

Inside the Republican Plot for Permanent Minority Rule

How the GOP keeps cheating its way into power—and may get away with it again in 2020

ILLUSTRATIONS BY ERIK CARTER

Here's one all-too-plausible way that Election Night 2020 might play out. It's just after 11 p.m., when Fox News cuts live to President Trump's reelection party. Millions of mail-in ballots remain to be counted in the swing states of Pennsylvania and Wisconsin, but Trump claims victory based on the early tabulations from in-person voting. "We must go with the election night results," he tells a cheering crowd of Republicans sporting MAGA caps, and no more than a smattering of face masks. "This is the only honest count," he says, insisting as he has countless times over the past year that mail-in and absentee ballots are fraudulent and corrupt. He announces that his legal team will demand that courthouses nationwide end the counting of fake ballots. "Trump Reelected," the Fox News chyron obligingly blares. Democrats urge patience as these key swing states continue the torturous tally; the constitutional system strains and bursts. In Pennsylvania, it's clear that mail-in ballots have tipped the state blue. Wisconsin's conservative state Supreme Court, however, stops its count entirely, and, as lawyers battle, the state's GOP-dominated legislature makes clear that it will use the constitutional authority reaffirmed in *Bush v. Gore* and appoint a slate of Republican electors.^[P]_[SEP]

It's an entirely foreseeable outcome—and a completely preventable one. If Pennsylvania's and Wisconsin's legislatures joined the nearly 40 states that allow election administrators to begin preparing mail-in ballots on receipt, or simply prior to Election Day, so much uncertainty—to say nothing of an epic constitutional struggle—could be avoided. If, that is, these legislative majorities in each state choose to avoid it.^[P]_[SEP]

The story of why these legislatures, and dozens of others like them throughout the country, are ignoring the alarming enclosure of voting rights from on high is the story of the rise of the Trumpian right. It's a tangled saga stretching back to the early aughts, as enterprising political operatives on the right began experimenting with new, high-tech ways to marginalize and disenfranchise key constituencies of voters that were starting to emerge as the building blocks of a potential Democratic majority coalition. It involves the militant weaponization of a landmark Supreme Court decision essentially rescinding the

most substantive provisions of the 1965 Voting Rights Act. But at its core, the Republican assault on open ballot access and fair legislative representation hinges on a simple offensive: wipe out competitive voting districts, and erect elaborate new requirements for voting, together with cumbersome new logistical obstacles to turning out on Election Day.^{[P]_{SEP}}

President Donald Trump bears daily testimony to the success of this multifront campaign against voting rights, not merely by virtue of his elevation to the presidency on a minority of the 2016 popular vote, but in his many Twitter outbursts and campaign rally broadsides depicting the push to ensure widespread voting by mail-in balloting as a left-wing effort to “rig” the election’s outcome by engineering rampant voter fraud. (This delusional assault on ballot access has also won the allegiance of Trump’s attorney general, William Barr, who has peddled entirely fabricated stories of voting-fraud prosecutions on national television.) The spectacle of a sitting president seeking to delegitimize the act of voting, and the expansion of access to the ballot, is unprecedented in our history, and a threat to the continued existence of our democracy should Trump win reelection. But the Republican assault on voting rights has been a far more quiet and protracted effort, taking shape in closed-door campaign strategy sessions and state legislative lobbies (or even secret hotel suites in Ohio called “the bunker” or a private “map room” in a Madison, Wisconsin, law office). And it begins, strangely enough, with the backlash to a principled bipartisan bid to secure the long-term future of the Voting Rights Act.

^{[P]_{SEP}}To understand how far the right-wing assault on voting rights has traversed in a comparatively short time, consider the late-career arc of retiring U.S. Representative James Sensenbrenner. The Wisconsin Republican was first elected to his state’s assembly during the tumultuous year of 1968, and he recalled in a 2017 op-ed how Black constituents in Milwaukee’s poorest neighborhoods had described to him the many obstructions that stood between them and the ballot box. In 1982, he heard those voices again as a second-term congressman, during hearings before the constitutional rights subcommittee on the first reauthorization of the Voting Rights Act. Powerful voices within his party, including Representative Henry Hyde and William Bradford Reynolds, the assistant attorney general who ran the Justice Department’s civil rights division, urged President Ronald Reagan to veto it. One of the most robust voices inside the department arguing against Section 2 of the act: a 26-year-old Washington newcomer named John Roberts. Sensenbrenner, whose relationship with Reagan dated back to his own days at Stanford in the 1960s, went to the White House and told the president that of all the civil rights legislation

that emerged from that era, the Voting Rights Act had been the most transformative, but there was still much work to be done. Reagan ultimately signed a reauthorization that not only extended but strengthened the act, and in a lavish ceremony hailed the right to vote as “the crown jewel of American liberties, and we will not see its luster diminished.”^{”P”}_{SEP}

Then, in 2005, having risen to chair the House Judiciary Committee, Sensenbrenner looked over his shoulder and saw a restive right, once more sensing an electoral windfall in suspending the act. The 15-year reauthorization signed by President George H.W. Bush in 1992 would expire by the end of the following year. At the end of this term, Sensenbrenner would also be term-limited out of the chairman’s seat; Lamar Smith of Texas, the next Republican in line, bristled over the constraints the act imposed on his state’s ability to alter voting laws. “He was opposed to the Voting Rights Act because so many Texas jurisdictions fell under it,” Sensenbrenner told me. “I made a conscious decision to reauthorize it early, basically to have this a done deal before Mr. Smith ascended.”^{”P”}_{SEP}

