Congressional Black Caucus

June 3, 1975

LEGISLATIVE ALERT

The House votes today on extension of the Voting Rights Act of 1965. The Caucus has unanimously endorsed the Judiciary Committee bill, H.R. 6219 which would extend the Act and expand it to cover Spanish-speaking and other minorities. The Caucus, as you know, has unanimously endorsed this bill. A "Dear Colleague" was sent yesterday to inform all House Members of the Caucus position.

The major effort by Caucus members should be to gain the support of colleagues on the floor to pass the bill without weakening amendments. The major issues will be the "bailout" amendment to be offered by M. Caldwell Butler, and a substitute by Charles Wiggins which would fundamentally alter and weaken the Act. A list of other amendments expected to be presented by Republicans is attached. All should be opposed.

Because floor action is taking place immediately following the recess, there appears to be some confusion among House Members over the issues. Contacts by CBC members, particularly stressing opposition to the Butler and Wiggins amendments, is of the highest priority.

Earlier materials distributed by the CBC office, this week's DSG report and Don Edwards' "Dear Colleague" of last week provide informational background on the Act. Following are the basic arguments on the Butler and Wiggins amendments.

The Butler Bailout Amendment

Under the present Act, any jurisdiction covered by the Act's special provisions (largely those in the South) may remove itself from such coverage by showing it has not used a test or device for ten years. Under the Gaston County decision, 395 U.S. 285 (1969), North Carolina, and subsequently Virginia, have been denied escape from the special coverage because those states had literacy tests and afforded their minority citizens unequal and inferior educations.

Mr. Butler's amendment would change the bailout requirement in a manner which would make it easier for a jurisdiction to remove itself from special coverage. Under the Butler amendment, any jurisdiction could get out from coverage where three tests were met: a) sixty percent minority voter turnout in the last federal election, b) five years of "complete purity" under the existing voting rights legislation, and c) had "an affirmative legislative program to remove all remaining vestiges of voter discrimination in the covered jurisdictions."

While Mr. Butler argues that his amendment would provide an incentive to jurisdictions to improve their performance under the Act, in fact the amendment would weaken the Act. The arguments against the Butler amendment include:

1. The present bailout system has worked well. Under the present standard, jurisdictions which do not discriminate (e.g. some in Alaska and New York) have been able to remove themselves from coverage. To create a new standard for bailout because the courts have seen fit to keep Virginia and North Carolina under the Act under the existing standard would be to undermine the sound judgment of both Congress and the courts.

2. The standards set are vague, weak and amorphous. Minority turnout is not itself sufficient evidence that jurisdictions have not and will not use other forms of discrimination, such as racial gerrymandering. Further, minority voter participation figures are extremely difficult to obtain because race of voters is not recorded. Problems involved with such estimates, as well as population shift between decennial censuses, make such statistics questionable as a basis for judging performance under the Act.

3. The U. S. Commission on Civil Rights, in a letter dated May 16, 1975 recommended against the adoption of the Butler bailout amendment. They say it would "create new and difficult problems of standards, procedures and management." By extending the Act, Congress would be exercising its judgment that the evidence shows a continued need for the Act for an additional term of years. That judgment will include a finding of additional need despite improved performance by many jurisdictions. That judgment should not be undercut by setting a relatively easy escape from coverage.

The Wiggins Substitute

The Wiggins substitute would alter the Voting Rights Act fundamentally by providing that coverage would be based on performance in voter turnout of minorities every two years. Mr. Wiggins bills his substitute as permanent legislation, and therefore more desirable. But by changing the "trigger" (the formula under which jurisdiction coverage is determined and permitting non-coverage based on the single factor of turnout, he would totally undercut the Act. Specifically:

1. The proposed "trigger" suffers from the same problems as Mr. Butler's bailout provision. The statistics are difficult to obtain and frequently incorrect. The standard of minority voter participation rather than total voter participation would fail to adequately identify problem areas. The original trigger was instituted based on a comparison of the areas it would cover with the areas where the voting discrimination problems were greatest. It was a logical means of identifying such areas. To argue, as Mr. Wiggins does, that looking at minority turnout is more logical, ignores that fact that either statistic is merely indicative of the problem and that the present standard has satisfactorily located problem areas.

2. Most fundamentally, the Wiggins substitute would remove a jurisdiction from coverage merely because voter turnout passed a certain point. This ignores the vital point that the Voting Rights Act reaches to problems beyond registration and voting -- problems such as redistricting, location of polling places, at-large elections, exorbitant filing fees, etc. Each of these problems might exist and continue -- with the effect of diluting minority votes - despite an increased registration rate. The Wiggins proposal would provide no protection against them.

3. The two-year period of coverage under the Wiggins proposal is too short. The judgment of the Congress was in 1970 and should be again this year, that removing the vestiges of discrimination takes many years. Permitting jurisdictions to quickly move out from under the Act based on participation statistics would deny the deep-rooted nature of the problem.

4. The Wiggins approach would be dependent on a mammoth national survey every two years. While we would encourage the collection of better statistics, as H.R. 6219 provides, the very existence of the Act should not be dependent on such a large-scale, and potentially unmanageable, survey.

5. The only means for minorities to obtain coverage for non-turnout related abuses would be to reduce their voter participation below the 50 percent point, an untenable choice.