APR 9 1973

JSP:BEW:mrk
DJ 166-012-3

Mr. Jesse G. Bowles
Post Office Drawer 99
Cuthbert, Georgia 31740

Dear Mr. Bowles:

This is in response to your letters of December 15, 1972, and February 6, 1973, in which you submitted a change in the method of electing Aldermen of the City of Cuthbert, Georgia, to the Attorney General for his review pursuant to the Voting Rights Act of 1965.

The submitted change was enacted on December 14, 1971, and requires a candidate to designate the specific office he seeks in elections where two or more public offices, each having the same title, are to be filled. Our analysis has shown that where, as in Cuthbert, there is increasing participation in the political process by the black community and single shot voting is allowed, the designated post requirement has the practical effect of eliminating the potential for minority voters to elect a candidate of their choice through the use of single shot voting. Moreover, this change in election procedure occurred following the first successful use of single shot voting to elect a black candidate in Cuthbert, and no black candidate has been elected in Cuthbert since the designated post requirement was enacted. Under these circumstances, and in consideration of all the available facts, I must interpose an objection on behalf of the Attorney General to the implementation of the submitted change.

Section 5 provides that a change in voting practice or procedure, such as the designated post change in Cuthbert, is legally unenforceable until such time as the change is brought before the United States District Court for the District of Columbia for a declaratory judgment that it 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, or it is submitted to the Attorney General of the United States and he does not interpose an objection within 60 days after the submission.

We note that the designated post procedure here found objectionable was used in the October 4, 1972, city election. Under similar circumstances courts have held that new elections should be conducted. See Hall v. Issaquena County Board of Supervisors, C.A. No. 1357 (S.D. Miss., June 30, 1971), aff'd as modified 453 F.2d 404 (5th Cir. 1971); United States v. Cohen, C.A. No. 2882 (S.D. Ga., October 28, 1971), rev'd on other grounds, 407 F.2d 503 (5th Cir. 1972); United States v. Garner, 349 F. Supp. 1054 (M.D. Ga. 1972); United States v. Twiggs County, Georgia, et al., C.A. No. 2825 (M.D. Ga., January 31, 1973). These precedents appear to apply to the situation at hand.

Of course, as provided by Section 5, you have the alternative of instituting an action in the United States District Court for the District of Columbia seeking a judgment declaring that the change in question does not have the effect of denying or abridging the right to vote on account of race. However, should you choose not to pursue that remedy, we have the continuing duty to enforce the Voting Rights Act and to insure compliance by the city with the objection herein.

Therefore, I would appreciate receiving, as soon as possible, the county's decision on the possibilities of holding a new election as mentioned above or whether you will pursue the declaratory judgment provided for in the Act.

Should you have any questions regarding this letter, please do not hesitate to contact us.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division