

MAR 14 1975

Mr. George F. Wooten  
Attorney, City of Talladega  
Dixon, Wooten, Boyett & McGrary  
223 W. North Street  
Talladega, Alabama 35160

Dear Mr. Wooten:

This is in reference to Ordinance No. 997 adopting a numbered post system for the election of aldermen in the City of Talladega which was submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. The submission was completed on January 13, 1975. Although we have been aware of your request for expedited consideration of this submission pursuant to procedural guidelines for the administration of Section 5 (28 C.F.R. §51.22), we have been unable to reach a determination in the matter until the present time.

In examining a numbered post requirement under Section 5 of the Voting Rights Act, it is incumbent upon the Attorney General to determine whether that requirement -- either in purpose or effect -- results in the minimization or dilution of minority voting strength. In this instance, we have concluded that the numbered post requirement for the election of aldermen in the City of Talladega would have that effect.

Our analysis took into consideration a number of factors which can be summarized as follows. The population of the city, according to the 1970 Census, is 17,662, 32% of which is black. The city's five-member governing body

is elected on an at large, i.e., multi-member, majority vote basis. Prior to and since the adoption of the city's mayor-council form of government in 1971, the possibility of electing the council from single-member districts was discussed but ultimately rejected. No black persons have been elected to the city council. The history of black participation in the electoral process of the city suggests a pattern of racial bloc voting.

The numbered post requirement, which is consistent with state law, creates separate offices out of seats in a multi-member district, requires that all candidates qualify for a specific numbered place and permits each voter to vote for only one candidate in each place. Our concern is with the changes in voting which would proceed from a numbered post requirement, given the city's present multi-member electoral system. In this context, black voters would have little opportunity to elect a representative of their choice to the city council. As one recent court decision indicates:

In a true at large election, if the majority spreads its votes around and the minority single shot votes, the minority strength is concentrated, thus increasing their chance of electing. However, if the minority candidate is forced to run against a specific candidate for a specific seat, the majority can readily identify for whom they must vote in order to defeat the minority candidate.

Dunston v. Scott, 336 F. Supp. 206, 213, n. 9 (E.D. N.C., 1972).

For that reason, the Attorney General has interposed objections under Section 5 of the Voting Rights Act

to numbered post systems in a number of other similar jurisdictions and we are unable to conclude, as we must under the Voting Rights Act, that implementation of the numbered post requirement in Talladega will not have a racially discriminatory effect. Therefore, on behalf of the Attorney General, I must interpose an objection under Section 5. However, as the law provides, a declaratory judgment that this change does not have the proscribed purpose or effect may be sought in the United States District Court for the District of Columbia notwithstanding this objection.

In view of our instant objection and our objection of July 23, 1971, to the anti-single shot provision of Act No. 91, 1971 Special Session of the Alabama Legislature, neither numbered posts nor a prohibition against single shot voting may be used in the Talladega, Alabama, municipal elections. See, e.g., United States v. Cohan, 358 F. Supp. 1217 (S.D. Ga. 1973); United States v. Garner, 349 F. Supp. 1054 (N.D. Ga. 1972).

Because the Attorney General is charged under the Voting Rights Act with the responsibility for taking necessary legal action to insure compliance with the Act, he therefore requests that you advise this Department within 30 days of the date of this letter as to the steps the City of Talladega intends to take to comply with the Act and this letter of objection.

Sincerely,

J. STANLEY POTTINGER  
Assistant Attorney General  
Civil Rights Division