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Sensenbrenner approached his longtime colleague John Conyers, a Democrat from Michigan, with an idea. He proposed a 25-year reauthorization, the longest yet. But it had to be done now. Sure, Democrats could take Congress in 2006, Sensenbrenner told Conyers, but if he chaired Judiciary, he’d have to deal with a hostile Smith as his ranking GOP member. And, of course, if the GOP held the House, he’d face Smith as the chairman. Either way, the task would be harder. Sensenbrenner and Representative Mel Watt, the North Carolina Democrat who chaired the Congressional Black Caucus, then struck a deal. “I would fight off the people on the left who wanted to do substantially more than reauthorize,” Watt told me. “He would fight off the people on the right who wanted to do nothing. We would stand back to back and fight this battle all the way through.”^{”P”}_{SEP}

Sensenbrenner, Watt, and Conyers all knew that fight could end at the U.S. Supreme Court. The chairman assigned Representative Steve Chabot, an Ohio Republican, the task of building an incontrovertible record as to why the Voting Rights Act remained crucial—and most important, why Congress had to preserve the preclearance provisions contained within Section V, requiring jurisdictions with a history of discrimination to get federal approval before changing voting laws. Over 12 hearings, some 46 witnesses described ongoing, discriminatory efforts to deny minority voters full participation in the political process. All the old techniques were very much alive: gerrymandering, annexation, precinct

closures, secret deals between white political leaders that pivoted on sham public considerations. In Sunset, Louisiana, for example, officials moved a precinct to the site of historical racial discrimination, where new Black voters felt uneasy; no one knew about this ploy before the preclearance investigation. When two students at Prairie View A&M University, a historically Black college in Texas, decided to run for local office, Waller County moved to restrict early voting near campus.^{[P] [SEP]}

The committee members noted that localities subject to preclearance quickly withdrew hundreds, if not thousands, of potentially discriminatory voting changes when it became clear that the Department of Justice was about to take a closer look. Sensenbrenner called it “one of the most extensive considerations of any piece of legislation that the United States Congress has dealt with.” The GOP-led House responded with a resounding reauthorization vote of 390–33. When the U.S. Senate didn’t take it up immediately, Sensenbrenner and Representative John Lewis made some good trouble and wheeled all 12,000 pages of the committee’s report over to the Senate side, demanding action. The result was a unanimous vote of 98–0.^{[P] [SEP]}

A jubilant Lewis bestowed his Republican partner with an honorific he never imagined. “Here I was, this white conservative Republican from the Milwaukee suburbs, called ‘bro’ by a Black Democratic civil rights icon,” Sensenbrenner marvels. “It felt good.”^{[P] [SEP]}

President George W. Bush signed the 25-year reauthorization into law. And that moment of promise essentially brought five decades of bipartisan progress on voting rights to an end.^{[P] [SEP]}

On the eve of the 2020 general election, this account of the last Voting Rights Act authorization feels like a dispatch from another world. Voter suppression and rule rigging routinely seep from GOP state legislatures, and secretaries of state presiding over shrinking voter rolls in many key swing states mouth lies and delusional rationalizations to shore up regimes of vastly unequal ballot access—all while the president’s toxic Twitter feed seeks to discredit the utterly benign and secure practice of voting by mail. Yet that other world did in fact exist, and produced a just and rational outcome: A Republican trifecta in Washington reauthorized the Voting Rights Act nearly unanimously and almost entirely uncontroversially as recently as 2006.^{[P] [SEP]}

“It seems almost hallucinatory, the idea of the Voting Rights Act passing the Senate 98–0 and George W. Bush proudly signing it,” said Michael Waldman, president of the nonpartisan Brennan Center for Justice at New York University School of Law, one of the nation’s leading voices on democracy and voting rights. “It wasn’t even a searching debate,” said Representative David Price, a North Carolina

Democrat. “It was pretty much an accepted aspect of a bipartisan civil rights approach.” To be sure, this was hardly some halcyon moment of voting rights, the dream of the Thirteenth, Fourteenth, and Fifteenth Amendments gloriously fulfilled. Sensenbrenner’s 12,000 pages, after all, documented example after example of a white and largely Southern power structure more than willing to tarnish Reagan’s lustrous jewels for the sake of a more complete and enduring hold on power. Still, the reauthorized Voting Rights Act was enough, by virtue of the simple threat of preclearance investigations, to put a functional brake on many of these baldly racist power grabs. And even though Republican presidents were still nominating judges who undermined ballot access, and members of both parties confirmed them to the bench, few respectable, elected voices on either side were willing to publicly countenance a frontal assault on American voting rights.^{[P]_{SEP}}

But that is the world we have lost in the Trump era: The combination of coercive federal enforcement of voting rights and the broader social stigma attached to blatant suppression of voting in Black and other minority communities has been decisively dismantled, within both the government proper and the political culture at large. “What changed?” asked Michael Steele, the chairman of the Republican National Committee from 2009 through 2011. “Part of the answer, not the whole answer, is the election of Barack Obama. It’s unfortunate, but it’s true and it’s very real: There was a deeper visceral reaction to his election than a lot of people would like to acknowledge, at least publicly, that really struck one of the core roots of racism that people oftentimes shield themselves from and hide behind.” The comforting fable that Obama’s election had magically turned America into a post-racial social order took hold—and began to do untold damage. The emerging consensus, Steele explained, was, “We’ve done this. Progress is done. It’s completed. We’ve elected a Black president, so there’s no need to do all this other stuff that we’ve been doing. Not recognizing that the other stuff that we’ve been doing actually becomes more important.”^{[P]_{SEP}}

