

DEC 7 1973

Mr. James V. Davis
City Attorney
City of Albany
Post Office Box 447
Albany, Georgia 31702

Dear Mr. Davis:

This is in reference to your submission of Ordinance No. 1875 and the related laws which it consolidated (namely, Resolution No. 1433, Resolution No. 1525, Resolution No. 1528, Ordinance No. 1308) and Ordinance No. 1805 to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your amended submission was received on October 8, 1973.

With respect to Resolution No. 1433 and Ordinances No. 1308 and No. 1805, the Acting Attorney General does not interpose any objections to the resulting changes in Albany's election laws. 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 these changes.

With respect to the changes made by resolutions amending Resolution No. 1433, namely Resolutions No. 1525 and No. 1528, adopted November 8, 1966 and

November 22, 1966, respectively; and Ordinances No. 1308 and No. 1875; after careful consideration of your submissions and the additional information you have provided, demographic characteristics of Albany, and an analysis of recent court decisions, we are unable to conclude, as we must under the Voting Rights Act of 1965, that implementation of the changes mandated by these enactments will not have a racially discriminatory effect, for the reasons set forth below.

Resolutions No. 1525 and No. 1528 amended Resolution No. 1433 to establish a system of substantial filing fees and deposits as a prerequisite to qualification for candidacy through the use of the nomination petition mechanism. In cases in which such filing fees were challenged on equal protection grounds, the courts have held that the state must provide an alternative method of qualifying for candidates without the necessary means to qualify in the normal way. See Bullock v. Carter, 405 U.S. 134 (1972), Jemess v. Little, (Bell, Edenfield, Cooper, JJ.), 306 F. Supp. 925 (N.D. Ga. 1972); Georgia Socialist Workers Party v. Fortson, (Bell, Edenfield, Anderson, JJ.), 315 F. Supp. 1935 (N.D., Ga. 1970), Thomas v. Mins, 317 F. Supp. 179 (S.D., Ala. 1970). Under these precedents, the substantially different economic levels of the races in Albany, as established by the 1970 Census information, results in the burden of filing fees and deposits for candidate nomination petitions falling with substantially greater weight on Negro candidates. The City's

interest in defraying election expenses arising out of the petitioning process does not appear to be so compelling as to justify this result. See Bullock v. Carter, supra. For these reasons I must on behalf of the Acting Attorney General interpose an objection.

As you stated in your application of August 1, 1973, Ordinance No. 1875 consolidates Resolutions No. 1433, No. 1525 and No. 1528 and Ordinances 1308 without substantively altering their requirements. For the reasons set forth above, with respect to the requirements of Resolutions No. 1525 and No. 1528 I must interpose an objection to Ordinance No. 1875.

As you discussed with Sandra Lynn Beber of my staff, the objection interposed by the Attorney General to the change in Albany's general election dates has never been withdrawn. The Acting Attorney General has determined from information submitted by J. W. Walters for Dougherty County that our objection has been satisfied, and accordingly, I am withdrawing that objection to the change in election dates.

Section 5 of the Voting Rights Act of 1965 provides that in addition to the review by the Attorney General, the submitting authority may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that changes in election laws do not have the purpose and

will not have the effect of denying or abridging the right to vote on account of race or color, and, of course, you continue to have the alternative of instituting such an action.

If you have any further questions or information which you wish to bring to the attention of this Department, please do not hesitate to contact me or Ms. Beber at 202-739-3139.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division