

DJ 166-012-3
V8738

JUL 29 1975

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Mr. E. R. Lambert
Madison City Attorney
126 East Washington Street
Madison, Georgia 30650

Dear Mr. Lambert:

This is in reference to your letters of April 28, 1975, and June 6, 1975, concerning Act No. 58 (H.B. No. 932) of the 1975 Georgia General Assembly, and Act No. 826 (H.B. No. 2099) of the 1974 Georgia General Assembly, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was completed on June 9, 1975.

After careful consideration of your original submission and the additional information you have provided, Madison's election history and demographic characteristics, and recent court decisions in voting rights cases, we are unable to conclude that the implementation of the majority requirement and the numbering of the City Council posts does not have a racially discriminatory effect.

Our analysis demonstrates that under Madison's current system of at-large plurality elections, minority race voters have the potential to elect a candidate of their choice. This minority voting strength potential is lost, however, if candidates must restrict their candidacies to a single, specific post, and must receive more than half of the votes cast.

In comparable situations, recent court decisions indicate that numbered posts and a majority requirement may effectively operate as a dilution of minority voting strength. Graves v. Earnes, 343 F. Supp. 704 (N.D. Tex. 1972), aff'd sub nca. White v. Regester, 412 U.S. 755 (1973); Georgia v. United States, 411 U.S. 526 (1973); Sims v. Amos, 336 F. Supp. 924 (N.D. Ala. 1972); Dunston v. Scott, 336 F. Supp. 206 (E.D. N.C. 1972). Indeed, courts have found such a dilution even where, as in Madison, the "minority" comprised a numerical majority of the population. See White v. Regester, supra; Zimmer v. McKeithen, 485 F.2d 1297 (5th Cir. 1973). Therefore, we cannot conclude, as we must under the Voting Rights Act, that the implementation of a majority requirement and designated posts in the Madison mayoral and city councilmanic elections does not have the purpose or will not have the effect of abridging the right to vote on account of race. For that reason, I must, on behalf of the Attorney General, interpose an objection to those aspects of Act No. 58 (H.B. No. 932) of the 1975 Georgia General Assembly, and to Act No. 826 (H.B. No. 2099) of the 1974 Georgia General Assembly.

Of course, as provided by Section 5 of the Voting Rights Act of 1965, you have the alternative of instituting action in the United States District Court for the District of Columbia, seeking a declaratory judgment that the present submission 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.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division