So how did voting rights deteriorate so quickly into today’s demented partisan hellscape? How has it become so commonplace to hear the Trumpian right invoke the specter of “rigged” elections, bankrolled by philanthropists like George Soros, and allegedly recruiting the very same nonwhite victims of well-documented voter suppression as menacing foot soldiers? How has a rotating corps of White House-sanctioned Keystone Kops—including longtime right-wing election-fraud grifter Kris Kobach, who headed a since-disbanded White House commission that tried, and utterly failed, to document this glorified urban legend—become the new vanguard of putative election reform?^{[P]_{SEP}}

To paraphrase Ernest Hemingway, it happened gradually and then all at once. “We lost faith in democracy. We lost faith that we could compete for votes and win elections,” said Bill Kristol, the neoconservative force behind a generation of Republican policy positions, who has turned Never Trumper. “Therefore, you’ve got to start restricting the electorate, and that’s very bad for democratic principles and very bad for a political party.”^[P]_[SEP]

The basic outline of this transformation tracks the fallout from three elections, starting in 2008. With Obama’s election, it seemed that a new American majority was beginning to take shape, even producing a Democratic supermajority in the U.S. Senate. Republicans, searching for a path back to power, hit upon a bold countervailing strategy: A sweep of key swing-state legislatures in 2010, they reckoned, could be quietly more consequential on the eve of the decennial redistricting that follows the census. In *The Wall Street Journal* that March, no less an eminence than Karl Rove outlined a strategy Republicans named the Redistricting Majority Project—REDMAP for short—led by former RNC chairman Ed Gillespie and funded with \$30 million kicked in by Fortune 500 mega-players like Walmart, Reynolds American, Pfizer, AT&T, and Citigroup, together with mainline GOP stalwarts including the U.S. Chamber of Commerce and Blue Cross Blue Shield.^[P]_[SEP]

REDMAP targeted 107 local state legislative races in 16 states—including, as you might imagine, Wisconsin, North Carolina, Michigan, Ohio, Pennsylvania, Texas, and Florida. This coordinated campaign offensive flooded these lower-profile races with negative ads, and duly defeated Democratic incumbents amid a surging wave of anti-Affordable Care Act and Tea Party protests. GOP majorities in these critical states were thus empowered to redraw congressional district maps to pack as many Black and Democratic voters into as few districts as possible, creating a wholesale political resegregation along both sides of the Mason-Dixon line. “They cracked, stacked, packed, and bleached Black voters,” said the Reverend Dr. William J. Barber II, co-chair of the national Poor People’s Campaign. We think of the 2010 election as the Tea Party’s ascendancy, but its far more momentous impact was to unleash the partisan and racial gerrymanders that played a vital role in creating the Trump electorate.^[P]_[SEP]

Then in 2012, the nation reelected Obama and handed Democratic congressional candidates 1.4 million more votes than their Republican rivals. But the numbers showed that, in down-ballot races, this truly was a rigged election. Courtesy of the newly gerrymandered playing field that the census and the state legislatures had created, GOP strategists had successfully built a red firewall allowing them to retain a 33-seat majority in the U.S. House, and oversize and unrepresentative majorities in state legislatures.

“Once they got supermajorities in North Carolina and around the country, they began to pass voter suppression bills,” Barber said.

Those gerrymanders have proved rock-solid over the past eight years of general political upheaval. Today, more than 50 million Americans—nearly one in five of us—live in a state in which one or both chambers of the legislature are controlled by the party that won fewer votes. And yes, all of those people live in states where Democrats won more votes but Republicans hold the power.

Redistricting created vast swaths of GOP minority rule. The ingenuity of the high-tech gerrymanders launched after the 2010 cycle had broken down battlegrounds like Wisconsin and North Carolina into districts utterly unrepresentative of their constituencies. Harvard’s Electoral Integrity Project rated the integrity of these legislative boundaries as a 3 and 4, respectively, on a scale of 100—a magnitude lower than Iran and Venezuela. In North Carolina, half the state’s Black population found themselves pinned into one-fifth of the state’s legislative and congressional districts.

Those uncompetitive districts moved all the action to GOP primaries, which created all manner of perverse incentives for alt-right ideologues, white nationalists, and conspiracy theorists to move into maximum influence—and at times, elective office. The party was hijacked because its leaders chose, consciously and at every turn, to place barriers before voters they believe do not support them, rather than persuade those citizens to join their side. “It’s a sad thing to be a member of a party that counts on voter suppression to achieve its results,” said former South Carolina congressman Bob Inglis, a Republican. “We had a path to convince, say, Latino and Black citizens that conservatism would work for them. The path taken has been this raw grab for power.”

