

JUN 4 1976

DJ 166-012-3 - X5809

Mr. Wilbur A. Orr
Orr & Kopecky
Attorneys at Law
Post Office Box 128
Washington, Georgia 30673

Dear Mr. Orr:

This is in reference to the changes in polling place for Militia Districts 163, 174, 175 and 178 and the changes in method of election for the Board of Education and the Board of Commissioners of Roads and Revenues of Wilkes County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on April 9, 1976. The changes in method of election submitted include the at-large election with candidate residency requirements and numbered posts for the Board of Education and the at-large election with candidate residency requirements and staggered terms for the Board of Commissioners.

The Attorney General does not interpose any objection to the changes in polling places. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes.

With respect to the changes in the method of election for the Board of Commissioners and the Board of Education, we have carefully considered the information provided in your submission, as well as

information and comments from other interested parties. We have given great weight to the factors considered by the Supreme Court in White v. Regester, 412 U.S. 755 (1973) and in United States v. Bear, 44 U.S.L.W. 4435 (March 30, 1976). According to information provided us no black has ever been elected to office in Wilkes County and there are indications that a pattern of racial bloc voting sufficient to preclude election of any minority member under the at-large system of electing may exist. Our examination also reveals evidence of residential patterns in the City of Washington, the principal city in the county, sufficient to offer under a system of fairly drawn single member districts a reasonable opportunity for minority political representation.

Under these circumstances we are unable to conclude, as we must under the Voting Rights Act, that the use of the at-large system of election in Wilkes County does not have the effect of discriminating on account of race or color. Therefore, since the county has the burden of proving that these changes do not have a racially discriminatory purpose or effect, I must on behalf of the Attorney General interpose an objection to the changes in the method of election of the Wilkes County Board of Education and Board of Commissioners.

Of course Section 5 permits you to obtain a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor effect of denying or

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abridging the right to vote on account of race or color. However, until such a judgment is obtained, the legal effect of the objection by the Attorney General is to render the changes unenforceable.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division