D.J. 166-012-3 MAR 3 1972

Honorable Arthur K. Bolton
Attorney General
State of Georgia
132 State Judicial Building
Atlanta, Georgia 30334

Dear Mr. Attorney General:

This is in reference to the enactments amending Sections 47-101 and 47-102 of the Georgia Code reapportioning districts for the Georgia House and Senate. These reapportionment enactments, which were submitted pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c, were initially received by the Department of Justice on November 5, 1971. Additional requested material necessary to complete the submission was received by this Department on January 6, 1972. Under departmental guidelines, the Attorney General's response thus is due on March 6, 1972. Both plans adopt changes in election procedures different from those in effect on November 1, 1964 and, therefore, are properly submitted to the Attorney General under Section 5 of the Voting Rights Act.

As I have indicated on other occasions, we are aware of the inherent difficulties faced by a legislature in devising comprehensive reapportionment plans such as those here involved. For that reason, and insofar as time limitations have allowed, we have studied both plans in every detail. As a result we find no basis for objecting to any of the plan for the Senate except proposed Senate Districts 36 (in Fulton County) and 22 (in Richmond County). With respect to those, after careful review of

all the information available to us we have been unable to conclude, as we must under the Voting Rights Act, that the boundaries of these proposed distticts will not have a discriminatory racial effect on voting by minimizing or unnecessarily diluting black voting strength in those areas.

With respect to the reapportionment plan for the House of Representatives, a careful analysis and review of the demographic facts and recent court decisions identify several significant issues. Forty-nine of the 105 districts in the plan are multi-member and we note that it contains a requirement that candidates in those districts must run for numbered posts. We also note that existing Georgia law requires a run off in the event no candidate receives a majority of votes in either a primary or a general election. We note further that of the 105 districts 52 are made up of portions of a county, including 31 of the multi-member districts. These facts suggest that the state's traditional policy of maintaining county lines in designing legislative districts has been significantly modified.

An analysis of several recent federal court decisions, dealing with similar issues persuades me that a court would conclude with respect to this plan that the combination of multi-member districts, numbered posts, and a majority (runoff) requirement, along with the extensive splitting and regrouping of counties within multi-member districts, would occasion a serious potential abridgment of minority voting rights. Accordingly, I am unable to conclude that the plan does not have a discriminatory racial effect on voting. The reasoning of these recent cases is illustrated by the decision of the federal district court in North Carolina which commented with respect to numbered posts in multi-

number districts "It is clear that the numbered seat law may have the effect of curtailing minority voting power." (Scott v. Dunston, E.D.N.C. No. 2666-Civil, Slip Opinion, n. 9 at p. 17, (Jan. 10, 1972). Similarly, the three-judge court considering the Texas legislative reapportionment found both the majority run-off and the numerical post requirement tended to abridge minority voting power and "highlight the racial element where it does exist." Graves v. Barnes, W.D. Tex, No. A-17-CA-142, Slip Op. at p. 38. See, also, Sims, Farr, and U.S.A. v. Amos, No. 1744-N, (M.D. Ala., January 3, 1972); Bussie v. The Governor of Louisiana, No. 71-202 E.D. La., August 24, 1971).

Our analysis further reveals that there is a bloc of adjoining majority-black counties in east central Georgia including Greene, Taliaferro, Hancock, Warren, Washingtn, Jefferson and Burke Counties. Under the plan in effect on November 1, 1964, each of these counties was represented by one member of the House. Under the present House plan, there are four majority-black, single-member districts in the area--District 28 (Putnam and Hancock Counties), District 35 (Washington County), District 36 (Jefferson County), and District 37 (Burke County). These districts, coupled with the adjoining majority-black counties of Green, Taliaferro and Warren, form a contiguous group--of 89,626 persons, of whom 57.2 percent are nonwhite--enough to form at least three new majority-nonwhite single-member districts. Yet the submitted plan has only one district in the area with a slight nonwhite population majority (50.56 percent)--new District 59. The other new districts (60, 63, 64, 76 and 83) are "border districts" partly inside and partly outside the majority-nonwhite area and have significant, but minority, nonwhite population percentages. These demographic facts, in the context of a plan that frequently cuts across county lines, do not permit us to conclude,

as we must under the Voting Rights Act, that this plan does not have a discriminatory racial effect on voting.

For the foregoing reasons, I must on behalf of the Attorney General interpose an objection to changes submitted by these reapportionment plans. We have reached this conclusion reluctantly because we fully understand the complexities facing any state in designing a reapportionment plan to satisfy the needs of the state and its citizens, and, simultaneously, to comply with the mandates of the Federal Constitution and laws. We are persuaded, however, that the Voting Rights Act compels this result.

Of course, Section 5 permits seeking approval of all changes affecting voting by the United States District Court for the District of Columbia irrespective of whether the changes have previously been submitted to the Attorney General.

Sincerely,

DAVID L. NORMAN
Assistant Attorney General
Civil Rights Division