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Emboldened by the most precise partisan and racial gerrymanders this nation has ever seen, Republican vote suppressors moved on to new quarry, enacting punishing voter ID laws, overseeing mass purges of voting rolls that disenfranchised minority and other Democratic-leaning voting blocs, closing precincts and polling stations, approving restrictions on registration, and even modern-day poll taxes. “The Republican Party now has taken ownership of voter suppression and keeping the vote down, and has decided that there’s no longer value in reaching out to the broad diversity of the country,” says Representative John Sarbanes of Maryland, who wrote HR 1, a broad package of voting rights and campaign finance reforms that passed the House only to be buried in Mitch McConnell’s Senate. Entrenched, untouchable legislators at the state and federal levels adopted these anti-democratic measures in the hope that a parallel new cohort of activist conservative judges would move in unison

with them to further cement their power. “First we’re going to gerrymander. Then we’re going to suppress the votes in inner cities. Then we’re going to discredit mail-in voting,” Kristol said. “It’s all of a piece in terms of the unwillingness to value a fair, open, and legitimate intellectual process.”^{[P]_{SEP}}

The main inflection point, though, was a critical ruling in the nation’s highest court, that finally turned the hard-won reauthorization of the Voting Rights Act into a dead letter in American political life. In 2013, the U.S. Supreme Court ruled in *Shelby County v. Holder* that the act’s central provisions no longer needed to be enforced. In the 5–4 party-line decision, the majority opinion by Chief Justice John Roberts ignored all 12,000 pages of the Sensenbrenner hearings, which pinpointed the localities that desperately needed those protections, and declared a new day of racial equality across the South. Preclearance, Roberts held, was “based on 40-year-old facts having no logical relation to the present day.” The very day that the *Shelby* decision came down, then-Texas Attorney General Greg Abbott announced that a voter ID bill that accepted a gun license, but not a student ID, would immediately go into effect. In North Carolina, where lawmakers had drafted a skinny bill of electoral reforms and a second bill five times as long just in case the Supreme Court ended preclearance, the “monster” suppression package was rushed to the floor. “The guard was taken away from the gates of the prison,” Sensenbrenner said. “And they all ran out.”^{[P]_{SEP}}

That decision, said Eric Holder, who was then U.S. attorney general, “took away control that allowed us to keep under control to some extent that which has been for too long a part of this nation. And you look at the redistricting that followed the election of 2010. That, coupled with the *Shelby County* decision—those are the things that pulled that lid off, pulled that control away and allowed to spill out, gave air, gave oxygen to these darker forces that have always been a part of our nation.” Those dark forces then set about reshaping the nation in their image—by systematically disenfranchising anyone not like them.^{[P]_{SEP}}

“The demographics shifted, and there were holes in the Southern Strategy,” Barber said. Florida, North Carolina, and Virginia all moved toward Obama in 2008, and that sparked “immediately the cries about voter fraud. This is not supposed to happen. Lee Atwater, George Wallace taught us how to block this from happening. It’s amazing how extremists who are engaged in racist voter suppression believe in democracy until it works for other people.”^{[P]_{SEP}}

“It really becomes an apartheid system,” said Inglis, one of the few Republicans willing to speak openly and honestly about his party’s strategy. “They created a system where a minority has full control of the power.” Inglis, a reliable conservative elected and reelected over two decades, now concedes the bald

calculation behind the great post-2010 power grab on the right: His party manipulated race to win—and everyone went along with it. “It was palpable. It was pretty intense,” he said, about the change among Republican electeds and constituents after Obama’s 2008 victory. At breakfast meetings, people would approach him and complain that Obama didn’t put his hand over his heart for the Pledge of Allegiance, or sat in seeming disgust during the national anthem. Inglis knew what they wanted to hear: “What do you expect of a secret Muslim, non-American socialist?” If he’d said that, Inglis believes, they would have said, “That’s our Bob! He’s with us!” But he couldn’t let the lie stand. He’d tell his constituents that Obama was a loyal, patriotic American with whom he disagreed on many issues. A veteran GOP strategist warned Inglis, “Don’t give him that.” Indeed, he said, “that’s what Mitch McConnell decided to do. Not give him that. It worked. It worked to create a constituency. But at what cost?” Inglis paused and answered his own question. “The cost of not preserving the republic.”^{[P] [SEP]}

“You feed a crocodile, a crocodile’s going to come eat you eventually,” Inglis said. And that’s the moment, I suggested, that the crocodiles are free to run things. “Right, they put the crocodiles in charge,” he replied. “And then the crocodiles devoured them.”^{[P] [SEP]}

Holder and Obama have since devoted themselves to ending gerrymandering, but in 2012, they didn’t see REDMAP coming. To be sure, they had other demands on their time and attention beyond monitoring state legislative races in Round Rock, Texas. Not long after Obama’s 2012 reelection, Holder told me, he and the president spent a confused evening at the White House, looking over the results and trying to understand why Republicans still held the House and so much power in state capitals. “We thought we had done well in terms of the raw vote, but it wasn’t at all reflected in the number of representatives we had at both the state and federal level,” Holder said. “REDMAP had been a small part of my consciousness before the 2012 election.... Then we saw the election results.”^{[P] [SEP]}

It turned out that the president and his attorney general were not the only ones frustrated and bewildered by the 2012 results; the GOP, after jury-rigging the outcomes in so many state and congressional races, was flummoxed by the party’s failure to win the presidency. Having just lost the popular vote for the presidency for the fifth time in the previous six elections, dating all the way back to Bill Clinton’s first victory in 1992, Republicans surveyed more than 2,600 party officials, experts, voters, and more for a report officially dubbed the Growth and Opportunity Project but known among party operatives as the Autopsy.^{[P] [SEP]}

