting Rights Act of 1965, to the state level—stopping discrimination before it occurs in high-risk cities and counties.¹⁰⁰ Nothing in *Callais* directly addresses the long-established power of states to prevent racial discrimination in local government through race-neutral means, which is precisely what State VRAs do.

The movement for State VRAs kicked into high gear after the Supreme Court gutted the federal VRA's preclearance protection in the 2013 *Shelby County* case. We've seen a State VRA enacted every single year since 2018 except the pandemic year of 2020.¹⁰¹ There are now nine states with their own VRAs, including the Maryland Voting Rights Act signed into law the day before the *Callais* decision.¹⁰²

⁹⁸ *Callais*, 2026 WL 1153054, at *23–24 (Kagan, J., dissenting).

⁹⁹ LDF, *Model State Voting Rights Act*, Jan. 22, 2026, <https://www.naacpldf.org/state-voting-rights-acts/state-vra-model-bill/>.

¹⁰⁰ *Id.*; see also The John R. Lewis Voting Rights Act of New York, N.Y. Elec. § 17-200 (N.Y. 2022); The Connecticut Voting Rights Act (CTVRA), Conn. Gen. Stat. § 368i (Conn. 2023).

¹⁰¹ LDF, *State Voting Rights Acts: Protecting Access to the Ballot Box State by State*, <https://www.naacpldf.org/state-voting-rights-acts/> (last accessed May 18, 2026).

¹⁰² *Id.*; LDF, *Maryland Voting Rights Act Bill Prohibiting Discrimination in Voting Signed into Law*, April 28, 2026, <https://www.naacpldf.org/press-release/maryland-voting-rights-act-bill-prohibiting-discrimination-in-voting-signed-into-law/>. Note that the National Conference on State Legislatures lists ten states as having enacted VRAs; but LDF does not credit the Illinois Voting Rights Act of

That’s because State VRAs are a powerful, practical, and popular solution to racial discrimination. More than three-quarters (78%) of voters support a VRA in their own state, including strong majorities across racial and partisan lines.¹⁰³

The *Callais* case has provided an additional spark of momentum for State VRAs. Of special interest to the Members of this Committee, State VRAs or similar legislation has been introduced in California (amendments to expand its first-in-the-nation VRA), Louisiana, New Jersey (with a hearing in the Senate scheduled for this week), Rhode Island, and Vermont.¹⁰⁴ This strong interest has extended to the South. This year several new Southern states have introduced VRAs, and State VRAs have now been introduced in Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas.¹⁰⁵ It will be a long, hard fight to pass strong protections against voting discrimination where they’re needed the most. But Black voters and all Americans who believe in a multiracial democracy are up for that fight. And these laws lay out a positive vision in places where too often voting rights advocates are on the back foot playing defense.

C. The People Must Peacefully Fight Back, With Mobilizations and at the Polls

A majority of Americans across race and party lines believe in multiracial democracy.¹⁰⁶ Through marches, nonviolent protest, and pushing through barriers to the ballot box, Black Americans have always pushed the nation towards its highest ideals. We are once again calling our fellow Americans to meet this moment.

Just three days ago thousands of Americans came together in this tradition in Alabama and in satellite events across the country for the “All Roads Lead to the

2011 as a State VRA since it merely provides a set of redistricting guidelines without an enforcement mechanism.

¹⁰³ LDF & Impact Rsch., *State VRA Key Findings Memo*, Jan. 30, 2025, [Poll Finds Overwhelming Support for State Voting Rights Acts](#).

¹⁰⁴ California Voting Rights Act of 2026, S. 1164 & S. 1360, 2025-26 Leg., Reg. Sess. (Cal. 2026); New Jersey Voting Rights Act, S. 2997, 221st Leg., Reg. Sess. (N.J. 2026); Rhode Island Voting Rights Act, S. 3143, Jan. Sess. (R.I. 2026); Vermont Voting Rights Act, S. 298, 2025-2026 General Assemb., 2026 Adjourned Sess. (Vt. 2026).

¹⁰⁵ Alabama Voting Rights Act, S. 290, 2026 Reg. Sess. (Ala. 2026); Henry McNeal Turner Voting Rights Act, S. 536, 2025-26 Reg. Sess. (Ga. 2026).

¹⁰⁶ Charles F. Kettering Foundation, *Most Americans Believe in Democracy but Question its Performance, Kettering-Gallup Study Finds* (Nov. 20, 2025), <https://kettering.org/most-americans-believe-in-democracy-but-question-its-performance-kettering-gallup-study-finds/> (“Eighty-four percent of Americans say that racial, religious and cultural diversity makes the U.S. stronger.”).

South” day of action.¹⁰⁷ The event featured hundreds of people recreating the historic 1965 march across the Edmund Pettis Bridge.¹⁰⁸ Actions like these must continue across the country until our rights are fully recognized.

Despite the Roberts Court’s attempt to strip our votes of power, participating is more important than ever. We cannot cede our own power by walking away from the ballot box. The 2026 midterm elections have already begun, and through our BVOTR initiative, LDF attorneys and organizers are hard at work to clear barriers to participation for Black voters across the South. As a non-partisan organization, we do this work without regard to political parties. We have advocated against efforts, on the right and on the left, to undermine Black voting rights. And we will continue to do so with even greater voracity now that the Court has sanctioned partisanship as a justification for racial discrimination.

VI. CONCLUSION

At the 250th anniversary of our nation’s founding, we face a turning point in our history. The Supreme Court’s dangerous, destructive, and disingenuous decision in *Louisiana v. Callais* has brought the key question into stark relief. Will we retrench towards a past rooted in white supremacy, when Black Americans and other people of color were blocked from political power, leading to economic and social subjugation? Will we once again turn away from the promise of Reconstruction towards the perils of Redemption? Or, will we chart a path forward, fulfilling the promise and spirit of the Reconstruction Amendments so that power is shared equitably and each of us can fully participate in choosing our leaders and shaping the laws that govern our lives, regardless of race.

Each person must consider the role they will play in answering this question. As the saying goes, if you’re wondering what you would have done during the Civil Rights Movement of the 1960s, you are doing it now. Those with more power, such as Members of Congress, have more responsibility.

As we grapple with this question, it is more important than ever before to center race, and the communities directly impacted by discriminatory redistricting plans. Why? Because we cannot allow the responses and solutions we advance to devolve into a focus on partisan politics and remedies that serve those ends. To feed the permission the Callais opinion gives legislators to play politics with Black voters

¹⁰⁷ National Day of Action for Voting Rights, All Roads Lead to the South, May 16, 2026, <https://blackpowerwarroom.com/dayofaction/>; Ralph Chapoco, “Thousands attend protests in Selma and Montgomery for voting rights,” *ALABAMA REFLECTOR* (May 16, 2026), <https://alabamareflector.com/2026/05/16/thousands-attend-protests-in-selma-and-montgomery-for-voting-rights/>.

¹⁰⁸ *Id.*

would be a grave injustice. This is bigger than politics. This is about people. This is about the ability of all of us to participate in the democracy We, the People created.