

JUL 9 1971

Mr. John M. Breckenridge  
City Attorney  
Department of Law  
600 City Hall  
Birmingham, Alabama 35203

Dear Mr. Breckenridge:

This is in response to your submission under Section 5 of the Voting Rights Act of 1965, of several acts of the Alabama Legislature passed in 1965 and 1969.

The Attorney General will not interpose an objection to 1965 Acts No. 123, 131, or 133 at this time. I am constrained to inform you, however, that he does object to the implementation of 1969 Act No. 507 because the information we have leads us to conclude that the change will have a discriminatory effect.

We are also advised that the voting machines currently used in Birmingham automatically prevent "double-voting" (voting for more candidates than the number of seats to be filled) and can prevent "single-shot" voting, so that the potential existence of such problems would not appear to provide a substantial basis for the new enactment.

Section 5 provides that should you wish to pursue this matter further, you may seek a declaratory judgment from the District Court for the District of Columbia that this statute neither has the purpose nor will have

the effect of denying or abridging the right to vote on account of race or color. Until such a judgment is issued by that Court, however, the legal effect of this objection is to render unenforceable 1969 Act No. 507.

Sincerely,

DAVID L. NORMAN  
Acting Assistant Attorney General  
Civil Rights Division

SEP 14 1971

Mr. John M. Breckenridge  
City Attorney  
Department of Law  
600 City Hall  
Birmingham, Alabama 35203

Dear Mr. Breckenridge:

This is in response to your resubmission under Section 5 of the Voting Rights Act of 1965, 42 U.S.C. §1973c, of 1969 Act No. 507, to which the Attorney General interposed an objection by letter dated July 9, 1971.

We have carefully considered the information supplied in your letter of July 19, 1971 resubmitting the statute, as well as the information previously gathered in connection with the prior submission of this legislation. Your letter apparently raises two points, the merits of the submission under Section 5 and the timeliness of our objection of July 9. With respect to the second point, it is our position that the sixty-day time period Section 5 establishes for consideration does not begin to toll until after the state or political subdivision has supplied the Attorney General with sufficient information to determine the merits of a submitted change. This interpretation was supported by four district judges in related reapportionment cases in Virginia. See attached Order on First Hearing Howell v. Mahan, C.A. No. 105-71-N (E.D. Va., filed May 24, 1971). Under this interpretation of the statute, the sixty days began to toll on May 10, 1971, when your letter of May 5 was received by the Department, and did not expire until after our July 9, 1971 letter was mailed to you.

With regard to the merits of Act No. 507, your letter does not include sufficient additional information to warrant a change in our position and we feel constrained to inform you that the Attorney General still objects to the statute on the basis that it will have the effect of abridging the right to vote on account of race. This conclusion was reached only after a search of the legislative history of the Act, review of past returns for Birmingham's municipal elections since 1963, and study of the mechanics of vote tallying in local elections.

Your letter of July 19 indicates a belief on your part that the relevant facts are different from those indicated by our investigation. Since we apparently do not share your views on the underlying facts, it may be that a judicial forum may be necessary to resolve these differences. As you know, Section 5 provides that should you wish to obtain an adjudication from such a forum, our objection does not foreclose your seeking a declaratory judgment from the District Court for the District of Columbia that this statute neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. Until such a judgment is issued by that Court, however, the legal effect of our continuing objection is to render unenforceable 1969 Act No. 507.

Sincerely,

DAVID L. NORMAN  
Assistant Attorney General  
Civil Rights Division