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The diagnosis was blunt: The party had become synonymous with “stuffy old men.” It was “talking to itself.” Republicans had lost their way with young voters who were “increasingly rolling their eyes at what the Party represents.” They didn’t know how to talk to minorities, who now “think that Republicans do not like them or want them in the country.” Onetime GOP supporters now used words like “scary” and “out of touch” to refer to them. The key recommendation to start reversing these glum trends was for the party to embrace comprehensive immigration reform, or else the GOP’s “appeal will continue to shrink to its core constituencies only.”<sup>[P]
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The Autopsy was dead on arrival; indeed, it had already been smothered by the same people who commissioned the report. Republicans had chosen their strategy two years earlier, even if they didn’t fully realize it: They’d chosen REDMAP. They would soon realize that they’d placed a frustrated and impossible-to-please base in charge, and that they had planted the seeds of their own unraveling. “The redistricting changed the dynamic on the ground,” Steele, the former RNC chairman, told me. “The type of person who would then get out and run for those seats was a very different breed of person. When they amassed in the Congress, they weren’t Tea Party anymore. They were now the Freedom Caucus.”<sup>[P]
[SEP]</sup> The transformation would have been all too plain, had party leaders only looked a bit more closely. As Obama and Holder pondered 2012’s mysterious outcomes, and the Republican establishment tried to retool its sales pitch to recapture the White House, the proprietor of a small-town sandwich shop called Aunt D’s prepared to take a seat in Congress. Mark Meadows would represent the conservative mountain towns of western North Carolina, and exactly half of Asheville, the region’s largest city, in the newly redrawn 11th congressional district. Republicans had a free hand to draw the state’s maps after REDMAP helped the party claim both chambers of the legislature. They wasted no time before making use of the opportunity. Thomas Hofeller, the GOP’s Zelig-like redistricting mastermind, managed always to be on hand when Republicans sought to bend the spirit of the Voting Rights Act’s provisions on majority-minority districts and pack as many Black voters as possible into the fewest possible districts. When North Carolina’s legislature got down to drawing new district maps, Hofeller was tasked with redrawing 10 of the state’s 13 districts for Republican control. It worked. North Carolina would send 10 Republicans and three Democrats to Congress for almost the entire decade ahead, scoring more than 70 percent of the seats even in years when Democrats won more votes. One Hofeller masterstroke made it possible: cracking hippie Asheville in half, and scattering the region’s only significant concentration of liberals harmlessly across two districts they didn’t have any chance to win.<sup>[P]
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The old 11th had been a true swing district, held by Republicans in 2002 and 2004, before sliding to a conservative Democrat, the nearby Tennessee football hero Heath Shuler. Shuler took one look at

Hofeller's handiwork and promptly launched a far more stable career as an energy lobbyist. Meadows, meanwhile, read the temperature of the district, recognized the only election he needed to win was the GOP primary, and outbirthed the entire field. When his closest competitor provided a long-winded answer at a Tea Party rally to a question about whether he would pursue an investigation into Obama's citizenship, Meadows provided a direct answer: "Yes." Then he smirked as the crowd laughed its approval. "You know what? We'll send him back home to Kenya or wherever it is." In that moment, Donald Trump's future chief of staff was on his path to real political power.^{[P]_{SEP}}

The crocodiles were coming—and not only for Obama. As a backbencher, Meadows would lead the fall 2013 rebellion over funding Obamacare that led to a government shutdown. Karl Rove and the conservative commentator Charles Krauthammer dubbed the 80 insurgents the "suicide caucus." The following year, though, the suicide caucus mutated into the House Freedom Caucus, and Meadows would shut down John Boehner's speakership by filing an obscure parliamentary procedure known as "vacate the chair," which ultimately inspired Boehner to resign rather than further divide his caucus.^{[P]_{SEP}} NC-11 wasn't the only district that had a new face in the post-2012 Congress, and precious few members of this insurgent class on the right resembled the changing nation. If the demographic change driving American politics at the national level was an electorate that was becoming younger, more urban, and multiracial, Republicans decided to abolish it and create an electorate of their own. They crafted their majority in the U.S. House and in state legislatures from districts where the opposite trends held true. *The New Yorker* crunched the numbers after Meadows's shutdown stunt and found that the average House GOP district became 2 percentage points whiter in 2012. The average suicide caucus district was 75 percent white, compared to 63 percent in other districts. Half as many Latinos lived in the suicide districts—9 percent compared to 17 percent nationally. In that year's presidential election, Obama outpolled Mitt Romney by 4 percentage points. But in suicide caucus nation, Obama lost by 23 percentage points. The Republicans drew themselves a fantasy nation where their base gained power even as it shrank—a land where the right's America became whiter and more conservative even as the exact opposite dynamic had taken hold in the rest of the country.^{[P]_{SEP}}

In this white, older America-in-the-making, there could be no hope for immigration reform, the signature policy that the Autopsy recommended to make the national GOP relevant again. Any prospects for reform curdled the moment when the incumbent House Majority Leader Eric Cantor lost his seat to an insurgent Tea Party challenger named Dave Brat—in a newly drawn GOP district in Virginia, micro-engineered to maximize Republican seats nationwide at the cost of empowering a suicide caucus base in a summer primary. Brat's primary challenge was predicated almost exclusively on defining Cantor as "pro-amnesty." On Fox News the night of Cantor's shocking defeat, Laura Ingraham proclaimed that

she saw the future—and it worked. “I don’t think the split in the Republican Party is going to be made up with new Latino voters or new Black voters or new Asian voters,” she said. What she didn’t say, of course, was that those demographics were unsustainable, unless Republicans went beyond gerrymandering and devised additional means of voter suppression.^[1]

