

DJ 166-012-3

AUG 2 1973

Mr. James T. Hunnicutt
Sims & Lewis
Attorneys at Law
114 Main Street
LaGrange, Georgia 30240

Dear Mr. Hunnicutt:

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This is in response to your letters of April 20, 1973, and June 4, 1973, in which you submitted Georgia Act 1052 and 1053 specifying changes in the method of electing city councilmen and members of the Board of Education of the City of Hogansville, Georgia, to the Attorney General for his review pursuant to the Voting Rights Act of 1965.

The submitted change requires that a Board of Education candidate designate the specific post he seeks and receive a majority vote to be elected and requires a city councilman candidate to receive a majority vote to be elected in a particular post. Our analysis has shown that where, as in Hogansville, there is increasing participation in the political process by the black community, a majority and designated post requirement have the practical effects of eliminating the potential for minority voters to elect candidates of their choice through the use of single-shot voting. Furthermore, the imposition of a majority requirement on a pre-existing designated post system similarly reduces the potential voting strength of minority groups. These changes occurred after the first black to be elected to the city council was elected under the plurality system.

In addition, recent court decisions dealing with issues of this nature, and to which we feel obligated to give great weight, indicate that the combination of numbered posts and majority vote requirements would have the effect of abridging minority voting rights. See, White v. Register, 41 U.S.L.W. 4885 (1973); Graves v. Barnes, 343 F.Supp. 704 (W.D. Tex., 1972); See also, Whitcomb v. Chavis, 403 U.S. 124 (1971).

Based on the above analysis we are unable to conclude as we must under the Voting Rights Act, that this plan does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color. I must, therefore, on behalf of the Attorney General, interpose an objection to the implementation of Act 1052 and Act 1053 Section 1.

Of course, Section 5 permits you to seek a declaratory judgment from the District Court for the District of Columbia that this plan has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race. Until such judgment is rendered by that court, however, the legal effect is to make unenforceable the changes in the method of electing city councilmen and Board of Education members in Hogsenville.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division