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EDITOR WASHINGTON LETTER

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Dear Representative:

As you know, this week the House is once again scheduled to consider H.R. 9, the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006. On behalf of the American Bar Association, I write to urge you to support this legislation to extend the expiring provisions of the historic Voting Rights Act (“the Act”) and to oppose any amendments that would weaken its provisions that provide critical protections against discriminatory voting practices.

The right to vote is a fundamental principle of our representative democracy. The 15th Amendment to the Constitution, ratified in 1870, provides that the right to vote “shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.” Yet into the mid 1900’s, in many areas of the country, pervasive and institutionalized discriminatory practices continued to effectively deny a sizeable population of U.S. citizens their constitutional right to vote. Congress sought to address this through the passage of the Voting Rights Act in 1965. Although we have made significant progress since the original passage of the Act, continued implementation and enforcement of the Act is necessary to prevent or provide redress for voting discrimination. Its provisions should be maintained and strengthened through passage of H.R. 9.

H.R. 9 would extend the expiring provisions of the Act for a period of 25 years, including provisions that address language assistance for voters, authorize election observers, and require that states and counties with documented histories of discriminatory voting practices submit planned election law changes for approval by federal officials. In addition, H.R. 9 makes several important modifications to Sections 5, 203, and 14(e) of the Act. Specifically, it would amend Section 5 to prohibit the preclearance of any voting changes enacted with a discriminatory purpose of denying or abridging the right to vote on account of race, color, or membership in a language minority group and clarify the legal standard for discriminatory effect as a retrogression of political strength of a minority community and the failure to preserve the ability of minority voters to elect candidates of choice. In addition, the bill would require that coverage determinations under Section 203 be based on information compiled by the American Community Survey on a rolling 5-year average. Finally, the bill would amend Section 14(e) to permit the recovery of expert fees and expenses. The ABA strongly supports each of these modifications.

We understand several amendments may be offered that, in our view, would seriously undermine the purpose and effectiveness of the Act. An amendment sponsored by Representative Gohmert would change the reauthorization period to 10 years, instead of the 25-year period currently provided for in H.R. 9. The ABA supports a 25-year reauthorization and would therefore urge you to oppose this amendment.

An amendment sponsored by Representative King, and several others, would strike Sections 7 and 8 of H.R. 9. Section 7 reauthorizes the bilingual language assistance requirements contained in Section 203 of the Voting Rights Act, and Section 8 requires the use of American Community Survey census data for coverage determinations under that section. Section 203 was added to the Act in 1975 and requires the provision of language assistance, including notices, instructions, assistance, and other materials, for American Indians, Asian Americans, Alaskan Natives, and/or people of Spanish heritage in certain jurisdictions. Section 203's provisions are essential to ensuring that citizens with limited English proficiency are not effectively excluded from the electoral process. If this amendment is adopted, these requirements would automatically expire in 2007 and we urge you to oppose the King amendment.

Last, an amendment sponsored by Representative Norwood would alter the formula that governs which jurisdictions must obtain preclearance before changing their voting policies and procedures. Under this new formula, nearly all currently covered jurisdictions would no longer be subject to preclearance. This flies in the face of clear evidence of continuing discriminatory practices in some of those jurisdictions, demonstrated by the more than 1,000 objections to voting policy changes that the Department of Justice has issued since 1982. We urge you to oppose this amendment as well.

The Voting Rights Act has had a significant positive impact on access to the constitutional right to vote and the political process for members of minority groups. In particular, its special remedial provisions have enabled the federal government to enforce the prohibition on discriminatory voting practices and mechanisms. These provisions have been very effective at enhancing the democratic principles that form the foundation of our nation. Because of the persistence of discriminatory behavior in the election process, the Act remains an essential tool in the struggle to preserve and protect voting rights for all Americans and we urge you to support reauthorization of its expiring provisions by voting in favor of H.R. 9.

Sincerely,


Robert D. Evans

cc: Members of the House of Representatives