“It’s a short-term strategy,” said Steele. “The demographics overwhelm the strategy. But they don’t work against you if make it harder for certain people to vote or register to vote. That’s the dirty little secret they figured out. Let’s move the polling places. Let’s make people present documents.”^[2]

Donald Trump didn’t do this. Trump just swept up the pieces. There’s real anger, and real regret, in Steele’s voice as he outlines the shift in strategy that happened in part on his RNC watch. “We gave up on our ideas. We gave up on our values. All we had left was just to game the system against the voter.... When you do that, you get voter ID laws, you get voter restrictions on the number of days when people can vote early, where they can vote, and requirements that are damn near close to what Jim Crow laws were in the South. There’s very little difference between having a bowl of jelly beans on a counter that you ask the voter to count before they get allowed to vote and having them come in for an ID at some god-awful hour at a location in Alabama that’s 30 miles from their home.”^[3]

The logic behind Jim Crow 2.0 is embedded in the 2013 *Shelby* ruling. The decision turned on a redistricting plan in Calera, Alabama, that had ousted an incumbent Black city councilman; after the plan was overturned because the city fathers had neglected to obtain preclearance for it under the Voting Rights Act, the councilman handily won reelection. But the act’s opponents somehow interpreted this clear example of why the legislation remained so necessary as the perfect case to explain how the South had changed, and preclearance had outlived its purpose. From his new position as the nation’s first Black attorney general, Holder watched the various challenges to the Voting Rights Act rise through the courts, but thought Roberts, in line with past chief justices, would regard such efforts as a bridge too far. Instead, Roberts wrote for a 5–4 court that “history did not end in 1965.” The act’s formulas, he found, are “based on decades-old data and eradicated practices.” “Today the Nation is no longer divided along those lines,” he argued, “yet the Voting Rights Act continues to treat it as if it were.”^[4]

Seven years into the baleful fallout from the *Shelby* decision, Holder sounds flabbergasted that the chief justice made nothing of the 12,000 pages of expert and eyewitness testimony collected by Sensenbrenner’s committee, and elected instead to draft the court’s majority opinion by consulting a calendar that told him it was no longer 1965. “The nation has changed,” Holder said, and you could hear

the eye roll over the phone. “Really? Where’s your fact-finding? Where are your witnesses? This decision is so bad in terms of the record that Congress had established. You look at *Shelby County* and tell me that wasn’t judicial activism at its zenith.”^[P]_[SEP]

In her famous dissent, Justice Ruth Bader Ginsburg compared gutting the Voting Rights Act’s enforcement mechanism when it was working to casting an umbrella aside during a rainstorm because you remained comfortable and dry outside. Texas got soaked first. “It’s fucking crazy.... Within minutes—literally minutes—of that ruling, Texas imposes the most onerous voter ID law in the nation,” said former congressman and presidential hopeful Beto O’Rourke, who represented a heavily Latino district including El Paso. The new law disproportionately affected Latinos, who were the largest contingent among the 600,000 voters estimated to suddenly lack the necessary documentation to cast a ballot. Students were affected as well. Racial gerrymanders, voter purges, shuttered precincts, and more would quickly follow.^[P]_[SEP]

“Texas has been a laboratory for this,” said O’Rourke. The state “has a long tradition and legacy of voter suppression from the top.... But since *Shelby*, there have been 750 polling place closures... a factor of twice any other state. As you can guess, they’re focused in the fastest-growing Black and Latino communities. The resulting plunge in turnout, he said, has been “devastatingly effective.... On the eve of the 2018 election, Texas was either fiftieth, or near fiftieth, in voter turnout. It’s 100 percent not an accident and not for love of democracy, but 100 percent by design.”^[P]_[SEP]

And Texas was just on the vanguard of the new body of voter suppression tactics. The states previously covered by preclearance, together with the states gerrymandered under enduring GOP control, moved with astounding speed to pass laws that locked in Republican advantages and built a labyrinth designed to keep students, young people, African Americans, Latinos, and other demographic groups potentially sympathetic to Democratic candidates from voting. Twenty-five states enacted restrictive voter ID bills, or tightened measures that were already in place. Partisanship, race, and rising minority voter turnout were, once again, central to these proposals. Some states, including Texas, Arkansas, and Tennessee, fine-tuned the restrictions in these laws several times between 2014 and 2020. By 2016, Brennan Center researchers found, 14 states enacted restrictions for the first time during a presidential election, including former preclearance states such as Alabama, Arizona, Mississippi, South Carolina, Texas, and Virginia, as well as two REDMAP gerrymandered states: Ohio and Wisconsin. By 2017, Georgia, Iowa, Indiana, and New Hampshire had created burdens as well. Between 2014 and 2018, more than 32 million Americans were purged from voter rolls nationwide—a massive rollback,

disproportionately affecting voters of color, and overwhelmingly in the states no longer subject to preclearance.^{[P]_{SEP}}

“We gave up on our ideas. We gave up on our values. All we had left was just to game the system against the voter.”

