June 25, 2014

The Honorable Patrick Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Grassley:

On behalf of the American Bar Association (ABA), I write to express our strong support for S. 1945, the Voting Rights Amendment Act of 2014. The Voting Rights Act has been critical to the expansion of our democratic franchise to all eligible citizens, and S. 1945 will restore a key component to the Act’s arsenal of tools to combat voting discrimination.

While significant progress has been made since the original passage of the Voting Rights Act, there is ample evidence that voting discrimination still exists today in many areas of our nation. The Leadership Conference on Civil and Human Rights published a recent report outlining more than 148 separate instances of violations of the VRA’s antidiscrimination provisions over nearly fifteen years. The report also outlines additional voting law changes adopted in the wake of the Shelby County decision that raised the specter of potential voting discrimination. In fact, shortly after the Court’s decision, some jurisdictions that had been subject to preclearance under Section 5 moved to implement laws that had been blocked by the courts or by the Department of Justice.

Although Shelby County left intact Section 2 of the VRA, this remedy alone is not sufficient to prevent the fundamental harms to representative government that voting discrimination causes. Voting rights litigation under Section 2 is extremely complex, time consuming, and costly. The inordinate amount of resources and expertise it typically takes to litigate these cases successfully creates real obstacles, even to filing suit. Moreover, success in eliminating one discriminatory practice is often followed by the adoption of a new practice that must be fought all over again. Among other benefits, preclearance prevents relitigation of victories and effectively blocks new discriminatory measures from being implemented before they can result in further injuries.

The ABA has traditionally been an active and guiding voice in matters involving the electoral process and has long supported the Voting Rights Act. In response to the decision in Shelby County v Holder in June 2013, the ABA adopted a resolution calling
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on Congress to “act expeditiously to preserve and protect voting rights by legislating a coverage formula setting forth the criteria by which jurisdictions shall or shall not be subject to Section 5 preclearance and/or by enacting other remedial amendments to the Voting Rights Act of 1965, including but not limited to, strengthening the litigation remedy available under Section 2, or expanding the ‘bail-in’ provision under Section 3 (or some combination of these concepts).”

S. 1945 responds to this call by providing a new, flexible coverage formula that is updated annually to require preclearance for all changes in places with numerous recent voting rights violations. Among other things, the legislation also would create new nationwide transparency requirements that help keep citizens informed about voting changes in their community and continue the federal observer program.

The basic right of citizens to vote and the importance of having protections in place to ensure equal access to the voting process for all are at the core of our democratic process. The Voting Rights Act has been a key tool in protecting against voting discrimination for almost 50 years, and S. 1945 will restore and strengthen its provisions that are so critical to protecting the right of all Americans to vote. We commend the Committee for holding this hearing and urge the Senate to pass S. 1945 as soon as possible.

Sincerely,

James R. Silkenat

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