When North Carolina greenlighted its “monster” voter suppression package in the wake of *Shelby*, Tom Apodaca, then the chairman of the state Senate rules committee, told reporters that with the “legal headache” of preclearance removed, “now we can go with the full bill.” Early voting days were whacked in half. One of the days cut was Sunday, the most popular day for turnouts at Black churches and “Souls to Polls” rallies. The state’s GOP lawmakers also ended same-day registration, out-of-precinct voting, and preregistration for 16- and 17-year-olds. Barber, as president of the state NAACP, filed a lawsuit arguing the measure had been targeting Black voters—a court agreed, ruling that the measure had done so with “almost surgical precision.”^{[P]_{SEP}}

“All the while, they were saying, ‘We didn’t do this because of race. We didn’t do this because of race,’” Barber said. “But when we did our legal work and did our discovery, did the depositions, we found out the only expansion of the voting laws that they challenged were the ones that were being highly used by Blacks, Latinos, and students, interestingly enough.” When I was provided with tens of thousands of documents from Thomas Hofeller’s files, encompassing 18 thumb drives, I discovered emails between Republican lawyers, the mapmaker, GOP legislative staff, and state workers that provided detailed information about the number of Black voters who did not have North Carolina driver’s licenses. Officials also inquired about the number of student ID cards produced by state universities, and how many of those went to Black students. Hofeller’s files included giant spreadsheets filled with the names and addresses of roughly 23,000 students in the state, their registration status, and a checklist showing whether they had a driver’s license. In other words, now that the state was liberated from preclearance, the fix was in. “We’ve seen an attempt to suppress the vote like we have not seen since Jim Crow,” Barber told me.^{[P]_{SEP}}

The Supreme Court has since bolstered the disastrous *Shelby* ruling in two 2018 cases—*Husted v. A. Philip Randolph Institute*, which blessed Ohio’s voter purges, and Justice Samuel Alito’s decision in *Abbott v. Perez*, which allowed a particularly insidious racial gerrymander to stand in Texas. The upshot of this trio of decisions is that the Roberts court believes two basic propositions about voting rights and civil rights. First, it has elected to downplay or disregard a long history of racist voter suppression, no matter how egregious, when it comes to assessing ballot-restriction measures undertaken by states that can find more subtle and “race neutral” methods of suppressing the vote. And second, the

court has effectively decided to absent itself from playing any positive role in making it easier, rather than harder, to cast a ballot.

Back in Washington, Representative James Sensenbrenner saw this coming, too. He'd been bitterly frustrated that the court ignored his committee's extensive research demonstrating the continuing need for preclearance. But Sensenbrenner, with more than three decades in Congress, was also an institutionalist to the core, so he embraced the implicit challenge in *Shelby* for Congress to try again—to bring the preclearance formula in line with the chief justice's cramped vision of the Constitution and voting rights. Sensenbrenner and Representative John Lewis crafted a compromise that included a national preclearance trigger—not just one for the South—and updated the baseline to take into account the large Black turnout for Obama in 2008 and 2012. But thanks in no small part to the recursive ideological logic of gerrymandering and voter suppression, Congress had changed. Speaker Boehner and Paul Ryan, said Sensenbrenner, wanted to get something done. But now, the speaker no longer controlled a caucus that relied on redistricting and voter suppression to hold its majority. The new chairman of Judiciary was Bob Goodlatte from Virginia, “and he didn't like the Voting Rights Act either, again, because of his state's history,” Sensenbrenner said. “The real block in our conference was Lynn Westmoreland”—a Republican from Georgia who co-chaired the Republican State Leadership Committee's REDMAP project—“and he hired lawyers to poke holes in it and neither Boehner nor Ryan wanted to split the conference.”

“Basically, I was told to go pound sand,” Sensenbrenner said, adding that Westmoreland threatened primaries against any Republican who would back a new Voting Rights Act. “Westmoreland was particularly adept at saying that he would be able to turn the forces of evil loose on anybody that wanted to do that.” Eric Cantor and GOP Utah Senator Bob Bennett had already lost their seats to the new Tea Party beneficiaries of redistricting and voter suppression. And now much of the caucus—Boehner and Ryan among them—was looking over their shoulders at a potential mustering of militant new primary challengers.

“There was zero appetite in the caucus for addressing it,” said David Jolly, then a Republican U.S. representative from Florida.

“I don't think there are the convictions or the responsible sympathies for the underlying issues that require the Voting Rights Act within today's Republican caucus in Congress,” Jolly said of his former colleagues. “There's a fundamental failure to recognize the importance and significance of it. And

secondly, and close behind, it conflicts with the electoral interests of the Republican Party. That’s a lethal combination.” Yet it could still get worse. In early October, the U.S. Supreme Court, with its potential 6–3 conservative majority, agreed to hear a case from Arizona that takes aim at Roberts’s longtime target: Section 2 of the Voting Rights Act. A court that’s already deferred to the vote-suppression agenda on preclearance, partisan and racial gerrymandering, and voting purges could soon finish the job.^{[P I F] [SEP:EP]}

This lethal combination is now lurching into gear alongside another deadly force: the Covid-19 pandemic. As the need for dramatically expanded mail-in voting became clear throughout the 2020 primaries, a fierce political and legal fight ensued over just how it would be done. Who could vote absentee? Would a pandemic qualify as an excuse to vote via mail? Would an absentee ballot need to be witnessed or notarized? Would states pay the return postage? Would registered voters automatically be sent an application for an absentee ballot, or would it need to be requested? When would a ballot need to be postmarked in order to be valid? Could they be returned to an official drop box, or must they enter the wobbly U.S. postal system? All too often, the answer would depend on where you lived, and how easy—or how difficult—your state legislature wanted the process to be. And the answer to that question, in turn, depended on how gerrymandered your district was—and how committed state Republicans were to making it as difficult as possible to cast a ballot.^{[P I F] [SEP:EP]}

Ten states and the District of Columbia decided to send ballots to all active voters. New England states, including Rhode Island, New Hampshire, and Connecticut—all places held to be deeply traditional about voting laws—liberalized absentee ballot rules. In Texas, however, the attorney general brushed aside lawsuits that fought to let every Texas voter cast an absentee ballot during 2020 because of the pandemic. He went so far as to threaten prosecution for anyone who was healthy and under the age of 65 who used fear of Covid-19 as an excuse to vote remotely. Then, in October, Governor Abbott issued an executive proclamation that limited each of Texas’s counties, some of which are among the most sprawling and populous in the nation, to one ballot drop box. It was a breathtaking act of voter suppression in broad daylight. Harris County, which includes Houston, was forced to slash its dozen drop boxes down to one. In Iowa, where a Republican secretary of state sent every registered voter an absentee ballot application during the primary—generating record turnout and keeping 80 percent of Iowans from voting in person—the Republican legislature took action to stop him from taking the same step during November’s election, when a competitive U.S. Senate seat would be on the ballot. When Oklahoma’s state Supreme

Court agreed with voters that leaving their homes to get absentee ballots notarized posed an unnecessary burden during a pandemic, the GOP legislature reinstated and toughened the requirement just days later. After nearly two-thirds of Floridians voted to amend the state's constitutions and restore voting rights to 1.4 million state residents who had been convicted of a felony, the state's gerrymandered legislature required all fines and fees to be paid before re-enfranchisement—essentially a poll tax—and a group of mostly Trump-appointed judges let them get away with it. At the height of the coronavirus outbreak, Wisconsin Republicans refused to waive a ballot-witnessing requirement for its April elections—which resulted in the rejection of almost 23,000 absentee ballots, disenfranchising citizens who were unable to properly supply that proof during a pandemic. “It’s hard to see how any sentient human being can conclude otherwise than the Republicans are going to do every single thing they can, on every single day, to try to stop people from casting a vote,” Sarbanes said. “And this election is going to be a referendum on whether that’s how the people of this country want to operate or be governed.”^[P]_{SEP}]

All of which brings us back to the nightmare scenario haunting 2020 presidential balloting. In 2016, three of our most severely gerrymandered states, Pennsylvania, Wisconsin, and Michigan, tipped the Electoral College toward Donald Trump in 2018 by a slender margin of 80,000 votes.^[P]_{SEP}]

In 2020, three million voters in Pennsylvania are expected to vote by mail this fall. Another 2.1 million voters in Michigan have already requested their absentee ballots, as have 1,271,528 voters in Wisconsin, as of press time.^[P]_{SEP}]

Pennsylvania and Wisconsin have decided to make us all wait for their verdicts in 2020. They are forcing local election administrators to wait until Election Day itself before they can even open absentee ballots, let alone remove ballots from their security envelopes, verify signatures and witness requirements, and begin tabulation. It’s a ridiculous and outdated set of rules. GOP legislatures in both states have refused to modernize those laws, despite record pandemic-driven demand for mail-in voting and warnings that it could take weeks for a full count. “There’s a reason why almost every state allows preprocessing a ballot sent through the mail,” said Jocelyn Benson, secretary of state for Michigan, which only loosened its own preelection protocols for processing absentee ballots in October. “It’s nonpartisan. It minimizes errors. It increases efficiency. It ensures the timely delivery of results.”^[P]_{SEP}]

Pennsylvania and Wisconsin have something else in common as well. Each has been gerrymandered by Republicans so that the GOP has controlled both chambers of the state legislature even in years, including 2018, when Democratic candidates won hundreds of thousands more votes.^[P]_{SEP}]

“The maps allow them to basically do whatever they want to do,” said Wisconsin Lieutenant Governor Mandela Barnes. Democratic candidates won 200,000 more votes there in 2018. Republicans hold a 64–35 edge in the state assembly nevertheless. “It’s insane that this is where we are,” Barnes said.

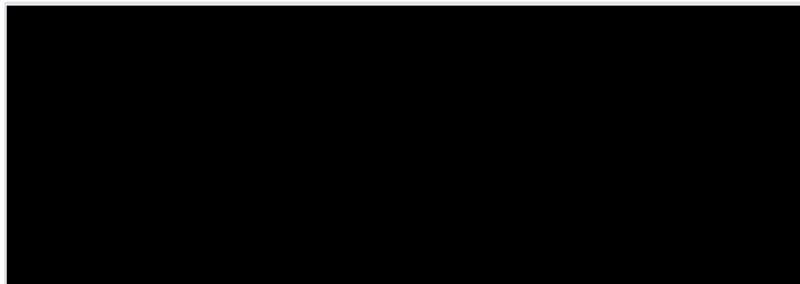
But the insanity has been long incentivized on the American right. “They’re not going to take any action,” said Barnes, plainly, “because the more confusion they can create around the election, the more it helps them.” That simple formula is a pandemic of a different order—one from which American democracy may not recover.

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